1 March 2023

Payment Times Reporting Act Review Secretariat
Small and Family Business Division
The Treasury
Langton Crescent
PARKES ACT 2600

Via email: PaymentTimesReview@treasury.gov.au

Dear The Hon Dr Emerson

Statutory Review of the *Payment Times Reporting Act 2020*

Chartered Accountants Australia and New Zealand (CA ANZ) and CPA Australia make this submission in response to the Statutory Review of the *Payment Times Reporting Act 2020* consultation paper.

We support the objectives of the *Payment Times Reporting Act 2020* (the Act). That is, to create incentives for large businesses to improve their payment terms and practices and enable small business to make more informed decisions about potential large business clients. Unfortunately, the available data and stakeholder feedback shows that the Act is not yet achieving those objectives. However, as the Act has only been operational for a brief time, we don't support major changes such as mandating maximum payment times.

To help the Payment Times Reporting (PTR) scheme meet its objectives, we recommend the following improvements:

1. The Regulator shifts its focus to effective, risk-based enforcement. That is, applying its enforcement powers against egregious behaviour, while using education to improve less concerning behaviour.
2. Payment times data be made available through an Application Programming Interface (API) to third parties, such as financial software providers and credit reporting bureaux, to incorporate into their platforms.
3. The Small Business Identification (SBI) tool be improved and made available to reporting entities through an API. This would allow them to connect their accounts payable system with the tool.
4. The Government provides incentives to small businesses to adopt eInvoicing.

We expand upon these and other issues in the attached.

If you have any questions about our submission, please contact Gavan Ord (CPA Australia) at gavan.ord@cpaaustralia.com.au or Karen McWilliams (CA ANZ) at karen.mcwilliams@charteredaccountantsanz.com

Yours sincerely

Dr Gary Pflugrath FCPA
Executive General Manager,
Policy and Advocacy
CPA Australia

Simon Grant FCA
Group Executive – Advocacy, Professional Standing and International Development Chartered Accountants Australia and New Zealand

encl.

ATTACHMENT

Effectiveness of the Payment Times Reporting (PTR) scheme

Since the PTR scheme commenced, we have not seen any evidence of material improvements in payment times by large business.

There may be many reasons for this, and such reasons will vary from business to business. We believe the major causes include:

- the Act was implemented during a very unusual and uncertain period. The uncertainty created by the COVID-19 pandemic, supply chain pressures, skills and worker shortages, war in Ukraine and high inflation, meant many businesses have been focused on more immediate challenges, rather than reviewing their payment practices and policies.
- the current economic environment. The slowing economy can lead to lower sales, which can create cash flow pressures. Higher business input costs put pressure on profit margins. Some businesses may look to manage these risks by extending payment terms.
- the actions of the Regulator. To date, the Regulator has taken an educative approach to the introduction of the Act and has not used its enforcement powers. This is best practice in introducing new compliance obligations. It can, however, lead to a continuation of poor behaviour by some.
- the Act has only been in operation for a brief period. So far, there have only been three reporting periods. This may not be sufficient time to pass judgement on the effectiveness of the Act.

As a result, the benefits of the scheme do not yet appear commensurate with the increased resourcing needed to report. Concerns have been raised that the PTR scheme has turned into another compliance ‘tick box’ exercise. For members in small business, awareness is still low.

Compliance and enforcement

As stated in the consultation paper, the Regulator has effectively taken an educative approach to the introduction of the PTR scheme. We supported this approach. As sufficient time has now passed for reporting entities to understand the scheme, we support the Regulator shifting to effective risk-based enforcement. That is, applying its enforcement powers against egregious behaviour, while using education to improve less concerning behaviour.

Such education could include the Regulator explicitly naming reporting entities with ‘best practice’ payment times and practices. This possible change in approach may emphasise the reputational advantages of being a ‘good payer’ to small business.

At the recent ASBFEO (Australian Small Business and Family Enterprise Ombudsman) roundtable, it was stated there is non-reporting and poor reporting. It is disappointing that neither the consultation paper nor Regulator updates include an indication of the level of compliance by reporting entities. We recommend that future Regulator updates include such information.

As the Regulator has not used its enforcement powers to date, we cannot comment on the effectiveness or otherwise of those powers. We recommend that the enforcement powers be reviewed later.

Mandated maximum payment periods

We do not support the mandating of one or more maximum payment periods. The PTR scheme needs more time before mandating is considered. The improvements implemented from this review also need time to take effect before mandatory payment periods are considered.

Mandating a maximum payment time could also have the unintended consequence of discouraging large businesses buying from smaller Australian businesses, given that they can get more favourable payment terms from other businesses.

Another reason we don't support a single maximum payment period is the differences in industry practice. For example, payment periods may be different for long-term project-based industries compared with industries focused on transactional trade.

However, we also do not support mandating maximum payment periods by industry. We don't believe it is practical for the Regulator to decide what the maximum payment period is for every industry. To do so would add significant complexity to the scheme. It would also raise questions for reporting entities operating in multiple industries with different mandated payment terms.

Instead of introducing mandatory payment periods, we believe the Act could be made more effective through using the existing enforcement powers in the Act, and incremental changes to the Act and other government policies affecting payment times.

Small business use of payment times data

We are unaware of small businesses using payment times data to help them make decisions on whether to trade with a large business.

To meet this objective of the Act, we recommend that the Regulator develop an Application Programming Interface (API) that allows third parties, such as financial software providers and credit reporting bureaux, to include payment times data on their platforms.

Having such data available in applications small business use on a regular basis is more likely to encourage them to consider that information. Small businesses are highly unlikely to refer to payment times data that they must look for, and further interpret, from a source they don't use on a regular basis. We therefore cannot see the benefits of the government developing its own digital solutions to this challenge.

It is difficult to say the relative importance that small businesses place on payment terms and practices when deciding on whether to supply large businesses. We assume it would be a factor. However, there are likely to be many other factors a small business considers before deciding to sell to a large business.

Making it easier for reporting entities to use the SBI tool

Paragraphs 15, 16 and 19 of *Guidance Note 2 –preparing a payment times report* recommend that reporting entities run the SBI tool either at the reporting period end date or at regular intervals (continuous approach) throughout the year.

Feedback from our members indicates that the time and resources involved in the continuous approach are prohibitive. Likewise, the reporting period end date is a busy time for the teams involved and this adds to the compliance burden.

We recommend that the Regulator develops an API that allows reporting entities to connect their accounts payable system with the Small Business Identification (SBI) tool. This would streamline the reporting process and reduce the reporting burden. It would also encourage regular application and/or a continuous approach by business.

eInvoicing

eInvoicing may improve payment times, however, it is difficult to see it having a material impact across the board.

Businesses will continue to pay invoices based on their current payment policies (e.g., payments are made of the 14th of each month; only after approval; or 30 days after receipt). These are unlikely to change for eInvoicing.

There may be situations when sending an e-invoice leads to it being processed in an earlier payment cycle or otherwise paid earlier. However, this will vary from business to business depending on their payments policy.

eInvoicing is, however, an important initiative we fully support. The main benefit is the productivity improvements that will come from less manual handling of invoices and greater accuracy.

We recommend that the government provides incentives and support to small business to encourage eInvoicing uptake. In earlier submissions, we highlighted some examples of incentive-based approaches adopted by other jurisdictions. This includes Singapore's E-Invoicing Registration Grant and Digital Resilience Bonus program.

Policymakers should not assume that the high numbers of small businesses using financial software and EFTPOS will lead to the fast uptake of eInvoicing, despite the benefits. To illustrate this point, notwithstanding the growth benefits associated with selling online, new payment technologies and social media, data from CPA Australia's annual Asia-Pacific Small Business Survey shows that Australian small businesses are significantly less likely to use such technologies compared to small businesses from Asia. Further, many small businesses use financial software primarily to meet compliance obligations.

Accountants and bookkeepers can aid in communicating the benefits of eInvoicing to small business. However, many small to medium-sized accounting practices lack the capacity to take on that role unless governments reduce other work pressures they are placing on the profession. For many practices, they are already overcommitted helping a growing number of small businesses experiencing financial stress, keeping up with legislative and compliance changes, and maintaining business as usual. In addition, the skills shortage is being acutely felt by those firms.

Other suggested improvements to the PTR scheme

In our submission to the Payment Times Reporting: Updated Guidance Material, we made several suggestions to improve the operation of the PTR scheme. Below is a summary of the recommendations relevant to this Review:

- factoring materiality into reporting, such as the introduction of a de-minimis threshold
- providing guidance on acceptable audit procedures for reporting entities
- making it easier for non-Australians to submit reports to the PTR portal
- re-evaluate the approval requirements in the Act. For example, allowing management to sign-off and approve reporting. This is similar to the sign off process under the National Greenhouse and Energy Reporting (NGER) scheme
- greater use of illustrations (diagrams, timelines) in guidance notes to clearly outline requirements.

These recommendations can be read in more detail in that submission.