

31 July 2018

Our ref: KB-C&C

Mr James Shipton
Chair
Australian Securities and Investments Commission
GPO Box 9827
Sydney NSW 2001

By email: creditcards@asic.gov.au

Dear Chair

Consultation paper: Credit cards: Responsible lending assessments

Thank you for the opportunity to provide comments on the Consultation Paper: 303 - Credit cards: Responsible lending assessments (the **consultation paper**). The Queensland Law Society (QLS) appreciates being consulted on this important issue.

QLS is the peak professional body for the State's legal practitioners. We represent and promote over 13,000 legal professionals, increase community understanding of the law, help protect the rights of individuals and advise the community about the many benefits solicitors can provide. The QLS also assists the public by advising government on improvements to laws affecting Queenslanders and working to improve their access to the law.

This response has been compiled with the assistance of the Competition and Consumer Committee who have substantial expertise in this area. We have reviewed the consultation paper and provide the following feedback as requested.

B1Q1: Do you agree with the proposal to prescribe a three-year period? If not, why not?

The QLS is supportive of the proposal to require credit assessments of consumers applying for a credit card or an increase to their existing credit card limit to be based on the repayment of the proposed limit within three years. This period strikes a more appropriate balance between allowing a consumer a reasonable opportunity to access credit and the need to ensure the credit will be paid off within a reasonable time.

The interest rates on credit cards (as well as their "continuing credit" nature) render them inappropriate vehicles for long term high value debts. The proposed three year limit would introduce a higher standard of responsible lending to the credit card market.

In addition, when comparing the regulation of small amount credit contracts (SACCs) under the NCCP with credit cards, SACC lenders are subject to substantially more restrictions and requirements to satisfy their responsible lending obligations than are credit card providers. This is understandable given their exemption from the 48% rule and the particular vulnerabilities of consumers in the micro-loan market. However, the causes of consumer

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bankruptcy surveys conducted by AFSA almost always find that credit card debt is the second most commonly reported cause with unemployment as the first.

Reducing credit card debt (both by way of numbers of accounts and the size of credit limits) is therefore an appropriate goal for credit regulation and this proposed limit would assist in achieving that goal by a requiring a higher standard of responsible lending from credit card providers.

B1Q2: Should we prescribe a period of two years for consistency with other requirements, such as the minimum repayment warning under reg 79B of the National Consumer Credit Protection Regulations 2010 (National Credit Regulations)?

We do not consider that it is reasonable to compare the responsible lending assessment to the minimum repayment warning. The minimum repayment warning addresses paying off credit after the finance has been granted which is different to an assessment about a person's capacity to make repayments.

B1Q3: Do you agree with our proposal that the prescribed period apply to all classes of credit card contracts? If not, why not?

The QLS agrees that the proposal should apply to all classes of credit card contracts. We consider that any other approach would confuse consumers and impose unfair compliance burden on businesses.

B1Q4: What changes would need to be made to systems and processes to ensure compliance with the prescribed period by 1 January 2019?

The QLS is not able to comment on this question.

B1Q5: Do you agree with our expectations about the assumptions that should be made when assessing whether a consumer can repay the credit limit within three years (see paragraphs 48-51)? If not, why not? Should any other assumptions be made?

We refer to our comments in previous questions.

In addition to the proposals above, the QLS would be pleased to see reform addressing the issue of debt arising from the current inability of people to meet their repayment under existing contracts. We welcome the proposed reform but, its benefit will be purely prospective and there are significant problems faced by consumers unable to pay their debts now.

If you have any queries regarding the contents of this letter, please do not hesitate to contact our Senior Policy Solicitor, Kate Brodnik by phone on (07) 3842 5851 or by email to K.Brodnik@qls.com.au.

Yours faithfully

Ken Taylor
President

