

16 October 2015

SACC Review Secretariat
Financial System and Services Division
Markets Group
The Treasury
By email only: consumercredit@treasury.gov.au

Dear Sir/Madam,

**RE: CONSULTATION ON THE REGULATION OF SMALL AMOUNT CREDIT CONTRACTS AND
COMPARABLE CONSUMER LEASES**

We welcome the opportunity to provide a submission to the small amount credit contracts (SACC) review.

The Australian Retail Credit Association (ARCA) is the industry association for organisations involved in the disclosure, exchange and application of credit reporting data in Australia. Membership comprises credit reporting bodies (CRBs) and credit providers (CPs).

ARCA has operated since 2005 with the purpose of promoting best practice in credit risk assessment and responsible credit practices. We provide a forum for CPs and CRBs to meet regularly and exchange ideas and learnings on improving the credit reporting system.

There are two aspects of this consultation which appear to impact on ARCA Members:

1. The establishment of a national database for SACC

The review is considering whether a SACC database ought to be established, or whether an alternative such as comprehensive credit reporting is a more effective way to meet responsible lending obligations.

ARCA's views are that CRBs already effectively manage credit information databases. ARCA's CRB Members, being Dun & Bradstreet, Experian and Veda, do not support the creation of a separate SACC database. Their view is that Part IIIA of the *Privacy Act* provides an unambiguous regulatory framework for active lines of credit, so any credit information disclosed in respect to SACC contracts ought to form part of this existing arrangement.

The objectives of a register can be met most efficiently and effectively by loading SACC loans as consumer credit liability information (CCLI)¹ in the credit reporting system. This would have the benefit of making this CCLI data visible to other credit providers assisting in them meeting their responsible lending obligations. This is because, whether or not an individual has a SACC in place currently, or within the past 24 months, is a factor which will have a bearing on the creditworthiness of that individual. This, in turn, will impact on other CPs' ability to verify that individual's financial situation, and adhere to their responsible lending obligations.

Such an arrangement will also make it easier for SACC issuers to obtain credit information at the same time as checking the SACC status of their customers. It is worth noting that the introduction of comprehensive credit reporting in the Australian market is currently underway, following changes to Part 3A of the *Privacy Act 1988* that came into effect in March 2014. The exchange of comprehensive credit reporting data – or indeed the use of the credit reporting system at all – is not mandatory for Australian credit providers.

ARCA has received the following specific feedback from a CRB Member on the SACC review:

- *It is our view that the benefits of a separate database can be realised through the utilisation of the current credit reporting framework. The majority of the outcomes are manageable under the current process and existing industry solutions with few changes, whereas the new database introduces complexity with minimal additional gain.*
- *Furthermore, the introduction of a new database will cause significant challenges for industry including the necessity to connect to an additional data source and incorporate the new information into existing decisioning processes.*

¹ CCLI is information about a consumer's credit account and includes the name of the credit provider (and whether they hold an Australian Credit Licence), the type of credit, the open and close date for the account, and critically the maximum amount of available credit in the account.

- *Managing the requirements under the existing framework allows us to leverage existing processes and infrastructure such as the Australian Credit Reporting Data Standards.*

ARCA Members have also noted that utilising the current credit reporting system, instead of establishing a separate register is a consumer-friendly option for managing the number of touchpoints for consumers when issues, complaints and corrections arise in relation to their financial credibility.

Finally, it is worth noting that a SACC database is likely to require a considerable development, testing and implementation timeframe. For example, the lead time for the development of the Principles of Reciprocity and Data Exchange (PRDE) has been nearly three years. The PRDE is a multilateral framework for the exchange of comprehensive credit reporting information, developed by ARCA and its Members. It is currently subject to an authorisation application to the Australian Competition and Consumer Commission, due to be finalised in November 2015.

ARCA submits that a separate register for SACC contracts is not required, and that the policy intent that the government is seeking to achieve can be delivered through utilising the current credit reporting system – in particular through leveraging the ability to exchange CCLI for SACC accounts.

2. The obligation to obtain and consider 90 days of bank account statements

The review is considering whether this obligation is necessary, and further whether there are more effective ways to obtain information about a customer's financial situation.

This proposal relies on the findings of the Australian Securities and Investments Commission (ASIC) that some lenders were not making adequate use of bank statements, and some lenders were also not making adequate enquiries about the number of bank accounts held by an individual.

With the utilisation of the comprehensive credit reporting system, a CP will have access to a comprehensive record of the individual's liabilities. Further, unlike the assessment of 90 days of

bank statements (which requires analysis and further investigation of different records), a CP may be able to determine the extent of an individual's liabilities on the face of the credit report.

In addition, a credit report, provided it is obtained in accordance with the provisions in the *Privacy Act*, poses none of the privacy and electronic security issues that some of the bank statement access and analysis tools pose. At this stage, there are enough security and privacy risks associated with these 'scraping' tools to call into question any mandated arrangement that would require their use.

ARCA's view is that the comprehensive credit reporting system would provide a more effective means for a CP to verify an individual's financial situation. Comprehensive credit reporting involves the exchange of both CCLI (defined above), and twenty-four months' repayment history for consumer credit accounts. ARCA anticipates that the comprehensive credit reporting system will mature in Australia to a significant degree over the next three years.

If you have any further questions regarding submission, please contact me on 02 9152 8691 or mgijselman@arca.asn.au; or Elsa Markula, ARCA Legal & Regulatory Affairs Manager (03 9863 7863; emarkula@arca.asn.au).

Yours sincerely,

A handwritten signature in black ink, appearing to read 'M Gijselman', with a long horizontal flourish extending to the right.

Matt Gijselman

Head of Government, Regulatory & Industry Affairs