



18 August 2021

Mr Mike Callaghan AMPSM
Reviewer
The Banking Code Review
PO Box H218
AUSTRALIA SQUARE NSW 1215

CPA Australia Ltd
ABN 64 008 392 452

Level 20, 28 Freshwater Place
Southbank VIC 3006
Australia

GPO Box 2820
Melbourne VIC 3001
Australia

Phone +613 9606 9606

Freecall (Aust) 1300 737 373

Website cpaaustralia.com.au

By email – submissions@bankingcodereview.com.au

Dear Mr Callaghan

CPA Australia submission in response to the Banking Code Review (“the Review”)

CPA Australia represents the diverse interests of more than 168,000 members working in 100 countries and regions supported by 19 offices around the world. We make this submission on behalf of our members and in the broader public interest.

Thank you for taking the time to meet with us to discuss the Review. As highlighted, our primary concern is the growing practice of lenders seeking an accountant’s letter (also called a capacity to repay certificate) as part of a loan application.

In short, these are requests for our members to certify the ability of a business or individual to repay a loan. Such requests go well beyond the standard role of accountants providing financial information as part of a loan application. Our members cannot make such certifications – they do not have the expertise or capacity to make assessments on the credit worthiness of a loan applicant.

A prudent banker should themselves be making this assessment, not relying on a third party, especially where that third party is not able to make such an assessment.

A prudent banker should also:

- not impose compliance requirements and costs on applicants that have no or little bearing on an application
- not impose unnecessary requirements on an applicant that can (and is) having negative repercussions for the relationship between small business and their accountant (especially, where an accountant informs their client they cannot make such an assessment)
- not impose unnecessary requirements on accountants that are inconsistent with their professional obligations
- not impose obligations on accountants that are unlikely to be covered by their professional indemnity insurance, and which therefore increase their risk exposure
- not impose requirements on third parties that potentially exposes them to breaching the National Credit Act.

We have advised members that they cannot provide such certification or assessment unless they are appropriately licensed under an Australian Credit Licence. It would be beneficial if the Code was to align with this guidance. For further information, please see our [guidance](#) to members on such requests.

We recommend you make amendments to the Code to stop the practice of signatories to the Code and their agents asking for accountants to certify a borrower’s ability to service a loan.

In addition to our comments at our discussions, we wish to share with you the following additional information for your reference:

SMALL BUSINESS ACCESS TO FINANCE

According to CPA Australia's [Asia-Pacific Small Business Survey 2020-21](#)¹, Australian small business remain significantly less likely to source external finance than small business from Asia.

While a factor, difficult financing conditions are not a major reason for this as Australian small business were the third most likely to experience easy financing conditions in 2020 (of those who accessed external finance). Similarly, of Australian small businesses that said a bank was their main source of external finance in 2020, they were also more likely to report the experience was easy than difficult.

Instead, the relatively low demand for external finance can be attributed to several unique characteristics of Australian and New Zealand small businesses in comparison to their counterparts in Asia, including:

- the high percentage of respondents aged over 50 (respondents over 50 were much less likely to have required external finance in 2020)
- the high percentage of businesses that have been established for over 20 years (businesses established over 20 years were less likely to have required external finance in 2020)
- the high percentage of businesses that have less than five employees (businesses with less than five employees were significantly less likely to have required external finance in 2020)
- the relatively low number of Australian small businesses that grew, purchased capital assets and expanded into new markets in 2020.

In addition to the survey results, over the course of the pandemic members' experience in assisting their small business clients access finance has been mixed. Some have stated to us that the experience, particularly of late, has been relatively easy, with banks being more likely to provide unsecured finance. However, feedback from other members indicates that it is more likely that their clients are finding it difficult to borrow, and if they do borrow, it is secured lending. They also tell us that (unsurprisingly) banks will lend if the applicant has a good trading history and asset backing.

Members also told us that throughout the pandemic it has taken longer than usual for loans to be assessed, with frequent and often last-minute requests for additional information. This further delays the final assessment of loan applications, sometimes impacting a business's ability to take advantage of an opportunity.

The Review should therefore consider how Chapter 20 of the Code can be improved to ensure:

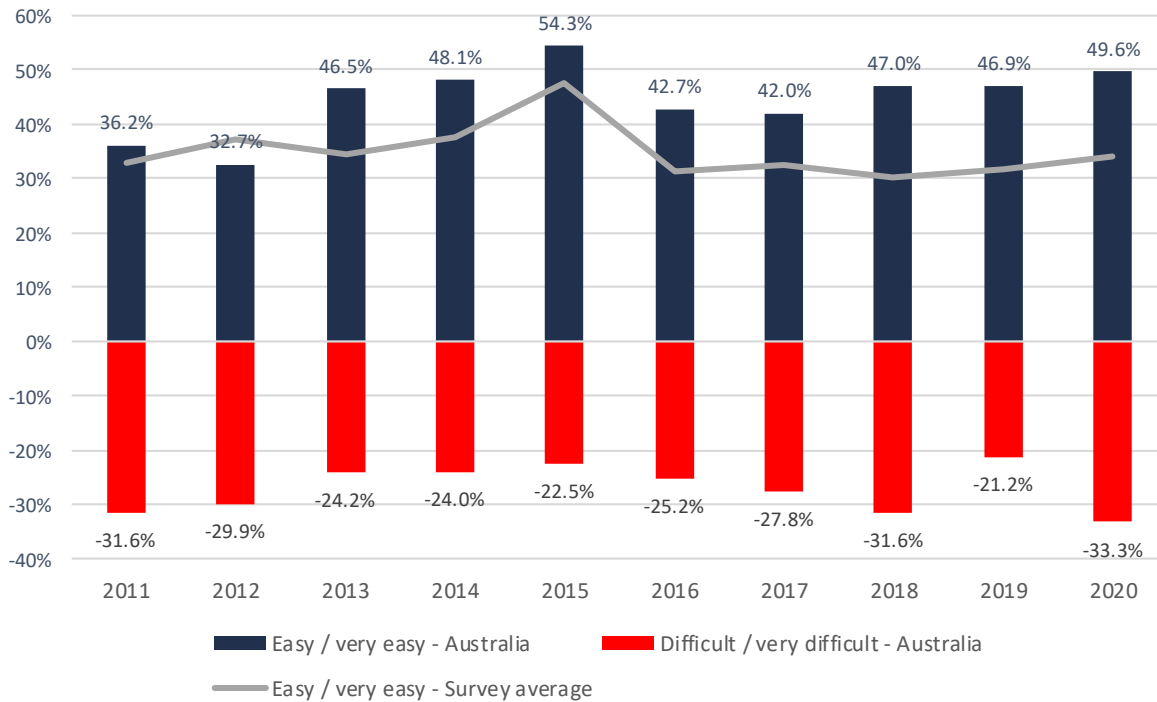
- banks tell small business what their full information requirements are before the initial application
- that if additional information is required, the bank makes the request within a limited period after the initial application is lodged, say ten days
- that banks and / or their agents will not request third party confirmation or anything similar on a small business's future capacity to repay a loan.

The Review may also wish to consider how best to improve the response time between the lodging of a new small business loan application (and re-finance application) and the decision on that application. Under paragraph 72, banks are only required to inform the applicant how long before they are likely to receive a decision. One possible option is for the Code to impose a time limit on banks for making such a decision.

¹ The [CPA Australia Asia-Pacific Small Business Survey 2020-21](#) is part of a longitudinal annual study of small business across the region conducted by CPA Australia since 2009. The markets included in this survey are Australia, Mainland China, Hong Kong, India, Indonesia, Malaysia, New Zealand, Philippines, Singapore, Taiwan and Vietnam. To qualify for the survey, participants were needed to be an owner, a senior manager or a qualified accountant of a business with less than 20 employees. 4227 participants completed the survey, including 507 from Australia, 779 from Mainland China, 306 from Hong Kong, 512 from India, 301 from Indonesia, 302 from Malaysia, 300 from New Zealand, 300 from the Philippines, 307 from Singapore, 303 from Taiwan and 310 from Vietnam.

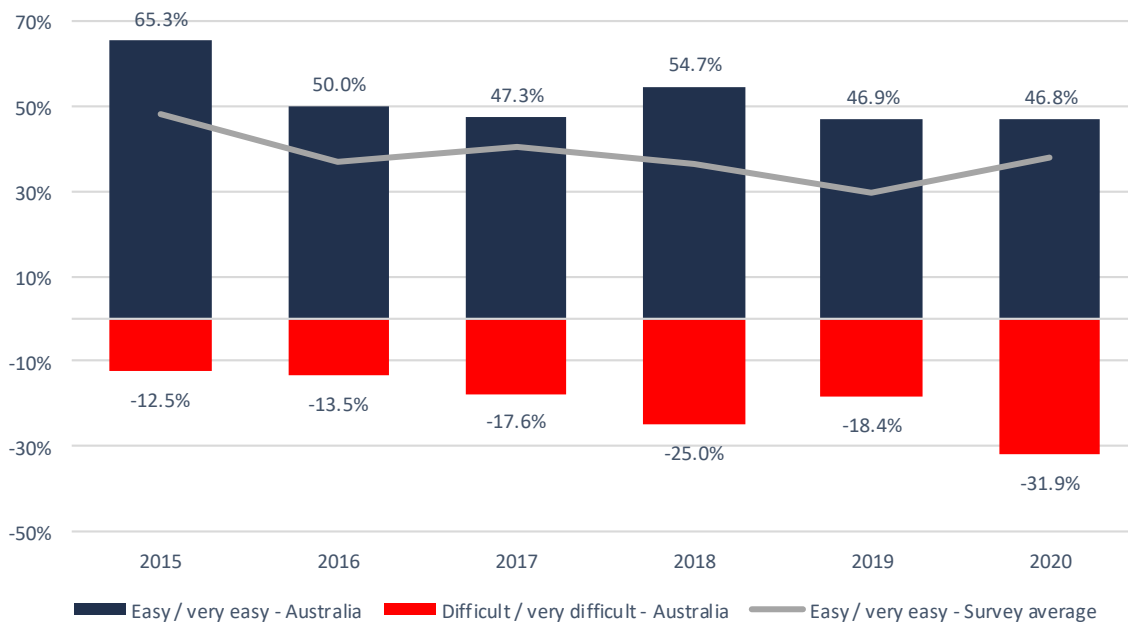
The following information on the ease or difficulty of accessing finance is taken from unpublished data from CPA Australia's Asia-Pacific Small Business Survey 2020-21

Ease or difficulty of accessing external finance – 2011 to 2020 – Australia compared with the Asia-Pacific average *



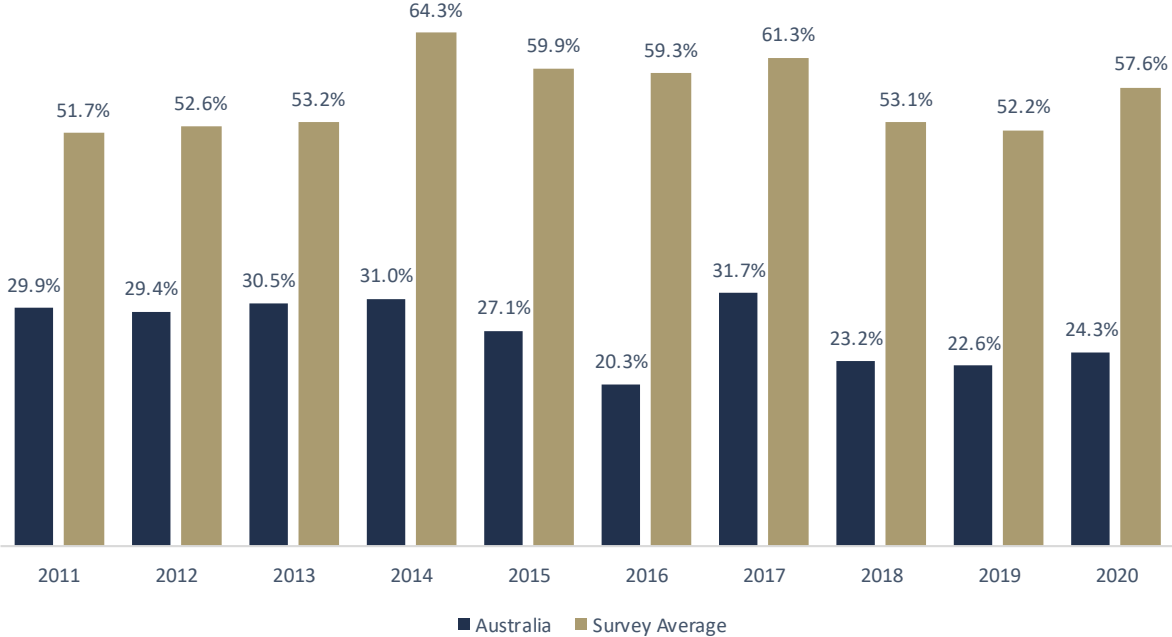
*It should be noted that this result is taken from the small businesses that accessed external finance.

Ease or difficulty of accessing bank finance – 2015 to 2020 - Australia compared with the Asia-Pacific average *

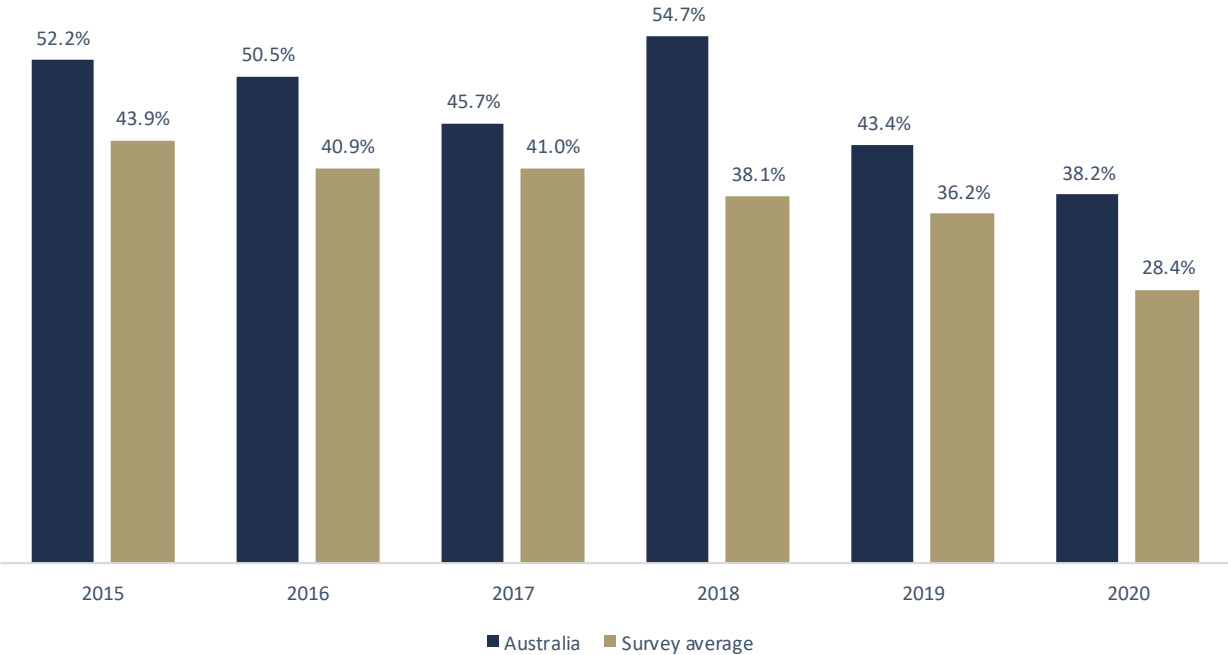


*It should be noted that this result is taken from those small businesses that said a bank was their main source of finance

Sourced external finance in the previous 12 months - 2011 to 2020 - Australia compared with the Asia-Pacific average



A bank was the small business’s main source of finance - 2015 to 2020 - Australia compared with the Asia-Pacific average *



*It should be noted that this result is taken from those small businesses that sought external finance

LEAST COST ROUTING

The Review should consider whether it is feasible to impose an obligation on banks to automatically switch on least cost routing for eligible small merchants where it determines they would benefit from such functionality.

We note that the Reserve Bank of Australia is currently reviewing retail payments regulation, including least cost routing.

REFORMS TO APPOINTING INVESTIGATING ACCOUNTANTS AND INSOLVENCY PRACTITIONERS

The Review should consider whether there are opportunities to reform the process before banks appoint an investigative accountant or insolvency practitioner. For example, is there an opportunity for the Code to include a principle that banks should work with the client's trusted independent advisers before considering whether to appoint an investigative accountant or before an insolvency practitioner is appointed?

We would be pleased to work with you to develop this concept further.

If you have any questions, please do not hesitate to contact Gavan Ord on 0419547782 or gavan.ord@cpaaustralia.com.au.

Kind regards

Dr Gary Pflugrath FCPA
Executive General Manager
Policy and Advocacy