



12 August 2019

The Manager
Black Economy Division
Langton Cres
Parkes ACT 2600

By email: blackconomy@treasury.gov.au

Re: Currency (Restrictions on the Use of Cash) Bill 2019 – Exposure Draft

I write on behalf of the NSW Farmers' Association to raise our member concerns regarding the Currency (Restrictions on the Use of Cash) Bill 2019 – Exposure Draft. The Association is Australia's largest State farming organisation representing the breadth of primary producer businesses – both large and small.

In response to your invitation to provide comment on the Exposure Draft the following observations address issues that we feel must be addressed before this Bill is considered by Parliament.

Black Economy Activity Reduction

- This draft bill is under consideration to implement the Black Economy Taskforce recommendation to introduce a \$10,000 cash payment limit for transactions between businesses and individuals. The draft proposes the creation of a new offence but provides for as yet unspecified exemptions for transactions specified by the Treasurer by legislative instrument. As these are yet to be identified there is potential that additional restrictions may be applied and potentially escalating the compliance and regulatory environment.
- It is proposed that this draft bill will replace the AUSTRAC reporting requirements and therefore increase regulatory and compliance burden on the individual or businesses. It is noted that certain international transfers will still require ADI reporting – but not all transactions will potentially be captured. It is the Association's significant concern that this draft bill will add complications for normal business transactions and not actually address the Black Economy concerns if the Taskforce.
- The draft notes that electronic transfers are increasingly replacing cash transactions. The regulations are currently in place for these. However, with increasing international focus on the development of crypto-currencies there is little internationally applicable or harmonised regulation regarding monitoring these transactions. In fact, it is argued by some economists that these will improve capacity for increased access to international transfers in high transaction economies, such as India or African nations, potentially bypassing any oversight measures required by the Black Economy Taskforce.

Encroaching on Civil and Economic Liberties

- The Association holds concerns about the encroachment of the draft exposure bill on civil and economic liberties. It is a key principle of regulation to ensure it will not create undue impediment to business. It is also crucial that regulation clearly address a particular problem. In short, regulation must be fit for purpose.
- In this instance, it is unclear what evidence exists to illustrate that limiting cash transactions to \$10 000 will prevent tax avoidance and illegal activities, while this regulation has the potential to impede the efficient and timely operation of business.

NSW Farmers' Association

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- Should this draft bill progress in its current form Government will increase its direct authority over personal cash management or investment decisions, essentially requiring all cash to be held in registered financial institutions. The Association strongly opposes this unwarranted and indeterminate level of oversight on the personal decisions of individuals to make expenditure decisions using their own capital.
- Such infringement will be exacerbated if in Australia we reach the position as now occurs in a number of other countries where interest rates on deposits are negative – the depositors have to pay the financial institution to hold their money.
- It is noted that there are currently provisions to allow for exemptions for some consumer to consumer transactions. However as they are not specified in the proposed bill, will be subject to regulatory instruments, and therefore potentially subject to minimal scrutiny and any additions or changes will be at the discretion of the Minister of the day.

Improving the Taxation System

The draft bill is proposed as a direct response to recommendations of the Black Economy Taskforce. It is noted by The Treasury that:

“... the black economy is a long-standing problem, new vulnerabilities and threats are emerging as a result of fundamental economic, social and technological changes. Tax and non-tax regulatory burdens, pressure on business margins, the proliferation of new business models (including the sharing economy) and new forms of work, complex interactions with illegal activities and changing social norms are influencing this landscape.”

And that ...

“Participation in the black economy penalises honest taxpayers, undermines the integrity of Australia's tax and welfare systems and creates an uneven playing field for the majority of small businesses doing the right thing.”

Given the above, the NSW Farmers' Association considers that a renewed focus on improving the taxation system, as outlined in the 2010 Review of Australia's Future Tax System be a priority for Government. Many of the Review's recommendations are yet to be addressed. By improving the Taxation System there is a high likelihood that a number of triggers for Black Economy activity may be removed rendering this additional legislation un-necessary.

Should you staff require additional information, your office is invited to contact Kathy Rankin, Policy Director on 02 9478 1008 or rankink@nswfarmers.org.au.

Sincerely,

A handwritten signature in black ink, appearing to read 'Peter Wilson'.

Peter Wilson, Chair
Business, Economics and Trade Committee

NSW Farmers' Association