

Manager - Financial Services Unit
Financial System Division
The Treasury
Langton Crescent
PARKES ACT 2600

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Improving dispute resolution in the financial system - Consultation Paper

The Commercial Asset Finance Brokers Association of Australia Limited (CAFBA) welcomes the opportunity to provide feedback on the Australian Government's *Improving dispute resolution in the financial system - Consultation Paper*.

CAFBA agrees with the Treasurer that Australians rely on the banking and financial system. We note that our members play a key role in providing access to finance for small and medium sized businesses. Our members must be supported to do this with policies that promote competition and choice.

The *Ramsay Review* failed to listen to industry groups who argued for maintaining the Financial Ombudsman Service (FOS) and the Credit and Investments Ombudsman (CIO). While CAFBA remains in favour of two external dispute resolution schemes, we acknowledge that the Government has proposed creating the Australian Financial Complaints Authority (AFCA) in response to *Ramsay Review* recommendations. This brief submission contains our own recommendations that the Government must adopt to ensure the AFCA is workable for our members.

CAFBA recommends that the Australian Government should ensure the AFCA:

- **ensures costs are low for smaller firms;**
- **provide dedicated services to small businesses;**
- **focuses on more than banks; and**
- **have dedicated board members with small business and commercial finance lending experience.**

CAFBA looks forward to continuing to work with the Australian Government. We do this in the interest of improving the national economy, by supporting small and medium enterprises to grow their business, and create more jobs.

Should you wish to discuss further we would be pleased to make ourselves available.

Yours sincerely



David Gandolfo
President



Kathryn Bordonaro
Vice President

Background Information

Commercial Asset Finance Brokers Association of Australia Limited (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. With over 700 members, in all states and territories, CAFBA is an important national voice in the Australian finance sector.

CAFBA members are career professionals, with recent studies showing nearly 67% (East & Partners 2017) of new commercial equipment finance is sourced through brokers. Our members and their clients are predominantly small to medium sized businesses and operate in the commercial finance market. The total receivables in the Australian equipment finance market are approximately \$100 billion, so it is an important component of the Australian economy.

CAFBA members know that providing Australian small businesses with access to finance is crucial to economic growth. Although brokers are commonly associated with home loans, CAFBA members work in a complex environment to provide a boutique service. Without the work of CAFBA's professional members, many Australian small business owners would struggle to navigate the complexities involved with commercial equipment finance.

CAFBA embodies the strengths of its members in a unified approach for dealing with financiers and legislators at a national level and regularly seeks the views of members. As an association, CAFBA provides the framework and support to professionally assist our members in their daily activities. This involves education and training, legislative and regulatory updates and forums where the members can interact and exchange ideas with their peers.

CAFBA prides itself on being self-regulating and maintains strict membership standards on probity, continuing professional development, industry experience, and reputation. It is a condition of CAFBA membership that commercial equipment finance brokers must belong to an ASIC-approved External Dispute Resolution Scheme.

Recommendations

The CAFBA Executive and our staff have considered the *Consultation Paper* and related issues. CAFBA have developed four recommendations important to ensuring that finance is accessible to consumers and to protect our members. The recommendations below are designed to support our members to continue providing professional and high-quality services.

CAFBA reiterates concerns raised in our submission to the *Ramsay Review*. CAFBA has stated previously that our preference is for the Government to maintain two distinct external dispute resolution schemes. In particular, we strongly support the work of both the Credit and Investments Ombudsman (CIO) or the Financial Ombudsman Service (FOS). CAFBA members who belong to the CIO and FOS have highlighted how each provides their business with tailored services that support their needs. To our membership, maintain both the CIO and FOS remains preferable to the Government's proposed framework through the Australian Financial Complaints Authority (AFCA).

CAFBA recognises that the Government has adopted all 11 recommendations from the *Review of the financial system external dispute resolution and complaints framework* (Ramsay Review). Despite CAFBA's strong support for maintaining the CIO and FOS, we acknowledge that the Government is likely to proceed with establishing the AFCA.

The Government must work to ensure that the proposed AFCA is effective for all stakeholders. The AFCA will play an important role in dispute resolution across the finance sector. As a consolidated framework, it will incorporate a range of different stakeholders with specific needs who face individual challenges. It is incumbent upon the Government to ensure that the AFCA staff understand all stakeholders and consumers. The framework must also be designed to incorporate structures that enable effective service delivery. The design is important and there are many possibilities for problems arising if advice is not listened to.

CAFBA is concerned that the proposed framework will result in an ineffective monopoly. Despite promises from ministers that the AFCA will deliver a more streamlined and simple process for dispute resolution, there are many potential challenges during implementation. We are concerned that AFCA will charge small brokers an excessive fee for a service that is predominantly used to resolve banking disputes. This would also result in AFCA being focused on the needs of the larger banks and their consumers, rather than brokers. The framework must be established to both understand and respond to the needs of smaller firms and consumers.

While two schemes would have supported choice and competition, there are a number of ways the Government can ensure the AFCA would be more workable for our members.

1. Ensuring Costs are Low for Smaller Firms

CAFBA calls for the Government to mandate that AFCA adopts an affordable cost structure for smaller firms, including a transparent review process for cost increases. CAFBA has identified that a present risk within the establishment of a 'one-stop shop' is that it benefits large financial firms over smaller ones. Smaller firms have with thinner margins and a lower market share meaning they may struggle to absorb or pass on any additional costs associated with AFCA. The government must work to mandate a low-cost

approach for smaller firms to address this risk. The government should also ensure that there is a transparent mechanism within the AFCA to monitor and keep accountable all future cost increases.

2. Provide a Dedicated Small Business Area within AFCA

CAFBA calls on the government to work with industry to develop a dedicated small business area within the AFCA, with knowledge of the sector. CAFBA remains of the view that the AFCA will not have the expertise to deal with disputes related to smaller firms and small business finance appropriately. To resolve this, the Government must consult with key stakeholders from industry to ensure that the design of the AFCA is responsive to the needs of small business and commercial financing established through smaller firms. A dedicated small business area within both schemes would also distinguish between commercial complaints compared to consumer complaints, which can be entirely different in nature and can require different outcomes.

3. Ensure the Focus of AFCA is Broader than Banks

CAFBA calls on the Government to ensure the structure, design, and staffing of the AFCA maintains a diverse focus. The majority of CAFBA members belong to CIO and appreciate the understanding that CIO staff bring to handling disputes involving small businesses and sole traders. CAFBA argues that it is essential to replicate this understanding and supportive approach within AFCA through maintaining staff and a broad focus on challenges beyond banking issues. Our members are generally not supportive of being in a single EDR framework which is geared towards large financial institutional players. Banks have differing complaints and level of requirements that do not meet the needs of the smaller businesses. The Government must hire staff with experience of small business and sole trader specific issues. It must also ensure a culture is established within AFCA that is empathetic and supportive towards the issues faced by smaller businesses.

4. Ensure Board Members have a Broad Experience

CAFBA calls on the Government to formally establish and promote the importance of small businesses within the AFCA executive. We recognise that understanding and empathy towards the situation of small businesses and firms is often lacking in the leadership of regulatory bodies. While the ACCC, ATO, and ASIC are each working to improve this, CAFBA believes that the proposed AFCA must get this right from the beginning. To cultivate a systemic understanding small business finance challenges, the Government must ensure that the AFCA has board members with relevant experience and understanding. CAFBA proposes that the AFCA board include at least one member with a strong background in commercial finance for small business.

Adopting the four recommendations above would help to ensure that the AFCA is more supportive, relevant and effective for those involved with small business finance. CAFBA remains concerned that the Government has not adequately consulted with industry on this issue, noting that the Ramsay Review only held two consultations with industry. It is crucial that the Government listens to industry groups including CAFBA through this consultation paper.