



AUSTRALIAN COLLECTORS &  
DEBT BUYERS ASSOCIATION

7 February 2022

[REDACTED]  
[REDACTED]  
Australian Securities and Investments Commission

Dear [REDACTED]

## **ASIC Consultation Paper 354 ASIC relief for simple arrangements following a hardship notice: [CO 14/41]**

The Australian Collectors & Debt Buyers Association (ACDBA) is pleased to provide this response to the above Consultation Paper issued 8 December 2021.

### **About ACDBA**

Established in 2009 for the benefit of companies who collect, buy and/or sell debt – ACDBA's members (refer Appendix 1) represent the majority of the collection market in Australia.

The core business of our members within the financial services industry is in the credit impaired consumer segment, whether as collectors or debt purchasers, working with consumers who for various reasons, have found themselves in default of their credit obligations.

ACDBA members purchasing debt, each hold an Australian Credit Licence and are members of the Australian Financial Complaints Authority (AFCA). An explanation of how debt purchasing operates in Australia is included at Appendix 2.

### **Response to CP 354**

ACDBA in support of the proposed option outlined at C1(a) for the extension of ASIC Class Order [CO 14/41] until 1 April 2024 notes:

A **simple arrangement** is defined in [CO 14/41] as an agreement that defers or reduces the obligations of a debtor for a period of no more than 90 days.

Simple arrangements are useful for short term assistance where for example a consumer might only seek to suspend or defer their repayments for a couple of weeks and have for our members worked well by allowing them to facilitate assistance to consumers experiencing financial difficulties by expeditiously offering or agreeing to some form of temporary assistance.

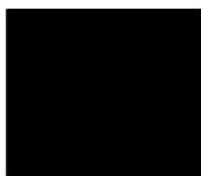
Credit providers are relieved from the requirement to give the consumer written notice that they have agreed to change the contract with details of the change in relation to simple arrangements made pursuant to [CO 14/41].

In some circumstances although not required to do so a credit provider may still elect to confirm a simple arrangement in writing either for operational purposes or alternatively whenever requested by a consumer to do so. This flexibility for the handling of simple arrangements should be maintained by the extension of [CO 14/41].

Please do not hesitate to contact the writer to discuss any aspect of this response.

Yours sincerely

**AUSTRALIAN COLLECTORS & DEBT BUYERS ASSOCIATION**



Alan Harries  
CEO  
Email: [REDACTED]

## Appendix 1 - Members of Australian Collectors & Debt Buyers Association

- Axxess Australia Pty Ltd
- CCC Financial Solutions Pty Ltd
- CFMG Pty Ltd t/as reminda
- Charter Mercantile Pty Ltd
- CollectAU Pty Ltd
- Collection House Limited (ASX: CLH)
- Complete Credit Solutions Pty Ltd
- Credit Collection Services Group Pty Ltd
- Credit Corp Group Limited (ASX: CCP)
- Debt Force Pty Ltd
- Lyndon Peak Pty Ltd t/as Access Mercantile Services
- PF Australia Pty Ltd
- Pioneer Credit Limited
- PRA Australia Pty Ltd
- Prushka Fast Debt Recovery Pty Ltd
- Recoveries Corporation Holdings Pty Ltd
- Shield Mercantile Pty Ltd
- Standard8 Advisory Pty Ltd
- Strategic Collections Pty Ltd

## Appendix 2 - Debt Purchasing explained

Debt sale contracts exhibit the features of outsourced service provision rather than asset divestment - the contracts contain substantial ongoing conduct obligations and restrictions imposed on the purchaser, which are supported by warranties, indemnities and other potential penalties. The conduct obligations deal with matters such as ongoing compliance with laws, codes, guidelines, data security, principles of fairness and policy directives of the seller.

These contractual requirements are supported by ongoing reporting obligations for matters including breaches, complaints and the identification of customers in sensitive circumstances. There are provisions for extensive auditing, on-site visits and regular review meetings to share emerging issues. Sellers retain substantial discretion to recall individual customer accounts at any time.

The contractual elements create an outsourcing relationship granting the seller substantial control over the ongoing conduct of the purchaser and the experience of individual consumers.

It is appropriate to note ASIC as the regulator for the financial services industry provides guidance in respect to conduct relating to a debt<sup>1</sup>:

*A creditor may also remain liable for conduct regarding a debt despite having sold or assigned the debt. Liability will generally remain for misconduct occurring before the sale or assignment of the debt.*

Accounts assigned to debt purchasers by original credit providers typically involve debts where an acceleration clause in the financial agreement has been triggered by the consumer's default in making repayments. Once a debt has been accelerated, the amount owing is immediately due and payable.

Many, if not most consumers with accelerated debts are likely to be in hardship giving rise to complex, contested and unresolved issues.

Debt purchasers are specialists in dealing with and managing hardship as they almost exclusively interact with customers in some form of financial difficulty.

Debt purchasers do not establish separate hardship teams and do not need to implement protocols and systems to identify hardship. Rather, they proceed on the basis that every customer is in hardship. This means that every customer receives an empathetic and understanding experience designed to reach mutual agreement on a sustainable repayment arrangement.

The debt purchase business model includes two key features being:

- a. The model is uniquely suited to the promotion of affordable and flexible long-term payment arrangements which most effectively respond to individual customer circumstances
- b. Debt purchasing involves the assignment of permanent tenure to defaulted loans at prices which represent a substantial discount to the face value outstanding

The benefit of these two features is allowing debt purchasers to agree to longer-term payment arrangements with lower and more affordable repayments for the customer in hardship and to take a patient approach to understanding and accommodating individual customer circumstances.

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<sup>1</sup> Equifax Default Information Guide version 23.0 - February 2019

Each year ACDBA members and other industry firms participate in a data survey to provide industry wide demographics. Reviewing the data survey for FY2021 reveals there were 2.98 million accounts with a total face value of \$13.9 billion under collection that had been purchased from originating credit providers.

These aggregated figures reveal a low average value per account of only \$4,664.

Debt purchasers handle a range of debt values in their portfolios from lesser amounts in respect to telecommunication debts through to larger amounts for higher value credit card and other banking product debts.

Survey respondents in FY2021, reported for both debt purchase and contingent collections collecting \$1.55 billion of defaulted consumer credit obligations, restructuring \$3.06 billion into sustainable repayment arrangements together with a \$1.16 billion in hardship arrangements and waiving a further \$54.7 million owed by vulnerable customers in financial hardship.