

RG 209: Credit Licensing: Responsible Lending Conduct



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Retailers
Association

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Introduction

The Australian Retailers' Association (ARA) is pleased to offer feedback on the proposal questions offered for feedback by ASIC in relation to *RG 209: Credit Licensing: Responsible Lending Conduct*.

Summary:

The ARA is strongly supportive of responsible lending practices by providers of credit in Australia.

However, it believes regulation can and should only go “so far” inasmuch as some degree of responsibility is incumbent upon applicants for credit, and that it is not the role of regulators to shield consumers from their own misjudgements.

Clearly, there is a need for balance in deriving a position on the issue of responsible lending practices that strikes a midpoint between the legitimate need of the consumer to access credit, the interests of retail outlets in facilitating increased sales turnover, and the interests of the financier extending the credit to the consumer.

The ARA believes many of the discussion items listed as “proposals and questions” point to an unduly restrictive approach to credit approval that will adversely impact consumers, retailers, and financial service providers.

We offer the following brief points by way of comment.

B1Q1

The ARA believes that whilst codification of verification steps required by ASIC may be useful for clarity, such a system would be unnecessarily onerous and have the practical effect of stymying credit approvals through deterring both applicants and retailers offering credit products.

We believe this would be an unintended consequence of the changes ASIC is evaluating.



B1Q3

The ARA believes there is scope for some attention to be paid in the area of so-called “buy now, pay later” schemes, which currently require no other eligibility instrument than an existing credit card.

We believe that this solitary requirement an insufficient reflection of the applicant’s capacity to pay despite the pre-existence of a credit facility to service the loan.

It also exposes both the payment provider and the retailer to loss e.g. if the card provided is above its limit for second and/or subsequent payments, and the consumer does not respond to collection attempts.

B1Q4 /5

The ARA believes there is scope for some attention to be paid in the area of so-called “buy now, pay later” schemes, which currently require no other eligibility instrument than an existing credit card.

We believe that this solitary requirement an insufficient reflection of the applicant’s capacity to pay despite the pre-existence of a credit facility to service the loan.

It also exposes both the payment provider and the retailer to loss e.g. if the card provided is above its limit for second and/or subsequent payments, and the consumer does not respond to collection attempts.

- Medical and medication costs;
- Food and other household items not subject to secured or unsecured existing credit lines;
- Costs of insurance and similar items not routinely inquired about in existing credit tests;
- Expenditure by some consumers on addictive substances.

The purpose in noting these factors is simply to highlight that whilst including them in credit tests may reduce retail trade and adversely affect credit providers, failure to do so exposes the same businesses to risk.

The ARA is of the view that it is not possible to shield all people from the consequences of their actions all of the time without impacting on otherwise legitimate business concerns in a disproportionate and inappropriate manner.



B1Q6

This follows on from B1Q1.

The ARA believes, as noted above, that the primary unintended consequence would be the deterrence of consumer credit applications, as it “all gets too hard” and people simply don’t bother, electing instead to save for some items if credit is deemed too difficult to access.

This in turn will have deleterious effects on both retailers (through the reduction of custom and cashflow) as well as credit providers (who will acquire fewer customers as a result).

B1Q7

The effect would be to increase costs for the retailer, particularly if the proposed changes lead to increases in processing times for credit applications. In turn, this could ultimately result in an overall loss of retail trade volume.

B1Q8

The ARA is disturbed by what it understands as the notion of competition at the point of sale between multiple credit products or providers.

If the retailer processing the credit application (or, indeed, the retailer, in the case of a sole trader) has knowledge of the particulars of each credit product – particularly where commissions are payable in return for offering the facility to customers – it is obvious that whichever product returning the highest commissions to the retailer are likeliest to be offered.

We note this eventuality raises issues uncovered by the recent Royal Commission into the banking sector. It also raises the prospect of retailers facing legal proceedings for unconscionable conduct in circumstances where a customer facing hardship could show they were disadvantaged by the failure of the retail outlet to offer all options in a competitive situation.