



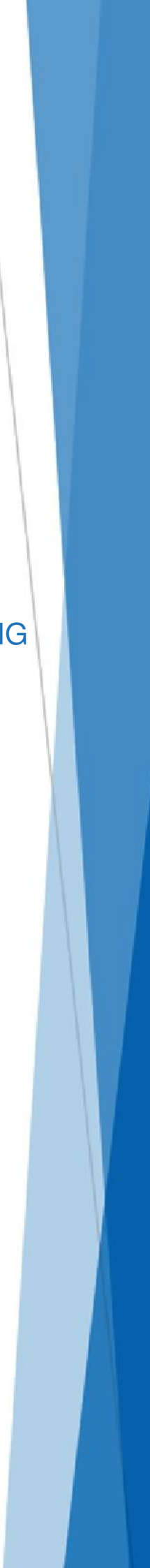
Australian Banking
Association



EXTENDING THE SMALL BUSINESS RESPONSIBLE LENDING OBLIGATIONS EXEMPTION

The Treasury

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ABA submission to the Treasury's consultation on extending the small business responsible lending obligations exemption

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About the ABA

The Australian Banking Association advocates for a strong, competitive and innovative banking industry that delivers excellent and equitable outcomes for customers. We promote and encourage policies that improve banking services for all Australians, through advocacy, research, policy expertise and thought leadership.

Overview

The Australian Banking Association (**ABA**) welcomes the opportunity to provide a submission to the Treasury's consultation on extending the small business responsible lending obligations exemption (**exemption**) in the Treasury Laws Amendment Instrument 2024 (**instrument**).

The ABA strongly supports extension of the exemption for a period of a further two years to 3 October 2026 and requests the Treasury explore making the exemption permanent to ensure certainty and reduce regulatory restrictions and barriers for small businesses seeking access to credit.

Impact of exemption on small business access to credit

As the explanatory statement for the instrument notes, in April 2020, a time-limited exemption was established as a temporary measure to support timely access to finance for small businesses during the COVID-19 pandemic.

The exemption provides that certain mixed-purpose small business loans are exempt from the responsible lending obligations so long as there is a 'genuine' business purpose that is not minor or incidental. The exemption means a mixed-purpose small business loan is not subject to the responsible lending obligations where the loan has a real business purpose that is not insignificant or peripheral to the loan. The exemption was initially put in place for a period of six months but has since been extended three times.

Small businesses account for 33% of Australia's gross domestic product and employ 42% of Australia's workforce. Of the 1,004,180 total employing businesses, 934,726 are small businesses (93.1%).¹ The access to, and provision of, appropriate and timely credit to these small business owners supports employment and growth at scale.

Small business customers continue to benefit from the existence of the exemption, with small business credit growing from \$418 billion in July 2019 to \$672 billion as of June 2024, an increase of 61%.²

ABA members have observed that the exemption has supported sufficient availability of credit to small business and reduced the cost of credit for small business via a less onerous, and more efficient process. The existence of the exemption reduces the number of inquiries and verification tasks that must be completed by banks and small businesses, which can often result in customers spending more time and resources to provide additional documentation that would otherwise be required under the *National Consumer Credit Protection Act 2009* (Cth). This is particularly the case for small business customers who often have various sources of income and expenses across multiple types of entities and who's personal and business finances are intermingled, adding to complexity.

¹ ABS, Australian Industry Table 5, ABS Counts of Australian Businesses, Table 13a.

² Reserve Bank of Australia, D14 Lending to Business – Business Finance Outstanding by Business Size and Interest Rate Type.

The ABA considers the continuation of the exemption is important, particularly in the context of the current economic environment where inflation and higher interest rates are placing increased pressure on small businesses, including those that are continuing to recover from the COVID-19 pandemic. The ABA encourages the Treasury to reduce any additional regulatory burden for small business over this challenging economic period.

Protections for small business

The ABA notes that a suite of regulatory provisions and consumer protections to the provision of credit exist to support banking customers, including small businesses. For example:

- The *Australian Securities and Investments Commission Act 2001* (Cth), which includes a prohibition on misleading or deceptive conduct in relation to financial services and on unconscionable conduct in connection with the supply of financial services.
- The ABA's Banking Code of Practice (**Code**), which imposes obligations above the law on members with an Australian retail presence, including exercising the 'care and skill of a diligent and prudent banker' when assessing whether the customer can repay the loan based on the circumstances reasonably known to banks. We note the definition of 'small business' under the new Code, effective 28 February 2025, has also been expanded to cover an additional 10,000 small business customers that will be protected by the Code.
- Relevant APRA Prudential Standards and Guidance, including APS 220 Credit Risk Management and its application to agricultural small businesses.

We also note that, to date, there is no evidence to suggest the exemption has led to an increase in significant customer detriment such as loan defaults. Business loan arrears (all sizes of business) remain low at 0.5% in 2024, compared to 0.7% in 2019.³

In the last 12 months, while the exemption has continued to apply in a post COVID-19 "normal" environment, members have observed that small business default rates have remained low and consistent with the figures observed during the pre-pandemic period.

Small business repossessions have also been low due to banks' customer centric exit approach, where banks are supporting customers to voluntarily exit the product or service and supporting security if they cannot service the loan (not viewing repossessions as the first or only option).

The ABA notes the explanatory statement on the exemption states that extending the exemption will provide an additional two years of data to inform a future decision on whether the exemption should be made permanent, allowed to expire, or modified to improve its effectiveness. The ABA welcomes this position and would be pleased to provide further information or support to the Treasury as it considers the permanency of the exemption, which we strongly support.

³ Reserve Bank of Australia, Monthly Chart Pack, August 2024.