

Committee Secretariat
Senate Standing Committees on Economics
PO Box 6100
Parliament House
Canberra ACT 2600

28 June 2024

By email: economics.sen@aph.gov.au

Dear Committee Secretariat,

TREASURY LAWS AMENDMENT (RESPONSIBLE BUY NOW PAY LATER AND OTHER MEASURES) BILL 2024

The Mortgage and Finance Association of Australia (MFAA) welcomes the opportunity to comment on the Treasury Laws Amendment (Responsible Buy Now Pay Later and Other Measures) Bill 2024 (**the Bill**).

For context, the MFAA is Australia's peak body for the mortgage and finance broking industry with circa 15,000 members which includes mortgage and finance brokers, aggregators, lenders, mortgage managers, mortgage insurers and other suppliers to the mortgage and finance broking industry. Brokers play a critical role in intermediated lending, providing access to credit and promoting choice and competition in both consumer and business finance. The industry makes a significant contribution to lending in Australia, with brokers currently facilitating 74.1% of all home loans in Australia¹ and more than four in ten small business loans.²

As an industry association, the MFAA's role is to provide leadership and to represent its members' views. This includes advocating for balanced legislation, policy and regulation and encouraging policies that foster competition and improve access to credit products and credit assistance for all Australians.

OUR SUBMISSION

The MFAA wishes to make comment to two aspects of the Bill – the proposed regulation of Buy Now Pay Later (BNPL) products and the Instant Asset Write Off.

Buy Now Pay Later

The Bill gives effect to the Federal Government's announcement³ to regulate BNPL products by amending the National Credit Code to establish BNPL as regulated credit. While the MFAA believes the existing principles based responsible lending obligations are sufficient without the need for a bespoke framework, we support the Bill as it regulates BNPL as credit.

¹ MFAA media release, *Mortgage brokers remain the first choice for homebuyers*, 30 May 2024, [here](#).

² Productivity Commission research paper *Small business access to finance: The evolving lending market* pg 44.

³ The Hon Stephen Jones MP, Assistant Treasurer and Minister for Financial Services, Address to the Responsible Lending and Borrowing Summit, Sydney, 12 July 2022.

Our members want consumers to have the best possible chance of buying their first home, or the ability to refinance to a new loan that better suits their needs. Since the advent of BNPL facilities in market, our members have raised concerns as to:

- the lack of requirements for BNPL providers to undertake creditworthiness assessments,
- the ease of taking out BNPL facilities from different providers which can act as a barrier to finance or cause delays when consumers seek to purchase a home or refinance, and
- the lack of visibility on credit reports which impact on our members' ability to easily undertake suitability assessments in line with their own responsible lending obligations.

While recognising the innovation and competition from BNPL in Australia, we note that BNPL providers use regulatory exemptions to offer ease of credit, unlike other credit providers who must follow responsible lending obligations. This creates an uneven playing field and raises consumer protection concerns in BNPL products.

Most of the recommendations that we have made in previous submissions⁴ on the draft Bill have been adopted, this includes:

- prohibiting unsolicited credit limit increases in the same way as with credit cards,⁵
- the acceptance by a BNPL licensee of an AFCA complaint with respect to their credit representatives, and⁶
- clarity on how a licensee elects which responsible lending regime it will adhere to.⁷

We are therefore comfortable to support the proposed Bill.

We also continue to emphasise that there should be further education around BNPL for consumers as a credit product. We also expect in line with our previously made recommendations, that:

- ASIC's Regulatory Guide 209 Credit licensing: Responsible lending conduct is updated to address BNPL as a specific subset of credit products, and
- that BNPL is included in comprehensive credit reporting in the same way as other consumer credit products.⁸

Instant Asset Write-Off

The MFAA also supports the extension of the \$20 000 instant asset write-off by 12 months until 30 June 2025. This will allow small businesses (with an aggregated annual turnover of less than \$10 million) to immediately deduct the full cost of eligible depreciating assets costing less than \$20 000 that are first or installed ready for use on or before 30 June 2025.

However, we strongly encourage the Federal Government to establish long-term instant asset write-off policy. A long-term instant asset write-off policy will give small businesses the certainty to plan investments in assets which facilitates productivity and growth.

⁴ MFAA submissions [here](#).

⁵ Paragraphs 2.114 and 2.115 of Explanatory Memorandum

⁶ Paragraphs 2.95 - 2.99 of Explanatory Memorandum

⁷ Paragraph 2.62 of the Explanatory Memorandum

⁸ In our submission⁸ to the Attorney General's Department in response to their consultation on the Independent Review of Australia's Credit Reporting Framework, we noted our support the regulation of BNPL products as credit and the importance of BNPL providers participating in the credit reporting framework.

CLOSING REMARKS

If you wish to discuss this submission or require further information, please contact either me at [REDACTED] or Stefania Riotto at [REDACTED].

Yours sincerely

[REDACTED]

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Mortgage and Finance Association of Australia