Australian Banking Association

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Payment Times Reporting Act Review Secretariat
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## Statutory Review of the Payments Times Reporting Act 2020

The Australian Banking Association (ABA) welcomes the opportunity to respond to Treasury's consultation paper on Statutory Review of the Payment Times Reporting Act 2020 (PTRA Act).

The ABA supports the policy objective that large businesses pay small businesses on time. Banks have taken a range of steps to support small business customers throughout the COVID-19 pandemic and following recent major natural disasters. In relation to payment times, banks are reducing or removing any additional delays to paying small businesses and, in most cases, pay well within the 30-day period. This is evident in the most recent reporting cycle, where most banks made over 90% of payments within the 30-day reporting requirement.[1]

As a relatively new reporting regime, the ABA considers there is room to improve the scheme to ensure greater efficiency while maintaining or improving its effectiveness.

## Our view

As the PTRA regime is in its early stages further time is required to assess the extent to which the Act has met its objectives of improving payment times. Some of the statistics in the consultation paper indicate some improvement in payments made within 20 days and a reduction in payments made between 31-60 days. However, there are data quality issues that suggest the regime can benefit from further maturity. For example, members have found inaccuracies in the Small Business Identification (SBI) tool, which leads to businesses being identified as small businesses when they are not.

Therefore, ABA considers there is room to improve the data quality issues and scope to refine the operation of the Act prior to introducing further changes. Four areas for refinement are addressing inefficiencies of reporting credit card payment times, reporting at a group level, implementing annual reporting, and making the reporting more user friendly.

In terms of the additional proposals, the ABA does not support introducing mandated maximum payment periods or statutory penalties for not meeting the time limits. We consider that penalties are most efficiently addressed through contractual remedies.

We support complimentary measures such as e-invoicing that can improve the efficiency with which small business are paid, as outlined in the consultation paper. However, the low take-up and awareness of e-invoicing by small businesses may mean that the benefits may not be realised without support by government to encourage its use.

Consistent with the above, we make the following recommendations:

## Key recommendations

**1. Exclude credit card payments where they form a small proportion of payments to SMEs.**

Credit card payments usually form a very small proportion of payments made by large entities and are often utilised for relatively low-value payments (airfares, meals etc.) used by corporate services. One ABA member notes that about 70% of these payments are in the excluded spend category. While a small proportion, reporting for these payments under the payment times reporting regime is highly

[1] We note that it is unlikely that 100% of payment times can be within 30 days due to a range of factors such as disputed invoices, errors in the invoice, date discrepancies and in some cases, contracts with longer terms.

inefficient and manual, as Australian Business Numbers (ABNs) are not captured at the point of sale. Further, there is no consistency in the way merchant names appear on credit card statements, which means there is no clear way to link trading names on the Australian Business Register to assist in identifying the business' ABN.

The result is that suppliers, may have several entities, but not all entities are in scope for payment times, and there is considerable "guess work" as to whether the payment is reportable for the purposes of the Act.

We suggest that to ensure accurate reporting, these credit card payments are excluded where they constitute a very small proportion of the supplier payments (potentially less than 1%) particularly as these are often inaccurate best guesses. A *de minimus* threshold for payment values could also be introduced, particularly as many of the payments made through credit cards are of low value. Either or both steps would significantly improve the efficiency of the reporting process, while not affecting the effectiveness of reporting, especially where the proportion of credit card payments are minimal.

**2. Reporting from an entity level to a group level.**

Reporting at an entity level is complex and the ABA recommends that large businesses should be able to report at a group level. The burden of reporting at an entity level is often not beneficial for reporting outcomes as within large businesses while the group may have several reports only a select few of the entities are actually invoice paying entities and the rest of the entities have to enter a null report.

The ABA believes that by allowing for a change to report at a group level it will increase the efficiency of reporting for large businesses while have no detrimental impact on the actual reporting results.

**3. Twice-yearly reporting becoming annual reporting.**

Similarly, ABA sees an opportunity to streamline the twice-yearly reporting requirement to an annual report. Doing so will be a more effective approach and will bring this reporting requirement into line with the governments pay on time survey It would also reduce the regulatory overheads for large businesses operating the scheme.

**4. Develop user friendly reporting.**

The ABA recommends that the reporting process can be made more efficient and user friendly for larger corporates by making the process less manual and usings technologies such as APIs to improve the functionality and efficiency of reporting. APIs can also enable reporting entities to get real time updates on company status which will enhance the quality of reporting.

**5. Mandated maximum periods to not be introduced and left to parties to contract.**

Given the need for this regime to mature and data quality issues, ABA does not support mandating maximum periods. Introducing a maximum period also does not account for the variety, complexity, and duration of contractual arrangements, and can introduce overhead for corporates without creating tangible benefit for SMEs.

**6. Contractual remedies to resolve late payment issues instead of statutory penalties.**

Given the data quality issues and need for further maturity of the regime at present, we do not support introducing penalties. Instead, a more efficient approach is to allow disputes in late payments to be resolved between parties through efficient arbitration mechanisms.

**7. Further support to small businesses to take up measures such as e-invoicing.**

Many ABA members have established e-invoicing facilities and are able to accept invoices through their platforms from small businesses, provided those businesses are also on-boarded and are able to send e-invoices. We observe that small business take-up remains very low, and this could be a result of a lack of time and a lack of awareness. The ABA considers there may be avenues for government to work with industries to better inform and empower small businesses to use e-invoicing, whether through campaigns, targeted incentives in key industries to use e-invoicing or other methods.

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Thank you for the opportunity to provide feedback. If you require further information or would like to discuss any of the content of this letter, please do not hesitate to contact Rhonda Luo on 0430 724 852 or Rhona.Luo@ausbanking.org.au.

Yours Sincerely,

Rhonda Luo

Policy Director