



26 June 2015

Manager
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The Treasury
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Banking Laws Amendment (Unclaimed Money) Bill 2015

The Australian Restructuring Insolvency and Turnaround Association (ARITA) appreciates the opportunity to comment on this Bill. ARITA is the professional body representing company liquidators and trustees in bankruptcy, and lawyers, bankers, academics and others practising in or otherwise interested in insolvency law and practice.

We note that the effect of the Bill is in effect to extend to the relevant period under s 69 of the Banking Act to 7 years. For reasons given in our submission of 11 July 2014, we agree with this change.

Bankruptcy

We note that in our 11 July 2014 letter, we pointed out the unsatisfactory state of bankruptcy law, in comparison with corporate insolvency law, that a claimant for unclaimed moneys must apply to the court under s 254 of the Bankruptcy Act, not to AFSA, or ASIC. We have heard nothing about the consideration of that issue and we also copy this submission to the Attorney-General's Department.

In that respect, the term unclaimed moneys under consideration is taken from s 69 of the Banking Act. Unclaimed moneys have another meaning under s 254 of the Bankruptcy Act. The term is used in other Commonwealth legislation, for example s 559 of the Fair Work Act 2009. In bankruptcy at least, we are not aware of any similar arrangement to that which exists now whereby moneys unclaimed under s 254 can be located. We are also unable to find any reference to the total amount unclaimed in the AFSA annual report 2013- 2014.

We continue to suggest that the 'red tape' burden of claimants having to apply to the court for access to their unclaimed money in bankruptcy be made simpler; and also that such moneys be able to be searched, and that the annual amount paid to the Commonwealth under s 254(2) be disclosed.

Please contact ARITA's Legal Director Mr Michael Murray on 02 8004 4347 or mmurray@arita.com.au if you wish to discuss.

Yours sincerely

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

John Winter
Chief Executive



cc Antony Catt
Principal Legal Officer
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