



**ANNEXURE A**

Schedule of Recommendations				
No.	Regulatory Ref	Description of recommendation	HWL commentary and summary of recommendations	Nimble response
<b>A. General Conduct Obligations</b>				
1.	NCCPA s 47(1)(a); ASIC RG 205	Nimble should make policy changes to reflect the need for every role, from the Board down, to ensure that Nimble's lending and other credit activities are conducted efficiently, honestly and fairly.	<p>Nimble expanded its Board Charter and Code of Conduct for directors and senior managers so that they expressly require its directors, responsible managers and senior managers to act fairly, efficiently and honestly and with specific reference to their key functions.</p> <p>Nimble also developed a Compliance Plan structured in accordance with the International Standard for Compliance Management Systems (ISO 19600:2004) allocating specific responsibilities to specific company officers and imposed periodic internal certification and reporting timeframes.</p>	Recommendation accepted and implemented.
2	NCCPA s 47(1)(a); ASIC RG 205	The Responsible Lending Committee should be accountable for oversight and compliance with Responsible Lending provisions.	<p>Nimble developed Terms of Reference for its Responsible Lending Committee, which it has expanded to a Compliance and Risk Committee.</p> <p>Nimble has put in place a framework is adhered to review compliance with Responsible Lending provisions.</p>	Recommendation accepted and implemented.
3	NCCPA s 47(1)(b); ASIC RG 205	<p>Nimble should include in the Conflicts of Interest Policy and Procedures more specific details of how Nimble will monitor any 'conflict of interest' or 'perceived conflict'. [ASIC RG205.80].</p> <p>Nimble should Expand the definition of a conflict to include a conflict where the benefit may not be derived by the employee but may be derived by an associate of the employee.</p>	Nimble changed its policy to reflect these recommendations	Recommendation accepted and implemented.
4	NCCPA s	Nimble should Include in the Compliance Plan a	Nimble changed its Compliance Plan and Dispute	Recommendation accepted and



	47(1)(c)	<p>process for responding to any direction from ASIC to notify customers when a representative has been banned or disqualified.</p> <p>Nimble should include in the Dispute Resolution Policy a description of the measures Nimble must take under the licence conditions if it ceases to be a member for its current external dispute resolution scheme.</p>	Resolution Policy to reflect these recommendations.	implemented.
5	NCCPA s 47(1)(d)	<p>Nimble should make changes to the template loan contracts for small amount credit contracts and medium amount credit contracts.</p> <p>Nimble should make change to the credit guide and electronic notification consent relied upon by Nimble.</p>	Nimble has adopted most of the recommendations and we have been advised that it will implement all recommendations.	Recommendation accepted and implemented.
6		<p>Nimble should continue to focus on its compliance auditing for credit legislation compliance and breach reporting through annual compliance certificates and should test responsible lending measures with a particular emphasis on validating system automated responsible lending thresholds and measures for rebutting the presumptions for unsuitability.</p>	<p>Nimble has provided its Audit Plan which establishes a formal framework for auditing obligations under the credit legislation and other applicable legislation to verify compliance against the responsible lending requirements outlined in the NCCPA in relation to small amount credit contracts and medium amount credit contracts, either manually or automatically.</p> <p>While this covers the process in the current Audit Plan, we recommended that this measure be incorporated into Nimble's formal Compliance Framework in the form of a policy or alternatively that it be incorporated into the Audit Framework.</p>	Recommendation accepted and implemented.
7	NCCPA s 47(1)(f)	Nimble's arrangements for organisational competence should be extended to board members.	Flowing from this recommendation, Nimble modified its Board Charter to include obligations on directors to undertake training as required from time to time.	Recommendation accepted and implemented.
8		Senior management should ensure that the business has adequate staff and resources for the business to engage in credit activities.	In response to this recommendation, we have been advised Nimble is in the process of adding 3 new responsible managers. Those appointments are due to be finalised by the end of October 2016 and the new	Recommendation accepted. The Chief Operations Officer and Head of Operations have been appointed as responsible managers.



			responsible managers will be the persons holding the offices of Chief Operations Officer, Head of Operations and Chief Finance Officer.	The appointment of the Chief Finance Officer will be completed by 31 January 2017.
9	NCCPA s 47(1)(f)	Nimble should adopt a proactive monitoring for the competencies of each Responsible Manager and compliance with the 'fit and proper' test.	Acting on this recommendation, Nimble has modified its Compliance Training Policy: Organisational Competency & Responsible Managers so as to articulate an obligation imposed upon the Head of Compliance to monitor ongoing compliance of responsible managers to meet 'fit and proper' criteria.	Recommendation accepted and implemented.
10	NCCPA s 47(1)(g)	The Compliance Training Policy should specifically outline what training requirements representatives (employees) must undertake each year.	In response, Nimble expanded the description of the training content to better articulate its scope.	Recommendation accepted and implemented.
11	NCCPA s 47(1)(h) reg 10 and Sch 2 of the National Credit Regulations AS ISO 10002-2006  Regulatory Guide 165	<p>Nimble should include an undertaking to resolve complaints at the point of IDR and directly with the relevant customer.</p> <p>Nimble should modify the policy to address each of the sections of AS ISO 10002-2006.</p> <p>Nimble should amend the policy to undertake to respond to complaints (where default notice has not been issued and absent any hardship notice) within 45 days and where this target is not met:</p> <ul style="list-style-type: none"> <li>a) inform the complainant or disputant of the reasons for the delay;</li> <li>b) advise the complainant or disputant of their right to complain to EDR; and</li> <li>c) provide the complainant or disputant with the name and contact details of the relevant EDR scheme to which they can complain.</li> </ul> <p>Nimble should amend the policy to undertake to provide a final response to disputes involving default notices within 21 days and that where this target is not met,</p>	The policies were amended to reflect the recommendations	Recommendations accepted and implemented.



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		<p>inform the complainant or disputant:</p> <ul style="list-style-type: none"><li>a) of the reasons for the delay;</li><li>b) advise the complainant or disputant of their right to complain to EDR; and</li><li>c) provide the complainant or disputant with the name and contact details of the relevant EDR scheme to which they can complain.</li></ul> <p>Nimble should amend the policy to include the obligation to refrain from debt collection activity during IDR and for a reasonable time after. Amend the Dispute Resolution Policy and</p> <p>Nimble should include a procedure to provide for a minimum 14 day after an IDR decision before recommencing or commencing enforcement and an allowance for a longer period in particular circumstances.</p> <p>Nimble should provide a dedicated telephone number and state in the policy that it does so. Modify the policy to reflect the requirement that hardship and postponement applications be treated as urgent.</p> <p>Nimble should make timeframes for notices in its hardship policy consistent with RG 165.</p> <p>Nimble should state the 30 day timeframe for notifying hardship variations and agreed postponements within the policy.</p> <p>Nimble should specify the timeframe for notifying agreed postponements outside circumstances of hardship and allow for postponements to be considered even where there is no dispute or complaint.</p>		
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		Nimble should modify the Financial Hardship Policy to provide that a disputant will be informed of their rights under EDR and to provide a copy of the Dispute Resolution Guidance to customers on request or when they lodge a complaint.		
No.	Regulatory Ref	Description of recommendation	HWL commentary	Nimble response
<b>B. Responsible Lending Obligations</b>				
1	section 126(2)	Nimble should make changes to its credit guide to improve disclosure.	Nimble updated its credit guide, adopting our recommendations.	Recommendation accepted and implemented.
2	s129	Nimble should include in the Loan Suitability Assessment, the period the assessment covers and not just the <b>date of the assessment</b> .	Nimble updated the Loan Suitability Assessment to include the period.	Recommendation accepted and implemented.
3	s 130(1) RG209	Nimble should obtain further information from a borrower if the borrower elects to take an amount that is significantly less than the amount approved to confirm that the lower amount is still suitable for the nominated purpose.	Nimble amended its loan approval process to put further questions to a borrower, explaining why the lower amount will suit the loan purpose and Nimble considers this explanation in its ultimate approval.	Recommendation accepted and implemented.
<b>section 160D of the National Consumer Credit Protection Act 2009 (Cth) (NCCP Act) and Part 2 Division 2 of the Australian Securities and Investments Commission Act 2001 (Cth) (ASIC Act)</b>				
No.	Regulatory Ref	Description of recommendation	Implemented in full	Implemented in part
<b>c. Giving misleading information (NCCP Act)</b>				
1	160D	Nimble should amend the draft Approval Process Policy to more expressly address advertising and other marketing collateral and customer communications and formally incorporate the policy into the compliance framework.	The policy remains in draft but Nimble advises that they adhere to it for advertising and marketing collateral.	The Approval Process Policy has been finalised.
<b>D. Misleading Representations (ASIC Act)</b>				
2	Subdivision BA - Unfair Contract Terms	Nimble should reduce the circumstances in which Nimble could unilaterally change the contract terms. Formerly, Nimble could change any term and now, only the <b>specifically listed changes</b> can be made (each of	The changes have been implemented in the Loan Contract Terms and Conditions.	Recommendation accepted and implemented.



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		which is a unilateral change specifically contemplated under the National Credit Code).		
3	Subdivision D - Consumer Protection sections 12DA, 12DB, 12DF, 12DJ and 12DL	Nimble should modify its Repayment Comms Strategy to include Form 11A, Direct Debit Dishonour Notice, when a direct debit payment fails.	The file review confirmed that the current process is to provide the Form 11A when a direct debit payment failed. The Comms Strategy is being updated to conform to the process and to ensure issuing the Form 11A is controlled within the Compliance Framework.	Recommendation accepted and implemented.
4	Subdivision D - Consumer Protection sections 12DA, 12DB, 12DF, 12DJ and 12DL	Nimble should modify its Repayment Comms Strategy to include additional information concerning other aspects of the Debt Collection Guidelines including recommended maximum frequencies for making contact	<p>The file review confirmed that the current processes and practices do not allow collection correspondence to exceed the limit established in the Debt Collection Guidelines.</p> <p>However, the Comms Strategy is silent on contact restrictions and is being updated to ensure contact limits are controlled within the Compliance Framework.</p>	Recommendation accepted and implemented.