



Abacus
Australian Mutuals

Association of Building Societies and Credit Unions

20 May 2011

Mr Stephen Boyd
Committee Secretary
House of Representatives Standing Committee on Economics
CANBERRA ACT 2600
economics.rep@aph.gov.au

Dear Mr Boyd

National Consumer Credit Protection Amendment (Home Loans and Credit Cards) Bill 2011

Thank you for the opportunity to make a submission to the Inquiry into the *National Consumer Credit Protection Amendment (Home Loans and Credit Cards) Bill 2011*.

As industry body for the customer-owned banking sector, Abacus supports measures to encourage the responsible use of credit by informed consumers and to empower consumers to exercise real choice.

Credit unions and mutual building societies are responsible and prudent lenders and consistently lead the retail banking market in customer satisfaction ratings.

The mutual banking sector is an important competitive force in the home lending market, with a growing market share, so we welcome the Treasurer's second reading speech observation that the proposed home loan key facts sheet will enable consumers to:

"compare a loan they are offered by a big bank side by side with what will often be a better deal from their local credit union or building society."

Abacus members also offer award-winning credit card products, and are market leaders in 'best value' credit cards.

Abacus generally supports the intent of the Bill and we welcome the improvements that have been made to the Exposure Draft version of the Bill.

However, the Bill introduces significant new regulatory compliance obligations, requiring changes to systems, processes, documentation, staff training and record-keeping.

We remain concerned about:

- implementation and consultation timetables;
- amount of detail to be provided in regulations;
- heavily disproportionate penalties; and
- some potentially burdensome and unwarranted requirements.

The case for ensuring the reform package is implemented carefully rather than hastily is supported by developments in the credit card market. The Reserve Bank reported in its March Quarter 2011 Bulletin that:

"After rising steadily for most of the past decade, the share of people reporting that they regularly use credit cards fell sharply in 2009, to the level prevailing in 2001. Furthermore, since the mid 2000s, the share of regular credit card users paying off their credit cards every month has risen consistently, with the largest increase in 2009. This trend towards paying off credit cards in full each month has been particularly pronounced in the younger age group."

Implementation Process

We ask that industry be given a minimum 12 month period to implement the required systems, documentation and process changes from the date the complete reform package, including regulations, is finalised.

The Bill currently has a commencement date for the home loan key fact sheet provisions of 1 September 2011. We ask that this commencement date should be no earlier than 1 July 2012.

We ask that all new disclosure documents (such as home loan and credit card key fact sheets and the National Credit Code pre-financial summary disclosure) be implemented simultaneously. This will allow industry to better manage compliance issues and avoid duplication of administration costs.

Regulations

We note that a significant amount of policy and implementation detail will be delivered through Regulations. We urge the Government to subject draft Regulations, in their entirety, to a comprehensive industry consultation process.

The consultation process on the legislation and regulations to date has been inadequate, with very short timeframes and uncertainty about significant elements of the package.

Penalties

Abacus maintains its strong opposition to the introduction of criminal penalties in the Bill, and making these offences of strict liability. This is a grossly disproportionate response for what are typically administrative oversights.

The Bill's extensive criminal sanctions pose a significant increase in regulatory risk for lenders.

We also ask that the Bill be amended to explicitly provide that individual employees will not be liable under the Act. We believe compliance outcomes are best served by identifying the licensee as being liable for breaches under the legislation.

Key Fact Sheets

Reiterating the comments above, we ask that industry be given at least 12 months to implement the home loan and credit card key fact sheets from the date the complete reform package, including regulations, is finalised.

The commencement date for home loan key facts sheets should be postponed until such time as the credit card key fact sheets are also finalised so they can all be implemented simultaneously.

Again, failing this, we request the commencement schedule in the Bill be amended to ensure the home loan key fact sheet requirements commence no earlier than 1 July 2012.

Further, we urge the Government to remove or amend section 133AA(1)(b) that relates to the provision of a home loan key fact sheet when a customer is refinancing credit secured by mortgage. Such refinancing may apply when a customer refinances for the purpose of buying a car or boat, for example, and security is taken over the home. This provision is not consistent with the Government's policy intent to assist home loan consumers, and does not 'fit' into the home loan key fact sheet format.

In respect to section 133BC of the Bill, we submit the word "include" be removed and replaced with "or provided with", or similar words, to ensure credit providers are not required to incorporate key fact sheets into paper credit card application forms as the only option to fulfil this obligation. This modest amendment to the Bill will save credit providers pulping paper application forms every time credit card fees or rates change.

Credit Limit Increase Invitations

We note the Government's election commitment to prohibit pre-approved credit limit increase offers. We maintain the view that an *offer* is a general contract law concept with a clear and defined meaning.

In its current form, the Bill refers to the more nebulous concept of an *invitation*, and relies on yet to be seen Regulations to manage written communications between a credit provider and the consumer.

Abacus is concerned that any written factual communication about the credit needs of a customer could be seen as "*encouraging the consumer to consider applying for an increase of the credit limit of the contract.*"

With the introduction of significant new penalties, credit providers are likely to restrict factual information to consumers in fear of being subject to a charge of "*encouraging*" a credit limit increase.

This is likely to limit consumer awareness as product information is reduced by credit providers, leading to a decrease in competition in the consumer credit market.

Credit Card Default Buffer

We are of the view that the consumer's right to elect not to have a buffer in section 133BI(2)(b) should be removed from the Bill. It is unwarranted and adds unnecessarily to administration costs associated with recording those customers who have opted out to ensure they are not allowed to use buffer.

We support the Bill allowing for a 10 per cent default buffer and the provision for a supplementary buffer.

However, we note that the Bill is somewhat contradictory in simultaneously banning fees for exceeding a credit limit but imposing a requirement on the credit provider to notify the card user of the limit being exceeded.

Abacus re-iterates its support for a well regulated consumer credit market. We are of the view that the changes we seek above are modest and measured. They will balance the operational needs of credit providers, while delivering consumer protection.

Please contact me on 02 6232 6666 to discuss this submission.

Yours sincerely

LUKE LAWLER
Senior Manager, Public Affairs