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01 November 2017

Senate Standing Committee on Economics
PO Box 6100
Parliament House
Canberra ACT 2600
By email economics.sen@aph.gov.au

Treasury Laws Amendment (Banking Executive Accountability and Related Measures) Bill 2017

Dear Sir/Madam

Thank you for the opportunity to comment on the *Treasury Laws Amendment (Banking Executive Accountability and Related Measures) Bill 2017* (**the Bill**) and accompanying Explanatory Memorandum (**EM**).

MyState Limited (MYS) is the Non-Operating Holding Company of a diversified financial services group listed on the ASX and is a leading provider of banking, trustee and wealth management services to customers across the country through our retail brands - MyState Bank, The Rock and Tasmanian Perpetual Trustees.

MyState Limited was formed in September 2009 following the merger of MyState Financial, an authorised deposit-taking institution, and Tasmanian Perpetual Trustees (TPT), a trustee and wealth management company. On 1 December 2011, MyState Limited acquired The Rock Building Society (The Rock) based in Central Queensland. On October 6, 2014, following authorisation from the Australian Prudential Regulation Authority (APRA) MyState Financial changed its name to MyState Bank (MyState).

MYS has 200,000 customers across Australia and 64,000 shareholders. MyState Bank Limited is a member of the Australian Bankers Association (ABA) and an affiliate member of the Customer Owned Banking Association (COBA).

MYS acknowledge the Bill is an improvement on the draft Bill and that a number of recommendations from the ABA and the COBA submissions were implemented in the Bill. MYS is supportive of the additional accountability the BEAR represents however have concerns in relation to the impact the BEAR will have on smaller Authorised Deposit Taking Institutions (ADIs). The key concerns are explained as follows:

Lack of clarity

It is important that clarity on the affected entities and roles is provided by the Government and APRA; particularly in relation to the Bills powers to exempt certain ADIs from certain responsibilities. Clarity around the processes and timelines on how any guidance and/or exemptions are to be obtained need to be provided promptly. APRA will need to work with the industry to establish clear guidelines and definitions, inclusive of the treatment of the same issues between APRA and the Australian Securities and Investments Commission (ASIC).

Until guidance and prudential standards have been finalised by APRA, it will be difficult for ADIs to progress and finalise implementation of the BEAR.

More clarity is also required on what 'prudential reputation' constitutes. This clarity will ensure ADIs have adequate understanding to work towards mitigating any related risks.

Implementation and transactional periods

The BEAR will require substantial allocation of resources to meet the proposed deadline of 1 July 2018. The amount of reform programs currently active in the finance industry is significant; and the limited resources available within smaller ADIs are already stretched trying to keep on top of the volume of reform activity in the industry.

In 2018, the new Australian Financial Complaints Authority (AFCA) also comes into effect on 1 July; additionally, banks will be working towards compliance to the new Code on Banking Practice. Reform regulation can have a disproportionate impact on smaller ADIs and their ability to effectively manage and implement the new regulatory requirements within the specified timeframes due to the very limited amount of resources that smaller ADIs have at their disposal.

As ADIs require sufficient amount of time to prepare for the BEAR, MYS recommend a phased implementation approach which is based on the size of the ADI. Consistent with COBA's position, MYS seek a 2 year delay in application of the BEAR to smaller ADIs. This timeline will allow smaller ADIs sufficient time to undertake a broader governance project and ensure the BEAR is applied with confidence that all requirements are being met, as apposed to be being rushed to meet the 1 July 18 timeline and risk important factors being overlooked.

Further benefits of a phased implementation approach are that the smaller ADIs will be able to apply the learnings from the larger ADIs implementations to ensure smoother and lower risk transitions. Additionally, the limited expertise available through external consultants will be alleviated through a phased implementation approach.

Compliance costs

To become compliant with the BEAR, significant change will be required which will come at a significant cost. The required changes and costs will include but may not be limited to: IT systems, documentation, policies, procedures, internal reviews, registration of accountable persons, resources to create the accountability maps and statements, and education and training of accountable persons on the new requirements. A project team will need to be formed to effectively manage the BEAR implementation which has not been budgeted for and will place further pressures on smaller ADIs to achieve compliance by the proposed 1 July 18 date.

Ability to attract talent

MYS have serious concerns of the impact the BEAR will have on the ability for smaller ADIs to attract and retain executive talent due to the increased personal risk introduced by the BEAR and the relatively modest remuneration packages offered by smaller ADIs. To attract the level of executive talent MYS desire, MYS may have to increase remuneration packages due to these requirements, abandon or substantially change variable remuneration programs, or reduce our expectation on the quality of the executives MYS employs due to more onerous regulatory requirements in respect to remuneration packages. None of these three outcomes are desirable and will likely impact on the strength of MYS.

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Retention risk may also increase as roles within non BEAR regulated industries become comparatively more attractive to executives.

Penalties

The penalties proposed under the BEAR are of a vastly disproportionate nature and have a far greater impact on smaller ADIs in comparison to the larger ADIs. This proposal materially disadvantages smaller ADIs and may result in unintended consequences; such as potentially impacting on the viability and stability of smaller ADIs.

In closing, MYS request that further thought and understanding of the impact the BEAR will have on smaller ADIs is considered.

Yours faithfully

[redacted]

Melos Sulicich
Managing Director & Chief Executive Officer