Administration Centre
Level 21
50 Cavill Avenue
Surfers Paradise QLD 4217
T: 07 5554 3333
F: 07 5592 5633

New South Wales
World Square Level 2
650 George Street
Sydney NSW 2000
T: 02 8915 9100
F: 02 8572 9986

Victoria
Level 2
341 King Street
Melbourne VIC 3000
T: 03 8317 5200
F: 03 8621 0024

South Australia
Ground Floor
216 Hutt Street
Adelaide SA 5000
T: 08 8232 4853
F: 08 8219 0073

Western Australia
Level 1
1109 Hay Street
West Perth WA 6005
T: 08 9212 0000
F: 08 6462 1000

Correspondence
Locked Bag 7640
GCMC 9726

www.mezy.com.au

ABN 84 066 631 169

RECEIVED
24 SEP 2008
Standing Committee on Economics

23rd September 2008

Mr Craig Thomson MP
Chair
Standing Committee on Economics
PO Box 6021
House of Representatives
Parliament House
CANBERRA ACT 2600

Dear Mr Thomson

RE: Inquiry into competition in the banking and non-banking sectors

The role of the non-bank sector cannot be underestimated as the banks previously held a stranglehold on the mortgage market and they were able to charge fat margins without any fear of competition. Once the non-banks started to compete the banks were forced to slash their margins which resulted in huge savings for every Australian mortgage holder. With the sub-prime crisis in the US starving the markets of capital and investors in Mortgage Backed Securities pulling out completely the major banks in Australia have used this crisis to crush the non-bank sector. In the last six months the market share of the non-bank sector has reduced from approx 15% to less than 5%. Do not be confused between the non-conforming non-banks who fund credit impaired or unusual securities. What we are talking about is the non-banks who supply the prime market in direct competition to the banks. The banks are very keen to return to the old days of no competition and fat margins and without government support or at least encouragement the non-bank sector could disappear and then watch the standard variable rate mortgage increase.

Non - banks and mortgage brokers play a critical role in maintaining a competitive mortgage market because they subject every loan they originate with either a bank or non-bank lender to independent price scrutiny and comparison with competing products. This process continuously puts pressure on lenders to offer homebuyers competitive rates and loan features on new lending. It is therefore critical that the Federal Government's proposals to regulate the mortgage broking industry and consumer credit enhance and not undermine competition between broker services and bank lenders offering their own branded products direct to borrowers.

Borrowers from either bank or non-bank lenders will benefit from an efficient, competitively neutral mortgage broking regulation regime which provides them with appropriate consumer protection without adding unnecessary costs to brokers and, ultimately, to borrowers.

Loans originated directly by a bank branch are not subjected to a process of independent comparison. In those circumstances the loans officer should be required to inform the loan applicant that they act for the lender and not the borrower, and are not able to provide independent advice about whether the loan is appropriate for the borrower relative to other available competing products.

Broking regulation is likely to require brokers to disclose the fees and commissions they receive for broking a loan. To maintain a fair and competitive market, bank staff arranging loans direct with a borrower should be required to disclose any incentive based remuneration they will receive from selling a mortgage or other financial products related to the mortgage.

The States have agreed to transfer their powers to regulate mortgage broking to the Commonwealth. The Federal Government's Green Paper says work on developing these regulations will be assisted by a draft bill to regulate mortgage broking previously agreed by State

Ministers for Consumer Affairs. Borrowing costs for homebuyers would increase as a result of three major defects in that draft State legislation. This is a major housing affordability issue as brokers have originated about 40% of the value of all current home loans.

The first defect is that brokers would be required to independently determine a borrower's capacity to make repayments. That function is properly the role of the lender. The US sub-prime crisis demonstrated the folly of lenders not being responsible for credit checks. Requiring brokers to duplicate credit checks would result in significant additional costs to homebuyers.

This has an anti-competitive dimension as it would, by definition, prohibit brokers arranging low doc loans. Under the draft legislation banks are exempt from this requirement, effectively granting them an exclusive right to offer this type of loan product. People who need low doc loans, like small business operators and families relying on part-time and casual employment, would be denied the services of a broker to help them choose the best loan amongst competing products. Instead, borrowers will only be able to deal with a bank selling their own products and not acting for the borrower as a broker does.

The second defect is the provision to give borrowers the right to seek a stay of enforcement of their mortgage against the lender if the borrower has a dispute with their broker. This interference with lenders' security will: increase the risk premium required by lenders resulting in higher interest rates; increase the premiums on Lenders Mortgage Insurance paid by first home buyers; and increase Professional Indemnity Insurance premiums paid by brokers thereby increasing the cost of broking services.

The third defect is the substantial increase in documentation that must be produced by a broker. This would provide little of value to homebuyers but significantly add to their costs. It is important not to repeat the mistakes with Financial Services Regulation that added so much to costs that many people were priced out of the market for advice from financial planners.

Like most people who work in the mortgage broking industry, I believe that regulation is desirable to ensure high standards of service to borrowers and to provide a mechanism to remove from the industry any operator who is incompetent or dishonest.

An effective and efficient regulatory regime should require brokers to:

- be registered;
- have appropriate qualifications and experience, such as a Certificate IV in Financial Services (Finance/Mortgage Broking) or equivalent;
- enter a written contract to act on behalf of the borrower, specifying the type of loan sought and setting out the broker's remuneration;
- hold adequate Professional Indemnity Insurance; and
- be a member of an external dispute resolution scheme to give borrowers access to an inexpensive and efficient mechanism for resolving complaints.

Mortgage lending is a highly competitive industry with many brokers operating across State boundaries. Even small regulatory differences between States interfere with the efficient delivery of mortgage finance and increase costs to borrowers. For this reason the regulation of mortgage broking should be a Federal Government responsibility.

It is critical that mortgage broking regulation not add unnecessarily to costs as that would reduce the competitiveness of lending arranged by brokers and allow the banks to increase their margins on direct lending.

Yours faithfully

Garry Driscoll
General Manager
Mortgage Ezy

Administration Centre
Level 21
50 Cavill Avenue
Surfers Paradise QLD 4217
T: 07 5554 3333
F: 07 5592 5633

New South Wales
World Square Level 2
650 George Street
Sydney NSW 2000
T: 02 8915 9100
F: 02 8572 9986

Victoria
Level 2
341 King Street
Melbourne VIC 3000
T: 03 8317 5200
F: 03 8621 0024

South Australia
Ground Floor
216 Hutt Street
Adelaide SA 5000
T: 08 8232 4853
F: 08 8219 0073

Western Australia
Level 1
1109 Hay Street
West Perth WA 6005
T: 08 9212 0000
F: 08 6462 1000

Correspondence
Locked Bag 7640
GCMC 9726

www.mezy.com.au

ABN 84 066 631 169