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Fleur Grey
Senior Specialist
Credit, Retail Banking and Payments
Financial Services
Australian Securities and Investments Commission

By email: responsible.lending@asic.gov.au

Dear Fleur,

RE: Consultation Paper 309 - Update to RG 209: Credit licensing: Responsible lending conduct

Thank you for the opportunity to respond to ASIC Consultation Paper 309 – Update to RG 209 Credit licensing – responsible lending conduct.

The 'Great Australian Dream' is that of home ownership, and this makes people's homes their most valuable asset and central to their overall financial security. As such, best practice lending in the home loan sector is critically important to the financial well-being of Australian consumers. Lendi is committed to promoting responsible lending, including the maintenance of robust standards in the current low interest rate environment and building consumer trust, confidence and choice through our market leading digital platform.

Lendi supports ASIC in its approach to reviewing RG 209 and values the opportunity to contribute to the modernisation and efficacy of RG 209 as the mortgage finance sector continues to innovate and respond to shifting consumer needs and a dynamic regulatory context.

We have focussed our submission on the areas that we think are most related to home loan lending, and as such have remained silent on some questions. Our key views are:

1. **'Risk based' rather than 'prescriptive' approach to verification**

    a. Lendi cautions against any shift towards a prescriptive "step by step" approach to the inquiries and verification requirements. We believe this approach fails to service the best interests of the consumer and could operate to reduce compliance with the legislative requirements in the NCCP Act to do what is "reasonable" in the circumstances.

    b. Lendi believes that any regulatory guidance in the revised RG 209 should articulate a risk based approach to the exercise of the statutory responsible lending obligations. This focus could mean greater verification steps should be taken for high risk customers, and less for low risk customers.

2. **Product recommendation based on limited assessment and verification**

    a. There is a growing consumer need for better access and transparency related to credit products. Currently, RG 209 does not allow Lendi, as a credit assistance provider to make an initial recommendation to a consumer without a full assessment as provided for under the Code.

    b. We believe that credit assistance providers should be able to make suggestions to a consumer on what options are available to them given their particular needs and circumstances – subject to assessment, verification and approvals.

3. **Reduced verification where there is no new lending - 'Loan Portability'**

    a. Currently, RG 209 requires credit assistance providers to provide a full assessment of a consumer in circumstances where they are reviewing their loan to ensure it is market competitive, even if there is no change to the loan amount, term or structure and the borrower is of good credit standing.

    b. We propose that there should be guidance around a lower level of inquiry and verification in these circumstances (and conversely, additional verification steps for higher risk scenarios - for example, interest only loans to owner occupiers at a high LVR). This would have the effect of increasing competition through a lower bar where the credit risk and responsible lending risk is low, while tightening up the requirements for higher risk scenarios.

Following this letter is our responses to specific questions, as well as supplementary information about Lendi and further background commentary to our responses to Section B and Section C.

We would be happy to discuss our submission with ASIC if that would assist its consultation process. Please contact Martin Lam directly on 0416 139 318 or via email on martin.lam@lendi.com.au if you have any questions in relation to this response.

Regards,

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CP 309 - Responses to specific questions

Section B – Reasonable inquiries and verification steps

B1Q1 Would it be useful for licensees if ASIC were to identify the inquiries and verification steps that we consider should be taken? Why or why not?

Lendi Response: Lendi does not believe a prescriptive step by step approach to the inquiries and verification requirements of the NCCP Act is required to guide lenders to comply with the legislative requirement to do what is "reasonable" in the circumstances.

Other than making explicit what is already set out in the NCCP Act – and reinforced by the findings of the Financial Services Royal Commission – that there is a two-step process in the legislation that should not be conflated into one step during the credit application process, Lendi does not believe any further "steps" should be mandated by ASIC in RG 209.

We support the continuation of the approach that ASIC took when originally publishing RG 209, when deciding against setting minimum standards. However we believe that the concept of 'scalability' of inquiries has not been uniformly applied across the home loans sector, nor has it been well understood. ASIC notes in CP 309 the uncertainty associated with its guidance on this issue in RG 209 and appears to be open to prescribing a de facto minimum level of inquiries and verification.

Lendi submits that setting a minimum standard is not the solution to the poor understanding and application of the concept of scalability that has been identified in some parts of the home loans sector.

Whilst we note that it would remain open to lenders performing a lower level of inquiries and verification steps for a consumer if they can demonstrate that it is reasonable in the circumstances to do so. Lendi submits that RG 209 should focus on providing clearer guidance based on what is "reasonable" inquiries and verification steps in the circumstances of particular credit products and particular credit consumers.

ASIC's rethink on this issue provides an opportunity to discard references to 'scalability' in RG 209 in favour of a greater focus on what is reasonable in the circumstances. Concepts of 'scaling up' and 'scaling down' inquiries and verification appear to have distracted lenders from the real question of whether the inquiries and/or verification steps were "reasonable" in the circumstances, having regard to the particular consumer and credit contract in question.

Lendi supports ASIC's view that what amounts to 'reasonable steps' to verify information will change over time, as new forms or sources of information become available to licensees. Additionally we submit that what amounts to "reasonable" steps will also vary over time where a lender has accumulated a body of data on the consumers financial circumstances and the consumer wishes to make a change to the terms of their mortgage that will benefit them financially – such as swapping to a lower interest rate or repayment terms.

Lendi maintains that ASIC should steer away from revising RG 209 to include minimum standards or prescriptive list of steps that must be taken by a lender and instead focus on developing and expanding upon the risk based case studies and "examples" used throughout the current RG 209.

A scenario-based approach to guiding lenders on what is "reasonable" inquiries and verification will support the development of a coherent and consistent application of the legislative obligation across the sector and encourage lenders to develop an increased proficiency in risk based assessments of consumers and credit products.

Minimum standards and prescriptive lists risk creating a dependency by lenders and encouraging an avoidance of engaging in the case by case assessment of a customer and their individual circumstances that is required to comply with the responsible lending obligations in the NCCP Act. Lendi encourages ASIC to use its extensive enforcement data and research findings to include further risk based case studies in RG 209 focusing in particular on high-risk customers and high-risk credit products.

B1Q2 If there are particular examples of industry practice that you consider should be reflected in any guidance, please provide details of those practices.

Lendi Response: Lendi submits to ASIC that the particular examples of industry practice that it should consider reflecting in the revised RG 209 are those examples of poor lending practices that have been highlighted in their own thematic and enforcement work and subject to scrutiny in a range of reviews and inquiries including the recent Financial Services Royal Commission.

RG 209 should focus particular guidance on those products and practices identified as posing a higher risk of consumer detriment. The poor lending sector practices highlighted in ASIC reports - REP 493 and REP 445 - provide a plethora of examples that could be reflected in RG 209 to demonstrate where high-risk products and high-risk consumers require additional inquiries and verification measures to meet the "reasonable" requirements of the responsible lending obligations.

The final report of the Financial Services Royal Commission report recommended consumer-centric changes throughout including the 'best interest' test for brokers, and implementation of Sedgwick's consumer benefit requirements for remuneration to ensure that consumers have increased personal attention, without requiring such a substantial re-definition of the responsible lending obligations.

RG 209 should reflect this approach by encouraging a focus on the suitability of the finance product for the consumer, with detailed guidance on how to navigate the responsible lending obligations in circumstances where the consumer cohort or the credit product features are high risk cohorts.

B1Q3 Are there any kinds of credit products, consumers or circumstances for which you consider it may be reasonable to undertake fewer inquiries and verification steps? Please identify the kinds of products, consumers and circumstances and particular features you think are relevant.

Lendi Response: There are two circumstances where we believe it may be reasonable to undertake fewer inquiries and verification steps: 1) Where there is no new lending - 'loan portability', and 2) Where a 'preliminary product recommendation' is being made online, with consideration to a customers situation including their stated needs and objectives.

1. Where there is no new lending - 'loan portability'

   Adopting a risk based approach to determining what is reasonable under the NCCP Act is central to our submission in relation to the revision of RG 209 by ASIC. The current drafting of RG 209 unintentionally results in a disincentive for consumers to seek out ways to reduce the financial burden of their mortgage through swapping to lower rates with a different provider.

Currently, as a credit assistance provider, if Lendi wanted to assist a consumer to swap an existing home loan to a lower interest rate it would have to apply the full inquiries and verification process to this change (even if there was no increase to the loan and no increase in loan term). A similar obligation does not apply to the credit provider.

As noted in the Lendi customer stories, there is significant incentive for customers to seek out a better deal for their home loan, even if it is with their existing lender. The current inquiry and verification requirements can often operate as a disincentive for customers to pursue a final outcome that will actually improve their financial circumstances and achieve a reduced rate in circumstances where their existing lender is unlikely to provide them with a similar opportunity.

Through a 'risk based' approach to verification, we would propose that in a scenario where:

a. No additional credit is being extended
b. Loan term is not being extended

The inquiry and verifications steps could be limited to

- Customer Identification
- Customer needs and objectives still mean the loan structure is not unsuitable
- Good conduct on existing credit contracts as verified via CCR

Reducing the inquiry and verification steps would significantly reduce the barriers to consumers in ensuring they are on the right deal with their existing lender, or in a case where there existing lender was no longer offering commercially competitive rates, the ability to move to another lender in a much easier fashion. Given there is no extra credit being extended, customers needs and objectives are being taken into consideration and loan term is remaining consistent with the original credit contract, there would be no additional risk added into the system.

2. Where a 'preliminary product recommendation' is being made online, with consideration to a customers situation including their stated needs and objectives

   Extending on the asymmetry articulated above between credit assistance providers and credit providers, the requirement for Lendi as a credit assistance provider prior to providing any product suggestions, is to complete a full assessment of the borrower including the verification of information. The same obligation doesn't exist for a credit provider.

   Lendi points out that a key part of our service to consumers is the provision of tools that help borrowers understand which loan options are available to them in the market, with consideration to their needs and objectives. Much of the preliminary information Lendi provides to a customer is directed to informing them of the choices that they have across the mortgage market and the different features of each of the mortgage options that are available.

   As this form of consumer-centric technology accelerates in uptake – and Lendi is a clear example of how consumers in the home lending market respond positively to being empowered with information and choice – RG 209 needs to be crafted by ASIC so as to not unintentionally stifle the innovation and evolution of the home loans market.

   Whilst the justification for having the inquiries and verification process apply at the preliminary assessment phase for credit assistance providers had a sound rationale when initially implemented, since that time the access to consumer credit data and information - as CP 309 outlines in detail- has been greatly increased through technology.

To encourage competition and innovation within the home loan sector (as well as level the playing field between credit providers and credit assistance providers), Lendi submits that a credit assistance provider should be able to provide a customer with a 'preliminary' product suggestions based on their circumstances, needs and objectives, with the full recommendation subject to further inquiry and verification.

B1Q5 In your view, what aspects of the consumer's financial situation would a licensee need <u>to verify</u> in all circumstances? If you think some aspects of the consumer's financial situation do not need to be verified, please explain why.

<u>Lendi Response:</u> Lendi submits that verification of any particular data point - other than proof of identity - should be driven by the risk based approach of what is "reasonable" given the particular circumstances of the customer and/or the particular features of the credit product. Low risk transactions, such as switching to a lower interest rate, should involve reduced verification requirements.

Lendi submits that the revised RG 209 should reinforce the "reasonableness" of the verification steps that may be required in the particular circumstances of the customer and the credit product. As noted above in the context of prescribing minimum inquiries Lendi also submits that prescribing the minimum verification steps risks setting a de-facto standard.

Lendi believes that a 'risk based' approach where inquiry and verification steps are based on where the transaction sits on the risk spectrum meets the legislative test in the NCCP Act which is framed around doing what is "reasonable".

Lendi makes reasonable inquiries about a customers' requirements and objectives and financial situation and takes reasonable steps to verify the customers financial situation and makes an assessment that the credit contract is not unsuitable before suggesting that a customer remain in their existing credit contract including for rate reduction on existing credit contracts; credit limit increases on existing credit contracts; repayment type changes ; interest type changes on existing credit contracts and loan split changes on existing credit contracts.

What is reasonable in the circumstances of these lower risk credit agreements as to the significance and extent of verification will vary depending on the circumstances. Lendi submits that scenarios such as rate changes and interest type changes would require a lesser degree of verification than a scenario, for example , where there was a credit limit increase or completely new borrowing. This is particularly so given: the likely minimum negative impact on the customer if that customer takes the advice and remains in the credit contract; the lack of complexity of the credit contract which the customer has already entered and which will only be varied and given the customer is already an existing customer of the lender.

B1Q6 What would be the effect on <u>consumers</u> of ASIC identifying particular inquiries and verification steps? For example, what would be the effect on access to and cost of credit for consumers?

<u>Lendi Response:</u> Further clarification on what is reasonable based on specific risk-based customer segments, product features and scenarios could provide a much more balanced environment, leading to increased access to credit for lower risk segments which would drive more competition and lower costs to both the borrower (through lower rates) and credit assistance / credit providers (through lower cost of verification).

As we have noted elsewhere in our submission, the concept of scalability in the current RG 209 can be a distraction. The better approach is to return to guidance around what is reasonable in the circumstances of the consumer. The Financial Services Royal Commission found that a tendency existed for the reasonableness test to be applied in terms of what was best for the lenders business and how its systems or capabilities may or may not operate and we believe there is an opportunity for RG 209 to expand upon what is “reasonable” for particular consumers and particular credit products and particularly those that are regarded as higher risk.

Scalability is often misapplied as a proxy for “reasonable” in RG 209. We believe that inadvertently ,“scalability” as a concept, has clouded rather than clarified the law and how it should be applied. “Reasonable” is a concept that we believe is better understood by consumers and they are more likely to understand over “scalability”.

Scenario-based guidance would therefore be a particularly useful focus in RG 209 especially with regard to the highest risk categories of consumers and credit products. Rather than setting a level or a standard of what is “reasonable” RG 209 should provide guidance to support and reflect the nuanced decisions and exercises of judgement that credit providers need to make with each customer under the NCCP Act.

A factor that drives scalable inquiries for us, is loan features that point to different levels of risk such as the rates; the loan to value ratio; the debt to income ratio and the term of the loan. RG 209 could usefully focus on some of the more “high-risk” loan features and through examples and case studies such as those included in REP 483.

Lendi can conversely point to lower risk transactions such as rate swaps from variable to fixed or rate reductions and other loan maintenance activities that pose a lower risk from a lending perspective and less inquiries and verification obligations when considering what is “reasonable” given the circumstances of the customer and the low-risk nature of the credit product. Through lowering the inquiry and verification requirements on these transactions, access to credit would be improved and cost to fulfil would reduce.

Section C – Updating or clarification of current guidance

C2Q1 Do you consider that the proposed clarification of guidance on reasonable verification steps would be useful? Are there any other aspects of our guidance on verification that you consider would be useful?

Lendi Response: As noted above, Lendi supports a principles risk based approach to RG 209 over the prescriptive rules based approach.

Similarly the “if not why not” approach is also supported provided that such a regulatory position is couched in the legislative context of what is reasonable in the particular circumstances of the customer and the credit product they are applying for.

“If not, why not” should not become a defacto default position and excuse lenders from actually engaging in the exercise of determining what is “reasonable” as the legislation clearly requires them to do. As noted by Commissioner Hayne in his Final Report, the NCCP Act does not require amendment in relation to responsible lending obligations. The law should be applied as it currently stands and RG 209 should support lenders in doing so - rather than setting prescriptive standards that the legislation simply does not do.

ASIC proposes to clarify its guidance about the kinds of information that can be used to verify a consumer's financial situation and provide a more expansive list of forms of verification that it considers readily available to licensees in most circumstances.[4] CP 309 includes a list of sources from which information about a consumer's financial information can be verified.[5]

The updated sources, which is more extensive than Table 4 in the current RG 209, has a greater focus on a consumer's expenses and their balance sheet, rather than just their income.

CP 309 also expresses ASIC's view that what amounts to 'reasonable steps' to verify information will change over time, as new forms or sources of information become available to licensees. It flags mandatory comprehensive credit reporting and open banking (i.e. the consumer data right) as affecting what will constitute reasonable inquiries in the future. If a form of verification is reasonably available to a licensee, ASIC will expect them to have regard to it.

As with our earlier commentary above in relation to proposed specific guidance about inquiries into a consumer's requirements and objectives, the risk with the verification sources identified by ASIC in CP 309 - if inserted into the revised RG 209 - is that they are likely to become de facto minimum standards. We would caution against this approach and as an alternative encourage ASIC to craft risk based guidance directed to the verification that is "reasonable" in high risk contexts.

Section D – Additional guidance on specific issues

D1Q1 Are there any forms of lending where the responsible lending obligations are being used by licensees in situations where the law does not require the responsible lending obligations in the National Credit Act to apply? Please describe the situations where this takes place.

Lendi Response: Currently, RG 209 does not allow Lendi, as a credit assistance provider to provide guidance and suggestions to a consumer without a full assessment as provided for under the Code.

Lendi believes that consumers should have the ability to freely access information related to credit products and services based on different scenarios that may be applicable to them. The current guidance is that credit assistance providers are required to perform a full assessment in order to provide an initial recommendation, this in essence precludes businesses like Lendi, from being able to provide real-time and high quality curated information back to customers.

As we have stated, customers come to us for advice and that we should be able to provide them suggestions on a preliminary basis – with final recommendations subject to verification and approvals. Whether the consumers are new or existing Lendi clients, we believe that information is empowering.

Removing these unintentional barriers to information being provided to consumers in RG 209 will support consumers access to the information; advice and financial education that they need to make the decision that is right for them and their financial future.

Changes to RG 209 should make clear that the same standard applies to credit assistance providersCAS and credit providers when it comes to receiving information that informs their mortgage decisions.

Removing this unintentional asymmetry within the mortgage market will also remove a barrier to innovation.

Supplementary information

Introduction

Thank you for the opportunity to respond to ASIC Consultation Paper 309 – Update to RG 209 Credit licensing – responsible lending conduct.

The ‘Great Australian Dream’ is that of home ownership, and this makes people's homes their most valuable asset and central to their overall financial security. As such, best practice lending in the home loan sector is critically important to the financial well-being of Australian consumers. Lendi is committed to promoting responsible lending, including the maintenance of robust standards in the current low interest rate environment and building consumer trust, confidence and choice through our market leading digital platform.

More Australian consumers than ever are looking to digital alternatives in lieu of the traditional mortgage broking process and in doing so demanding access to choice and transparency, without compromising on time or convenience. Lendi believes in empowering all consumers to find the right deal for their circumstances by leveraging the perfect balance of human expertise and smart technology. This is how we will not just deliver better home loan options, but ultimately help deliver better financial outcomes for our customers.

RG 209 is central to the day to day operations of Lendi. Our team of advisers work closely with the ASIC regulatory guidance and over time Lendi has formed a range of views on where the content of RG 209 could be refined and clarified. As such Lendi supports ASIC in its approach to reviewing RG 209 and values the opportunity to contribute to the modernisation and efficacy of RG 209 as the mortgage finance sector continues to innovate and respond to shifting consumer needs and a dynamic regulatory context.

The ACCC Residential Mortgage Price Inquiry 2018 found that the lack of transparency around price left consumers with a lack of choice and inflated borrowing costs. A survey of borrowers found that 70 percent of recent borrowers surveyed on behalf of an Inquiry Bank said they had obtained just one quote before taking out their residential mortgage. Lendi fundamentally believes that consumers should have easy access to the greatest possible amount of information necessary to choose the best mortgage deal for their personal circumstances.

The ACCC found, in a survey of home loan borrower preferences, an increased preference for online origination applications such as those offered by Lendi. Digital first platforms, such as Lendi, are fast becoming a dominant feature of the modern home loans market in 2019. Lendi believes that while the demand for home loans is not going to change the demand for choice and information by consumers will only increase creating a need for sector wide competition; consumer-centric service and product diversity.

As noted in the Financial Services Royal Commission Final Report, the residential mortgage market is constantly changing and will evolve further – both as a result of sector led technology driven innovation - such as the Lendi home loan platform - and as a result of adjustments made through regulatory and legislative interventions and the emergence of a range of non-traditional home loans service providers.

Therefore RG 209 will need to guide a rapidly transforming home loans sector that is already shifting from the traditional big 4 bank and brokerage model to technology driven service providers such as Lendi. To achieve this, RG 209 cannot be constrained by a prescriptive approach that will quickly become redundant as the home loans sector innovates and transforms. Instead RG 209 should focus on guiding lenders through a risk based approach to assessing what is the right lending choice given the particular circumstances of each consumer and the particular elements of the credit product they are applying for.

About Lendi

Lendi is an online home loan platform helping Australians find the right mortgage for their own unique needs, whether they are looking to buy their first home or looking to refinance an existing loan. Lendi is built for the sole purpose of delivering better consumer outcomes through market leading technology and, unlike the traditional mortgage aggregator businesses, our delivery model is direct to consumer.

Lendi's unique value proposition is that we are an end to end service for home loan consumers and include a comparison of the current mortgage offers, rates and terms from a panel of over 30 major banks and lenders. All of this is done digitally within the platform and, for those who need it, the support of experienced and specialist home loan specialists is available to guide an understanding of the options.

Founded in 2013, but launched as a brand in 2016, Lendi is an Australian fin-tech startup which in six years has grown to employ over 350 staff across home loan specialists, product development and engineering. Lendi's main point of differentiation from the traditional brokers is that our digital platform allows consumers to find competitive rates, submit a home loan application, securely upload and verify their documents, get approved and settle their loan – all online.

Using technology we empower customers to find better deals by giving them free access to information, choice and guidance through whichever channel (for eg. online, phone, email) suits them best.

Closing the gap between customer perception and reality

Research conducted by Lendi in 2018[1] found that while 78 percent of consumers do "check-ups" on their everyday household expenses on a regular basis, 54 percent don't bother doing the same for their home loan. Lendi believes this leaves a significant number of consumers vulnerable to getting gouged by their existing lender, particularly following the recent behaviour of many banks who raised their variable rates out of cycle. The opportunity that the Lendi platform offers to these consumers is a quick and easy way to check their annual fees, charges and interest rates and compare them with other over 3000 other deals to see if they are paying too much.

In the same survey, Lendi asked how customers felt about their bank or MFI in a bid to understand why consumers were seemingly prepared to settle for less than the best deal, particularly when it came to their mortgage. The research uncovered that although 61% of respondents say they have a good relationship with their bank, 66% do not believe their bank works in their best interest.

This is a disconnect in expectations as consumers claim their relationship as positive yet don't expect their bank to work proactively in their best interest. This apathy is concerning and we believe it is being driven by a lack of access to options and relevant information needed to make better choices for their financial future when going directly to their bank or lender[2]. This is deeply concerning as many customers will settle for a loan that may ultimately leave them worse off financially because they don't have the full spectrum of options that were available to them as their existing lenders are simply not disclosing them.

[1] Research conducted with PollFish with a survey size of 1100 Australians on a national level
[2] Please see Case Studies in following section

Lendi, through the power of technology and the democratisation of information, enables homeowners to review their mortgage and compare it to all the options in the market, including those of their current lender. Given 70% of those surveyed would switch banks for a better deal, the power of access to information and choice will allow consumers to save significantly over the life of a loan and ultimately unlock a better financial future.

How Lendi works in the interests of the consumer

Addressing asymmetry of information in the mortgage market

In the Financial Services Royal Commission Interim Report, the special position in the economy held by banks was pointed to as a potential impediment to competition in the sector and poorer outcomes for consumers. The report outlined that Australians are reluctant to change banks and noted each of the four largest banks is a powerful player in the credit market.

Central to the dominance of the banks in their dealings with customers is the striking asymmetry of bargaining power and access to information as between the bank and customer that manifests in a power and knowledge imbalance between entities and consumers. The consumers of financial products are described in the report as having 'little detailed knowledge or understanding of the transaction', and as having 'next to no power to negotiate the terms'. What emerges is an information asymmetry between a consumer and an entity, which increases the risk of misconduct and poor consumer outcomes.

Consumer-facing organisations like Lendi seek to redefine the availability of comprehensive and comprehensible information for consumers of home loans. The accessibility of our information is carefully considered and its content reviewed to ensure that our customers have access to the complete picture of the product choices available to them. Lendi customers look to our platform for its comprehensive information; for the power to choose across lenders; rates and products and for advice that is built around delivering what is the right option for the consumer.

Over the past few years customers in the home loans market, especially those borrowing from the banks, have had more detailed interest rate pricings in areas such as interest only mortgages, and the proliferation of new products which make it more difficult for consumers to wade through home loan choices. Technology is an enabler for consumers where it gives them the autonomy to navigate and distil the information they need to make lending decisions that are in their best interests. .

Non-conflicted remuneration

Our technology mitigates any conflict of interest that might exist as a result of different commission rates paid by different lenders as there is no component of our algorithm that factors in commission payments as a distinguishing factor in how lenders and their loans are presented to consumers. Additionally, our commercial agreements with lenders do not involve any volume based incentives.

The Lendi customer story:

RG 209 is a key feature of our day to day business at Lendi. We work with it closely and we have identified a number of real life consumer scenarios where the regulatory guidance on responsible lending obligations, as outlined in RG 209, could better serve customer outcomes.

Set out below are examples of refinance customers, who Lendi submits, would invariably fall into the "low-risk" category from a credit product and consumer profile perspective given the consumers are: 1. not extending their loan term, and 2. not increasing their debt.

Lendi believes these real life cases are clear examples of how customers are disadvantaged by the lack of transparency, information and education made available to them by their lender and who have achieved a better financial outcome through the choice and the transparency made available by Lendi.

In each scenario detailed below we developed an understanding of their individual needs and objectives, and then matched them with loan products that meet those requirements while still keeping them with the same lender. Key note on each of these case studies is that neither the loan limit or term changed, maintaining the lending structure but finding better customer financial outcomes.

Lendi customer 1:

Challenge:	A motivated and well-informed customer who had been engaging directly with his current lender for more than 3 months whilst attempting to secure a lower interest rate, was being offered no options beyond that of his current loan structure and interest rate.
Solution:	Lendi stepped in as a third party in the conversation with his existing lender, removed the bias of the applicant being an 'existing customer' and was able to quickly negotiate a rate reduction that better suited the customer's needs.
Customer benefit:	Lendi helped the customer with their existing lender in one week, securing a rate reduction of 56 basis points resulting in a saving of $99 per month. This was a saving for the customer in monetary terms as well as a significant time-saving. For the lender, Lendi retained a customer who would have ended up refinancing elsewhere.

Lendi customer 2:

Challenge:	A customer who was unknowingly paying for extra features (redraw and offset) that were not being used, was unable to secure a discount with their current lender.
Solution:	Lendi alerted the customer during a 'check in' to the features they were being charged for but not using. Lendi team then brokered a deal for a 'no frills' product with the same lender that better suited the customer's needs.
Customer benefit:	As well as saving the customer the $395 annual fee for their unused offset/redraw, Lendi helped reduce 1.15% off their interest rate which amounted to $174 each month saved. And again, the customer was retained by the lender vs churning out elsewhere.

Lendi customer 3:

Challenge:	A customer who was unhappy with their current interest rate after seeing their lender advertise a much lower rate to new customers, was motivated to come to Lendi to compare home loans options available and see a clearer view of the market.
Solution:	The customer was very open to changing lenders and discussed with the Lendi team the full range of options available to them. Lendi proactively identified ways for the customer to save whilst staying with the same lender.
Customer benefit:	Lendi informed the customer of the potential savings available to them by better utilising their offset account. Lendi also helped cut their interest rate by 78 basis points, saving them $161 each month.

While Lendi was able to assist these customers, the verification steps we had to undertake in order to meet our obligations were the same as if these customers were entering into a completely new credit contract for new borrowing.

Reducing the verification steps would significantly reduce the barriers to consumers in ensuring they are on the best deal with their existing lender, or in a case where there existing lender was no longer offering commercially competitive rates, the ability to move to another lender in a much easier fashion. Given there is no extra credit being extended, customers needs and objectives are being taken into consideration and loan term is remaining consistent with the original credit contract, there would be no additional risk added into the system.

Additional Background Commentary

Section B – Reasonable inquiries and verification steps

Section B of CP 309 asks whether ASIC should continue with its principles-based approach to providing guidance to credit licensees or provide more detailed guidance to identify the additional inquiries and steps that should be taken by licensees in complying with their responsible lending obligations.

Lendi supports the current approach to a principles-based framework. Any step toward prescriptive minimum standards or detailed step by step guidance around responsible lending obligations risks being interpreted in the lending sector as the de-facto actual requirement. To sustain innovation and better consumer experiences and outcomes, providers of credit services should be able to - under the guidance of what is “reasonable” - tailor their engagement model and offer bespoke lending services based on each consumer’s individual profile, needs, and risk characteristics.

Lendi supports additional guidance being included in RG 209 around high-risk products and high-risk consumers and what ‘reasonable” steps might be taken to inquire and verify with regard to those specific high risk circumstances. Including this guidance in the revised RG 209 will build on the insights regarding reasonable inquiries into a consumer’s requirements and objectives for a credit contract as set out in ASIC’s findings and recommendations in Report 493: Review of interest-only home loans: Mortgage brokers’ inquiries into consumers’ requirements and objectives (REP 493).

In REP 493, ASIC considered the quality of a significant number of sampled mortgage brokers’ inquiries into the consumer’s requirements and objectives,to be deficient. This consideration was due to the interest only loan files failing to record the consumers requirements and objectives or recorded them at a very general level (e.g. to acquire a particular asset or to refinance at a lower rate) without it being apparent how an interest-only loan met those requirements (as opposed to a principal and interest loan).

We understand that the proposed updated guidance in RG 209 will require licensees to make sufficient inquiries into a consumer's specific requirements and objectives to enable them to demonstrate how non-standard features - such as interest-only periods – meet those requirements and objectives. This change reflects Lendi's existing practice. Additionally it is an example of the risk based approach that we submit is preferred over the prescriptive or minimum standards approach to regulatory guidance that is foreshadowed in CP 309.

We understand that the proposed updates to RG 209 will also require licensees to clearly document the steps that they take to inquire into a consumer's requirements and to reconcile the loan product features against those requirements and objectives. Those procedures will also be expected to resolve and record the outcome of conflicting requirements or objectives and to provide for further communication with a consumer to ensure that they are aware of the costs and risks of non-standard or contingent product features. If it appears that some features of a product do not meet the consumer's objectives, the proposed guidance will expect the licensee to communicate with the consumer to explain this to them and determine whether the consumer would consider the loan or lease to be unsuitable as a result.

The responsible lending provisions of the National Credit Act require credit licensees, including lenders and mortgage brokers, to make inquiries into consumers' requirements and objectives and their financial situation to ensure they do not obtain an unsuitable loan. The statutory obligation in section 130 of the National Consumer Credit Protection Act is principles-based, using the language of "reasonable inquiries" and "reasonable steps".

In the Financial Services Royal Commission Final Report, Commissioner Hayne noted that he had identified, through the hearings, that instead of two separate processes and obligations being applied - as required by the legislation- the steps were, in practice, conflated by the banks into a single assessment process.

Some clue as to how this might have occurred can be found in the loan application process that is commonly applied - especially by some lenders to existing customers. The customers must provide all their information to the lender for the purposes of a 'credit assessment'. In this way the collection, verification and 'not unsuitable' assessment steps as prescribed in the legislation all become a single process.

The Final Report indicates that this kind of 'credit-mash' can no longer be tolerated. Instead lenders must design their processes to ensure that they carry out two distinct and important processes: inquiry and verification, and an assessment of whether the loan is "not unsuitable".

Rather than recommending any change to the law, the Royal Commission Final Report called for a return to the central components of the NCCP Act, the split between assessment and determination regarding the 'not unsuitability' of a credit contract. Since its introduction in 2009, the NCCP Act has contained two separate, but interlinked obligations for banks assessing consumer credit applicants:

1. Conduct reasonable inquiries and verifications (as outlined in s128 of the NCCP Act); and

2. Not enter into a credit contract that is unsuitable for the consumer (s133 of the NCCP Act).

Whie Lendi unreservedly endorses this two step approach and this is built in to our systems, processes, training and operations, we also believe this doesn't have the customers best interest at heart and that the standard is set too low.

We understand these obligations to test two different aspects of the lender's assessment process. The first is a question regarding the adequacy and implementation of the lender's processes and procedures. The lender must inquire (to a "reasonable" standard) about the customer's objectives and requirements, and inquire about and verify the information provided about the customer's financial situation. Having carried out the process in (1) a lender must then consider whether the proposed credit contract is not unsuitable for the consumer.

Lendi submits however that RG 209 would benefit from a different approach to the guidance it currently provides on what is "reasonable" under the law.

RG 209 currently indicates that a lender's obligations are 'scalable'. This has been interpreted in a myriad of ways by different lenders and currently aggregators, brokers, and banks are all doing something different; imposing different standards and in some scenarios access to credit is tightening for consumers who previously would have had access.

Lendi maintains that uniformity across the home loan sector with regard to what is "reasonable" is needed as it creates certainty for the consumer and we believe this can be achieved without prescription by ASIC in RG 209.

ASIC guidance – including RG 209 - is by necessity of a general nature. RG 209 is not a proxy for each credit provider or credit assistance provider developing policies tailored to their specific business and circumstances.

Given the ready access to consumer data and verification tools, income and liabilities inquiries are becoming ever easier to complete in the credit process. Living expenses change over time for most consumers so there is a need to pay additional attention to the data collection and verification.

However the circumstances where detailed verification is "reasonable" must be a factor of what the law requires of lenders – that is to consider what is reasonable in the circumstances of the customer. The Explanatory Memorandum for the NCCP Act notes that – "Credit providers are not expected to take action going beyond prudent business practice in verifying information they receive".

Lendi maintains that future ASIC guidance in the revised RG 209 on what can be regarded as "reasonable" in the circumstances is best presented as a risk based approach rather than a list of minimum steps or the setting of a minimum standard to be undertaken for each application for a home loan.

ASIC research and reviews of responsible lending conduct has focused extensively on products and practices identified as posing a higher risk of consumer detriment and ASIC has a clear catalogue of risk factors and indicators of risk for particular cohorts of credit consumers and particular elements of credit products.

For example, ASIC is specifically seeking to update RG 209 to reflect findings in Report 493 which outlined a number of deficiencies in this area, particularly in relation to the inquiries undertaken by mortgage brokers when assessing whether interest only loans met the requirements and objectives of the consumer. ASIC is also seeking to clarify that simply seeking the sole, high-level purpose of the credit product is not sufficient.

ASIC's guidance should be clarified to ensure that for credit products with high-risk, such as interest only loans, ACL holders understand the consumer's specific requirements and objectives. The specific features, benefits and costs associated with the credit contract relevant to those requirements and objectives needs must also be assessed.

In contrast a simple product change– eg: a lower interest rate - being considered for a financially literate and wealthy customers is a low-risk scenario where what is "reasonable" is - and must continue - to differ. RG 209 would better serve the home loans sector and consumers if the application of the "reasonable" test was shown along a risk continuum with a focus in RG 209 on high-risk credit products and high-risk consumer cohorts.

For example where a consumer in the home loans sector has stable employment; a high salary; good credit record and no history of default, is it "reasonable" to go through a rigorous inquiry and verification of their records? Lendi submits that in almost all circumstances, and in particular where there is no change to the loan limit or loan terms, the answer to this question will be "no - it is not 'reasonable'. Conversely, where you have a vulnerable consumer looking for an interest only loan who has a history of not being able to meet their credit obligations we submit it is reasonable to apply a higher level of scrutiny and analysis to their information and the suitability.

Section C – Updating or clarification of current guidance

In the final report of Financial Services Royal Commission, Commissioner Hayne makes many recommendations for change, but on the subject of responsible lending he sums up his conclusion as: "apply the law as it stands." In Commissioner Hayne's assessment, the problems with responsible lending are not the existing law, but lenders not understanding their obligations and not applying the law properly.

The responsible lending issues identified during the Royal Commission hearings will be resolved by lenders applying the law as it stands.

The revised RG 209 should support that through risk based guidance - not by setting prescriptive standards. Instead of looking at the borrower's requirements, objectives and financial situation, as required by the responsible lending obligations, many lenders were only looking at whether the borrower was an acceptable credit risk. In other words it was a lender focus rather than a customer focus.

Lendi submits that responsible lending is not intended to be a credit risk assessment by the lender. Responsible lending should operate to ensure what is best for the customer and apply the risk assessment to their interests - not those of the lender. The key steps are:

1. Inquiries step: making reasonable inquiries about the consumer's requirements and objectives and financial situation.
2. Verification step: taking reasonable steps to verify the consumer's financial situation.
3. Assessment step: making an assessment of whether the credit contract will be unsuitable for the consumer (and not proceeding with the loan if it will be unsuitable).

Section C of CP 309 addresses specific parts of RG 209 that require updating. Lendi is interested in addressing the circumstances in which the verification step can be tailored to meet a consumer's requirements and objectives.