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14 October 2015

Ms Danielle Press
Chair of Small Amounts Credit Contract Review
Consumer Credit Division
The Treasury
Langton Crescent
Parkes ACT 2600

Email: consumercredit@treasury.gov.au

Dear Ms Danielle Press,

RE: Review of the small amount credit contract laws

National Australia Bank (NAB) welcomes the opportunity to contribute to the review into the small amount credit contract (SACC) laws.

NAB is supportive of the small amount credit contract laws and believes that these laws play a vital role in ensuring consumer rights are protected. This review provides an important opportunity to ensure that laws and standards are effective in both scope and reach.

NAB, through its long commitment to supporting financial inclusion across Australia, is uniquely positioned to provide insight to this review. We have a long standing relationship with Australia's Good Shepherd Microfinance with whom we have partnered with since 2004 to address financial exclusion, providing more than 120,000 no or low interest loans to vulnerable Australians. NAB has committed \$130 million in capital to support lending to people in need. Together, NAB and Good Shepherd Microfinance have set a goal of improving financial access for one million people on low incomes by 2018.

A study by The Centre for Social Impact and NAB found that one in six Australian adults lack access to basic financial services such as a small amount of credit, general insurance or a transaction account. This equates to three million people around the country that are 'financially excluded'.¹ These vulnerable Australians often live pay-day to pay-day and when faced with out-of-cycle expenses often turn to SACC providers as a means to an end but if these contracts are not managed appropriately can compound existing challenges.

This submission will focus on key questions posed in the terms of reference (TOR) that NAB believes have insight into the effectiveness of SACC laws.

¹ Connolly C, *Measuring Financial Exclusion in Australia*, Centre for Social Impact (CSI) – University of New South Wales, 2013, for National Australia Bank. Financial Exclusion is defined as Financial exclusion exists where individuals lack access to appropriate and affordable financial services and products – the key services and products are a transaction account, general insurance and a moderate amount of credit.

Terms of Reference

TOR 1.1: Obligation to obtain and consider bank account statements

NAB believes that obtaining bank account statements is a necessary requirement for helping to establish a consumer's financial situation. The rationale behind this obligation is to ensure that consumers who are utilising SACC are able to satisfy their obligations. The 90 days requirement allows the SACC provider to gain a deeper understanding of the consumer and whether a SACC is appropriate. Bank account statements, however, don't always provide a complete picture of an individual's financial commitments and ability to repay a loan.

The law requires bank statements for the preceding 90 days but the reality is that bank statements are not always this up-to-date and there may be a period of several weeks information missing. This means that an individual may have taken out a loan after the last bank statement was issued. In addition, bank statements also don't reveal whether an individual has previously defaulted on a loan repayment.

Introducing cost-effective and easily managed checks such as a comprehensive credit reporting (CCR) to sit alongside bank statements will help lenders meet their obligations responsibly and with greater efficiency.

Recommendation:

Maintain the requirement to obtain and consider bank account statements and explore other methods to enhance the level of consumer protection such as embedding CCR obligations on SACC providers.

TOR 1.2: Restrictions on repeat borrowing

NAB agrees with the presumption that repeat borrowing increases the potential for borrowers to default on a payment and find themselves caught in a spiral of debt. For this reason, we believe that the current restrictions on repeat borrowing must be maintained.

The rationale of this restriction is to prevent behaviour where consumers are faced with a sustained debt burden. This is important for both low income consumers and those on higher incomes that utilise these services. NAB research shows that that the 44% households that accessed SACC products were on an income above \$74k. If the repeat borrowing utilised Household Expenditure Measure or Henderson Poverty Index as a threshold these consumers could fall above this threshold and become susceptible to fall into a behavioural pattern and reliance on SACC providers.

Recommendation:

Restrictions need to be maintained.

TOR 1.3: Ban on short term credit contracts

We are supportive of maintaining the ban on short term credit contracts with terms less than 15 days. Not only is it the right thing to do by consumers but it also helps prevent people from needing to access repeat loans due to the unreasonably short timeframe for repayments.

We are supportive of the need for small amount credit contracts and do not see the ability for them to be regulated out of existence without it having a negative impact on the consumer. We do however also believe that alternatives that are fair and affordable must be encouraged.

Recommendation:

A total ban on short term credit contracts should be maintained.

TOR 1.4: Warnings

Existing warnings are appropriate in the interest of transparency and should remain in place. We believe that they can be enhanced to the benefit of consumers by including information on fair and affordable alternatives for low income people and encourage this to be considered as part of this review.

We know that when a vulnerable consumer accesses alternatives, such as a No Interest Loan or StepUP loan, through initiatives such as Good Money, that 50% of those who had used a payday lender would not do so again. On top of this 93% of consumers felt more confident in handling their finances after an interaction with Good Money.²

This illustrates the benefits of ensuring that where possible vulnerable consumers should be directed to more appropriate alternatives. The addition of alternative community finance providers and programmes such as ASIC's *MoneySmart* on warning labels will assist in vulnerable consumers increasing awareness and financial literacy, as well as assist SACC providers in meeting their responsible lending obligations.

Recommendation:

Maintain the requirement to provide warnings about SACC and broaden to include details about financial literacy programmes and community finance alternatives such as the No Interest Loans Scheme, StepUP and other government supported products.

TOR 1.5 & 1.6: Caps on costs

Internal NAB research has shown that not only is it feasible for lenders to deliver their loans within costs under the existing caps, but that there is in fact the potential to reduce the costs charged to borrowers. The proliferation of online delivery of loans reduces costs for lenders and would make it feasible for them to absorb increased caps on costs.

We firmly encourage the Committee to maintain the caps to ensure that consumers are protected from excessive fees and interest rates that do not reflect the costs being incurred by lenders to provide the service

At this stage we are yet to see price competition in this market – SACC providers tend to offer loans at interest rate and fee at around the cap level. Further to this, our research also questions the high costs charged by some lenders as additional fees, for example, direct debits and for late or missed repayments it appears that these charges are well above a reasonable cost to undertake the activity.

Recommendation:

Maintain existing caps and review additional charges that consumers incur.

² Good Shepherd Microfinance Annual report 2014

TOR 2.1: National database

NAB believes that the cost of implementation of a national SACC database will outweigh the benefits. The reforms to the *Privacy Act 1988*, that took effect in March 2014, now allow for the sharing of positive credit reporting and as Comprehensive Credit Reporting (CCR) becomes operational this should make a national SACC database redundant.

The final report from the *Financial System Inquiry* recommended³ that over time if participation was not adequate that the Government should consider legislating participation and, in principle, should consider expanding data fields.

NAB believes that SACC providers should be legislated to provide information to the CCR. In the short term this would increase the ability of providers to meet their requirements and in the longer term allow better information about the industry.

NAB believes that CCR should be expanded to link with the MyGov account to allow for better clarity of consumers complete income. This would assist in SACC providers in meeting their obligations under *National Consumer Credit Protection Act 2009*.

Recommendation:

NAB recommends that SACC providers are mandated to provide information to the CCR regime.

NAB also recommends that the CCR be expanded to have additional fields that would assist SACC providers in understanding a consumer's suitability such as Centrelink payments.

TOR 3: Consumer Leases

We encourage the Committee to investigate appropriate measures to protect consumers from unreasonably high fees and charges when it comes to consumer leases. We understand that not all providers are behaving in a predatory manner but there is a need to ensure that a fair middle ground is found.

Our Indigenous Money Mentors (IMM) have seen first-hand the impact of some high cost consumer leases on indigenous consumers. In one particular case an indigenous consumer was being charged \$100.00 per fortnight to rent a TV, over 52 payments this equated to a total cost of \$5,200. The rental of this TV absorbed 8.4% of their Centrelink income. 10 months later they subsequently rented a washing machine and lounge at \$149 over 52 payments for a total of \$7,748. This equated to 21 % of Centrelink income. The IMM was able to assist the client to access a No Interest Loan for a TV and to discharge the rental agreement. The recipient was thereafter paying up to \$33 per fortnight for a \$1,000 TV over 33 fortnights.

Recommendation:

NAB recommends that the review considers mechanisms to protect consumers from unreasonably high fees and charges relating to consumer leases.

³ FSI November 2014, Recommendation 20 - Pg190

Concluding remarks

NAB supports the continuation of the exemption of Authorised Deposit taking Institutions from these laws.

We trust our submission is of value to Treasury and we look forward to working with the Government once the outcome of the review is finalised. NAB welcomes the opportunity to expand on any aspect of this submission with the secretariat.

If you require any further information on this matter please contact Brendon Ferreira, Consultant – Government Affairs & Public Policy at brendon.ferreira@nab.com.au or on (02) 8220 5230.

Yours Sincerely,



Dallas McInerney
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National Australia Bank