Westpac
Australia's First Bank

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The Secretary
Senate Economics Legislation Committee
PO Box 6100
Parliament House
CANBERRA ACT 2600

Email: economics.sen@aph.gov.au

Dear Secretary

Inquiry into National Consumer Credit Protection Bill Submission

Introduction

The Westpac Group, comprising the lending businesses of Westpac, St George, BankSA and RAMS, ("Westpac") welcomes this opportunity to provide a submission to the Senate Committee on to the National Consumer Credit Protection Bill (the "bill"). We also endorse the Australian Bankers' Association submission on the bill.

Westpac strongly supports the Government's intention to build a national system of consumer credit legislation. Properly designed, this offers the opportunity to reduce the compliance burden on organisations operating in the national economy and ensure certainty and consistency in the treatment of consumers no matter with whom or where they transact.

The bill will have a significant impact on the operations of Westpac and all other major lenders and credit market participants in Australia. It is critical to the functioning of our consumer credit market that the bill achieves its goal of consumer protection without instituting a burdensome compliance regime and excessive disclosure obligations for lenders.

In light of this, we welcome recent Government amendments to the bill, which include the deferral for 12 months of responsible lending obligations for lenders, reduced disclosure obligations and more realistic penalty provisions.

Westpac appreciates these sensible amendments to the consumer credit proposals, which go a long way toward striking an appropriate legislative balance of an enhanced regulatory system with improved consumer protection.

Westpac is committed to continue working with the Government to ensure the bill's policy aims are met without impairing the Australian credit market as the law moves towards commencement.

National Regulation

Westpac has consistently supported a national consumer credit legal framework. We welcome the regulation of brokers in a national model.

Notwithstanding our support for a national law, we reiterate our concerns about uniformity and the legislative model chosen to deliver this reform.

We remain concerned at the capacity of states and territories to introduce jurisdiction-specific changes on top of the legislative model agreed by COAG. This will continue to undermine the rationale for a uniform law (which was a critical failing of the UCCC model in its operation) and risks eroding the national character of the law over time.

Responsible lending

Westpac strongly supports the principles of responsible lending. Nevertheless, we retain concerns about certain details of the obligations contained in the bill.

We note that the different roles that brokers and lenders play in the credit market means it is imperative that the Government enacts sensible regulation which takes account of the fact that brokers act ostensibly in an advisory role whereas lenders risk their capital when entering into loan transactions.

As currently drafted, the bill mandates the <u>order</u> of the steps which must be taken by lenders assessing credit applications. This is an inappropriate function of legislation. It should instead set out the standards required, leaving lenders to determine the order in which compliance with those standards is met.

As well as giving more time to get drafting details right, the announced deferral of these obligations will provide more time for lenders to enact appropriate compliance measures and ensure the system works as intended from commencement.

This gives the Australian Securities and Investments Commission (ASIC) a reasonable period to develop sensible industry guidance together with market participants, as well as provides an additional window for further discussion on the appropriate level of product disclosure information to avoid the pitfalls of the Financial Services Reforms (FSR) experience.

Comprehensive credit reporting

One of the principal reasons for the deferral of the responsible lending obligations was the linking of the bill to comprehensive credit reporting laws.

We welcome the deferral on this basis. Westpac's previous submission to the Government highlighted the importance of linking consumer credit law reforms with a system of comprehensive credit reporting, making the point that the policy aims behind the responsible lending obligations of the bill will not be fully realised without this alignment.

In response, the Government needs to ensure Treasury works with other government departments on a whole-of-government approach to financial services regulation, providing clarity and priority to the privacy and comprehensive reporting reform agenda. Without a coordinated implementation of a comprehensive credit reporting system, there is a genuine risk the consumer credit laws will be flawed and will not operate as intended. This will be to the detriment of lenders and, ultimately, consumers.

Australia is one of the few OECD nations which does not have a system of comprehensive reporting in place. The implementation of this bill is an appropriate time to modernise our national credit reporting laws. Westpac looks forward to contributing to the development of an appropriate system.

Consultation for Phase 2

The development of the bill was characterised by a lack of transparency, limited genuine industry consultation and impractical deadlines. In our view, this process delivered in the first instance a law which borrows heavily from FSR laws and misunderstands the nature of lending and credit markets.

This has directly contributed to the need to delay the commencement of responsible lending obligations for 12 months to get the details right. This deferral, and other related amendments now required of the bill, could have been avoided with a more engaged consultation process.

Since the release of the draft bill public consultation, we have welcomed additional consultation and dialogue with the Government. We again recommend an open process for the next phase of reforms to achieve best possible policy outcomes and limit the likelihood of unintended consequences hindering the Government's (and COAG's) policy aims.

Timing of commencement and 'no action' period

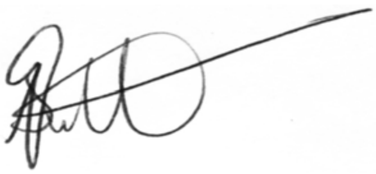
Notwithstanding the deferral of the responsible lending obligations for 12 months, the commencement date of the new law, including the changes to Schedule 1 (the current Consumer Credit Code) should be extended to allow sufficient time for industry to make the necessary system and process changes to comply with the new law.

Complementing this, we recommend a 'no regulatory action' period which allows institutions to work towards full compliance with the law after the commencement date. While ASIC would need to agree to this proposal, as a newcomer to the regulation of credit Westpac considers that it would be assisted by extra time to evaluate the credit industry and develop appropriate guidance material.

We encourage ASIC to work closely with industry to develop appropriate guidance and a sensible approach to compliance.

If you would like to discuss any of the matters in this submission, please contact me on (02) 8253 4161 or at abuttsworth@westpac.com.au.

Yours sincerely



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