

27 May 2016

The Manager
Corporations and Schemes Unit, Financial Systems Division
The Treasury
Langton Crescent
Parkes ACT 2600

By email: insolvency@treasury.gov.au

Dear Manager

Improving bankruptcy and insolvency laws: proposals paper

The Customer Owned Banking Association (COBA) welcomes the opportunity to comment on the Government's proposals paper regarding improving bankruptcy and insolvency laws.

COBA is the peak body for customer-owned banking institutions: credit unions, building societies and mutual banks. Collectively the sector has four million customers, \$97 billion in total assets and provides important competition and choice in the retail banking market.

COBA notes the proposed changes to the bankruptcy and insolvency laws form part of the Government's National Innovation and Science Agenda. COBA supports moves that will encourage entrepreneurship and facilitate innovation. Innovation is a key component for competitive markets, which drive the best outcomes for consumers.

COBA broadly supports the Government's proposals as set out in the proposals paper. However, we do not support the proposal (1.3.1) to reduce the retention period for personal insolvency information on credit reports. We believe that bankruptcy information is important for credit providers, and the anticipated benefits of comprehensive credit reporting will mean that bankrupts will be able to more quickly rebuild their credit history.

Changes to the Privacy Act in 2014 enabled Australia's credit reporting system to move from a negative reporting system to a positive or comprehensive reporting system. Prior to this legislative change, only negative information could be captured and reported on a credit file, e.g. missed loan payments, overdue bills, credit defaults and bankruptcy events.

The 2014 changes mean that 'positive' information is now able to be collected by Australian Credit Licensees and reported to credit reporting bureaus. The positive information includes things like the number accounts currently held by a person and how well they meet their repayments (repayment history information). This information is then reported back to credit providers when they are assessing whether to extend credit to a customer.

Under the new regime, consumers who have a 'thin' credit file (i.e. limited borrowing history) or have previously had an adverse credit event (such as a default or bankruptcy) are able to more quickly improve their credit rating by demonstrating a pattern of good credit behaviour.

While these changes have been possible since 2014, comprehensive data is yet to be exchanged because the credit reporting industry has been awaiting finalisation of the Principles of Reciprocity and Data Exchange (PRDE) – the industry self-regulatory code governing the exchange of comprehensive credit information. The ACCC only gave its approval to the PRDE in late December 2015.

As comprehensive credit information is yet to be exchanged, consumers are yet to realise the benefits of this new regime. COBA believes that once comprehensive credit information starts being exchanged there will be no need to reduce the bankruptcy period.

Comprehensive credit reporting is expected to commence this year. As of March 2016, nine credit providers were feeding comprehensive credit data to Veda (a credit reporting bureau), covering 8.1 million consumer credit accounts and representing about 24 per cent of the market. Another 31 credit providers were working on projects and would probably join the system at some point.¹

To encourage the utilisation of comprehensive credit reporting, the Government has tasked the Productivity Commission with consideration of the up-take of comprehensive credit reporting as part of its Inquiry into Data Availability and Use.

Given all these recent and ongoing developments, COBA believes it would be premature to reduce the bankruptcy period at this time. We believe that it is more appropriate to wait and see whether the expected benefits of comprehensive credit reporting enable bankrupts or people with adverse credit reports the ability to rebuild their credit file more quickly.

Currently, credit defaults remain on a person's credit report for at least five years, and previous bankruptcies are generally retained for two years after their bankruptcy period ends, or longer in certain circumstances.

It is important for credit providers to be able to access information on previous bankruptcy events in an applicant's credit report when assessing their credit worthiness. Reducing the retention period for previous bankruptcies may lead to unintended consequences arising from credit providers no longer being able to access this information in applicant's credit report.

COBA believes that the recent changes to the credit reporting system in Australia outlined above mean that bankrupts will be able to rebuild their credit report more quickly after an insolvency event.

COBA does not support the reduction in the retention period for bankruptcy events in credit reports. This information is valuable for credit providers in assessing an applicant's credit worthiness and reducing the time it is retained in credit reports may lead to unintended consequences. Given the anticipated benefits of the new comprehensive credit reporting regime, we question the need for change at this time as CCR may mean former bankrupts will have a greater capacity to be able to rebuild their credit worthiness.

¹ The Australian, 14 March, 2016

Please do not hesitate to contact myself on smackenzie@coba.asn.au or 02 8035 8450 or Alex Thrift on (02) 8035 8447 if you wish to discuss any aspect of this submission.

Yours sincerely

A handwritten signature in black ink, appearing to read 'S. Mackenzie', with a long horizontal line extending to the right.

SALLY MACKENZIE
Acting Head of Public Affairs