Commercial Asset Finance Brokers Association of Australia Limited

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National Professional Body of the Equipment Finance Industry

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Senior Adviser
Financial System and Services Division
The Treasury
Langton Crescent
PARKES ACT 2600

RE: FINANCIAL SYSTEM INQUIRY – Final Report

The **Commercial Asset Finance Brokers Association of Australia Limited (CAFBA)** welcomes the opportunity to provide comment on the Final Report from the Financial System Inquiry, released on 7th December 2014.

As outlined in our Submission on 25th August 2014**, CAFBA** is the peak national body of commercial equipment finance brokers, whose prime area of business is the distribution of commercial equipment finance facilities to their clients. **CAFBA** members are career professionals who understand the funding process and recognise the products of the available lenders in the Equipment Finance Market for their predominantly small to medium business clients.

We would like to reiterate the comments in the Interim Report that **"a well-developed broker market for SME lending would likely increase competition among lenders and improve access to finance for SMEs. In recent years, brokers have become more prevalent in some areas of small business lending, particularly equipment finance."**

CAFBA has seen an increase in membership growth over the past few years, and has been vigilant in raising industry standards.

The Final Report made 44 recommendations which focussed on two general themes – funding the Australian economy and boosting competition.

The Report acknowledges that funding for SME's is essential to facilitate productivity growth and job creation in the Australian economy. However, compared with large corporates, SME's generally have more limited access to external financing and higher funding costs.

Whilst the Final Report offers crowd funding and peer-to-peer lending as viable solutions (which would mainly benefit start-ups), there are other measures currently available to make access to finance easier for established small to medium businesses.

CAFBA believes the following measures can greatly assist competition and access to finance.

1. Anti-Money Laundering and Counter-Terrorism Financing (AML/CTF) Reform

A current impediment to small business lending that is a “solution without a problem” is the onerous requirements and confusing interpretations by lenders regarding AML/CTF.

AML/CTF legislation has not stopped identity fraud. Professional brokers and financiers are burdened by the cost and administration of the regulation, which has not stopped criminals finding ways around it.

CAFBA acknowledges that there is a level of fraud in the equipment finance industry, as there is in other industries; however it is not a favoured means of money laundering or raising funds for terrorism. Lenders acknowledge that equipment finance is a “low level risk” for CTF, but it is still bound with the same requirements as “high level risk” products like cash deposits. The target of AML/CTF legislation largely falls outside the equipment finance space and fraud is generally minimised by normal due diligence. While identification of borrowers/guarantors and verification of financial information is of critical importance, it is superfluous to extend this to the extent of locating and certifying Trust Deeds and verifying beneficiaries. Some of these Trust Deeds have been in place for decades, but are required to finance assets such as a motor vehicle to be used in the normal course of business.

In the Equipment Finance sector borrowers receive assets, not cash. The security position of financiers should be strengthened by PPSR which identifies and secures assets, and reduces the need for overlayed protections under AML/CTF.

CAFBA proposes:

- A threshold of at least $500,000 per transaction before the requirement to identify beneficiaries of Discretionary Family Trusts or Unit Trusts
- Clearer definition of requirements under the Act to reduce ambiguity and make it easier for lenders to standardise their AML/CTF requirements.

2. Australian Tax Office – effect on its approach to tax debt on small business borrowing

Since the GFC access to finance for small business has been more difficult to obtain. This has been the subject of many public discussions, with seminars arranged to address the problem. CAFBA is a prominent member of the Council of Small Business Organisations of Australia (COSBOA). At COSBOA's Access to Finance for Small Business Summit held in Canberra in May 2013, attended by the Australian Tax Office (ATO), the issue was raised regarding the ATO's willingness to offer arrangements to pay tax debt, which has wider economic implications.

When borrowers are seeking a loan, particularly after the GFC, lenders were extremely reluctant to approve loans where there was an arrangement in place with the ATO to pay an historical tax debt. In an effort to better manage small business cash flow, accountants were making submissions to the ATO to defer tax debt, believing it an easier option and more economically viable than seeking or using an existing bank overdraft or other facilities.

The implications of this were that when a borrower sought a loan from a bank to expand or to finance additional equipment to grow the business, the loan was declined in view of the tax debt and the ATO's priority in any adverse situation. Further to this, the borrower, by entering into the arrangement with the ATO could be in breach of existing borrowing covenants on outstanding loans, without realising it.

Whilst CAFBA acknowledges the willingness of the ATO to assist small business by deferring the tax debt, the negative impact is that it was stifling the client's ability to borrow and therefore grow.

CAFBA recommends that the ATO more clearly sets out the terms of payment arrangements and publicly issue a policy around enforcement and late fees/days, late thresholds and dollar thresholds. This would allow ancillary stakeholders like lenders to make informed credit policies around tax debt rather than blanket policies that exclude new business borrowings due to a perfectly innocent tax arrangement.

3. APRA Prudential Standard APS113

CAFBA would like to acknowledge the comments in the Interim Report, particularly APRA's indication that they would be "willing to consult on raising the $1 million retail/corporate boundary to $1.5 million".

Whilst this is a step in the right direction, CAFBA believes, the threshold should be raised to **$3 million**.

APS 113 was introduced to Australia in 2008 as a direct consequence of banking problems in Europe. It was based on 1 mil euro, which at the time converted to AUD 1.67 mil (if indexed this would now be AUD 2.050 mil as at June 2014.) The threshold however became AUD 1 mil. The 2008 problems no longer exist, but the threshold remains.

The current limit of $1 million (and also the mooted $1.5 million) is far too low and impacts on far more business borrowers than is necessary. It is an impediment to capital expenditure for expanding businesses.

CAFBA proposes:

- An immediate increase in the threshold to $3 million
- Annual indexation of the threshold linked to CPI
- APRA to resubmit its case for continuation of APS113 every five years.

CAFBA believes that by addressing these issues access to finance for small business will be more readily available, which will provide much needed flow on benefits to the Australian economy.

CAFBA appreciates the opportunity to provide comment on the Final Report, and would be available to meet or discuss with the Inquiry these issues should you deem appropriate.

Yours faithfully,
Commercial Asset Finance Brokers Association of Australia Limited

Terry Moody
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