



18 December 2017

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

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

Dear Sir Madam

Financial Sector Legislation Amendment (Crisis Resolution Powers and Other Measures) Bill 2017

Thankyou for the opportunity to make a submission in respect of the Financial Sector Legislation Amendment (Crisis Resolution Powers and Other Measures) Bill 2017 (the Bill).

The Australian Restructuring Insolvency and Turnaround Association (ARITA) represents practitioners and other associated professionals who specialise in the fields of insolvency, restructuring and turnaround. We have reviewed the Bill and accompanying explanatory memorandum from this perspective.

We have only one issue that we wish to raise in our submission. We are concerned about the requirement to provide at least one week written notice to APRA of the intention to appoint or apply to appoint an external administrator to a regulated entity or an authorised non-operating holding company (NOHC). Failure to provide this notice is a strict liability offence of 60 penalty units (currently \$12,600).

If a regulated entity or authorised NOHC is in a position whereby a decision is made that the appointment of an external administrator is necessary, timely action will be required. We are concerned that the notice requirement may create an unacceptable delay to the making of the appointment.

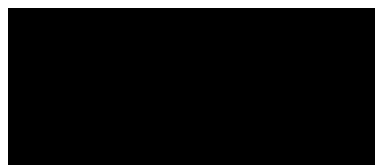
We note that there is a capacity for APRA to consent to the person making the application or appointment within that notice period, but that consent appears to be at APRA's discretion.



We agree that notice should be given, however, we do not agree that it should be prescriptively set at one week. The current requirement to simply provide notice in s62B of the Banking Act (and aligned provisions in the Insurance and Life Insurance Acts) is more appropriate and we suggest that the requirement to provide notice, without a specified notice period, be retained.

Should you have any queries in relation to our submission, please do not hesitate to contact Ms Kim Arnold, ARITA's Policy and Education Director, on telephone [REDACTED]

Yours sincerely



John Winter
Chief Executive Officer



About ARITA

The Australian Restructuring Insolvency and Turnaround Association (ARITA) represents practitioners and other associated professionals who specialise in the fields of insolvency, restructuring and turnaround.

We have more than 2,400 members including accountants, lawyers, bankers, credit managers, academics and other professionals with an interest in insolvency and restructuring.

Some 82 percent of registered liquidators and 86 percent of registered trustees are ARITA members.

ARITA's mission is to support insolvency and recovery professionals in their quest to restore the economic value of underperforming businesses and to assist financially challenged individuals.

We deliver this through the provision of innovative training and education, upholding world class ethical and professional standards, partnering with government and promoting the ideals of the profession to the public at large.

The Association promotes best practice and provides a forum for debate on key issues facing the profession. We also engage in thought leadership and advocacy underpinned by our members' knowledge and experience.