

29 January 2016

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 – Interim report

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 submission will focus on observations posed in the interim report that NAB believes have insight into the effectiveness of SACC laws.

Observations

Observation 1: One of the key outcomes of regulation in the financial sector should be the facilitation of consumers onto a path of financial inclusion rather than exclusion.

NAB supports the Panel's view that regulation should be used to facilitate financial inclusion. NAB also believes that the regulation should ensure that SACCs are appropriate and affordable where provided and that it should protect vulnerable consumers. The legislation should also align with, and where appropriate, utilise the existing infrastructure of the credit markets rather than create unique or duplicating infrastructure. This would ensure greater potential for the movement of individuals to become more included in mainstream financial services.

Recommendation:

The sector must be appropriately regulated and greater competition encouraged.

Observation 2: The responsible lending obligations do not appear sufficient to prevent financial harm to consumers who use SACCs. Additional consumer protection specific to SACCs seems to be required. ASIC enforcement of the responsible lending practices of SACC providers should be a priority.

NAB supports the view that preventing financial harm to consumers should be a priority. Greater transparency of the fees and charges across the sector is required. This would allow

consumers the ability to be able to compare the costs of accessing finance from different SACC providers and to make more informed choices.

Further ASIC enforcement of those lenders who do not meet the required responsible lending obligations should be a priority.

Recommendation:

Greater transparency should be explored across the industry to support the ability for consumers to make more informed choices.

Observation 3: High levels of repeat borrowing appear to be causing consumers financial harm. The structure of the SACC cap and industry costs appears to promote repeat borrowing and the rebuttable presumptions do not appear to have limited repeat borrowing.

NAB agrees with the Panel's view that repeat borrowing appears to be causing consumers harm. Across the community finance initiatives of NAB in partnership with Good Shepherd Microfinance we see the need for individuals who are more vulnerable to be able to access credit to manage personal cash flows. Often this need for credit can occur more than just once in a particular period of time hence we do not believe that it can be legislated that a consumer only have one loan ever. We do, however, realise that when repeat borrowing in a short period of time occurs it can often be an indicator for other hardship or financial management challenges.

The options presented have both advantages and disadvantages in their own right. The most effective of the three would be to implement Option 2, however, there are significant challenges as identified in our initial submission in how to best enact a suitable test. The future use of Comprehensive Credit Reporting (CCR) may provide greater visibility of when a consumer has an existing SACC.

Recommendation:

To avoid making it difficult to determine whether it is responsible to lend to an individual, it is important to ensure legislation is not overly complex. There is an opportunity for CCR to enable the industry to make more responsible lending decisions. The focus should be on inclusion with the mainstream financial sector rather than creating systems and structures that make it difficult to transition between them.

Observation 4: The limit on the amount that a SACC provider can recover in the event of default is an important safeguard for consumers. However, in some circumstances, the fees charged on default appear to be charged in a manner that significantly disadvantages vulnerable consumers.

Fees and charges need to be reasonable and transparently charged to the consumer. Where an expense is incurred by a lender it is reasonable to expect these costs to be passed onto the consumer as with mainstream credit products. Introducing a default window where the default fee cannot be charged would make it difficult to recoup costs associated with collecting payments and adversely incentivise the customer to ignore repayments. The industry should look to provide proactive incentives for customers to make contact when they may be struggling to make repayments and to also provide appropriate supports to customers who do reach out.

Recommendation:

Again transparency is the key here. Forcing the sector to be upfront and clear about when and

why fees are charged, along with the amount would shed light on practices. A reasonableness test could then also be placed across the fees.

Observation 5: Some SACC providers do not appear to be giving consumers any benefit or discount when they make early repayments or pay back the loan in full before the due date. These practices may result from the SACC cap being based on a fee, rather than an interest rate.

Consumers should benefit from repaying loans early and lenders should be discouraged from structuring loan repayments to be disadvantageous to consumers. NAB believes a flat-fee structure should be encouraged and fees charged on a monthly basis (apart from the application fee which should be charged upfront and can be amortised over the life of the loan). Flat repayments make it easier for the consumer to understand their obligations and to budget the repayments as required.

Recommendation:

Fees should be charged on a monthly basis in order to ensure the consumer is to benefit from an early repayment. Transparency of fees and charges is critical to improving the customers visibility of the costs of a SACC.

Concluding remarks

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 Aron Whillans, Government Affairs & Public Policy at aron.j.whillans@nab.com.au or on (03) 8697 7002.

Yours Sincerely,



Corinne Proske
Head of Community Finance & Development
National Australia Bank