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R4K Submission
Consultation Paper 309:
Update to RG 209:
Credit Licensing:
Responsible Lending Conduct
20 May, 2019

20th May 2019

Fleur Grey
Senior Specialist
Credit, Retail Banking and Payments
Financial Services
Australian Securities and Investments Commission
Via Email: responsible.lending@asic.gov.au

Dear Ms Grey,

**RE: R4K Submission to Consultation Paper 309:
Update to RG 209: Credit Licensing: Responsible
lending conduct**

Rent4keeps (R4K) thanks ASIC for the opportunity to contribute to the consultation process to update RG 209, which we do in this submission.

In this submission R4K responds to all of the various questions that relate to it specifically which are provided in the same format of the consultation paper in sequential order, in ***bold and italics font***.

R4K acknowledges the difficulty of the task facing ASIC given the complexities that exist with responsible lending conduct and makes itself available for further consultation if required.

Thank you for providing R4K with the opportunity to make this latest submission. Yours truly,



KEVIN PAYNE
Master Franchisor

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Executive Summary - Recommendations:

The following is a summary of the key points that R4K would like to make regarding the consultation paper:

1. ASIC Providing Greater Certainty to Licensees

R4K welcomes ASIC's proposal to provide greater certainty to licensees about complying with their obligations. We believe that this will "even the playing field" as licensees adopt a consistent approach to responsible lending.

2. The Use of Benchmarks

Due to the fact that R4K extensively verifies a consumer's expenses, we believe that the use of benchmarks for living expenses is not relevant to consumer leasing. Extensive verification ensures that a consumer's expenses are accurately accounted for as opposed to simply being approximated.

3. Loan Fraud Mitigation

R4K believes there is a role for "application processors" that make it convenient for consumers to provide their information for an "application approver" to determine whether a lease is unsuitable and that this separation of roles would potentially mitigate any risk of fraud.

4. Consumer's Credit History

Guidance around the use of a consumer's credit history for the purposes of reducing the risk that licensees may refuse credit products that may in fact be affordable, would be useful.

5. Record Keeping Practices

All licensees should be able to provide copies of all documentation that has been used for credit assessment purposes with files being maintained and accessible.

6. Written Assessments

R4K believes it would be useful for ASIC to provide guidance on written assessments although notes that this will increase industry costs depending on how extensive the proposed template becomes.

Proposal

B1: R4K Feedback

B1 We are considering whether to identify particular inquiries and verification steps in RG 209 that we think would generally be reasonable to provide greater certainty to licensees about complying with their obligations.

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?

B1A1 ***Yes, more clarity around the inquiries and verification steps of RG 209 would be useful. In particular, the following areas require more detail:***

- Verification of:

- ***Income support or expense splitting with other parties who aren't party to the application***
- ***Which discretionary, variable living expense categories require verification***
- ***Discretionary, variable living expenses treatment that is non-recurring or irregular eg. Lunch at a café. Clarity around what ASIC is seeking here would be useful.***
- ***Avoidable expenses that a consumer is willing and able to reduce to meet a licensees suitability test***

More detail would be useful as RG 209 does not specifically discuss the correct treatment of such items.

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

Not applicable

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.

The definition of the scalability of RG 209 could be reconsidered with respect to consumer leases where "harm" and "hardship" can be limited to an extent whereby goods can be voluntarily returned and/or arrears written off once a customer meets a certain level of indebtedness.

RG 209 currently classifies consumer leases as requiring greater inquiry and verification whereas potential harm seems to be considerably less for a consumer lease as opposed to say a mortgage.

For example, under the conditions

mentioned above where harm can be minimised, R4K believes that the grounds for unsuitability of a consumer lease on the basis of requirement and objectives, as well as extent of inquiry and verification, could be simplified.

B1Q4 In your view, what aspects of the consumer's financial situation would a licensee need to inquire about in all circumstances? If you think some aspects of the consumer's financial situation do not need to be inquired about, please explain why.

In all circumstances, a consumer's income, recurring expenses and credit report should be subject to inquiry.

Discretionary, variable living expenses that are not regular are very difficult to verify due to the significant number of expense categories and therefore either require more guidance or should not be inquired.

We recommend that discretionary variable living expenses should be limited to only include regular payments eg. Pay TV and exclude irregular payments i.e those that are not at least monthly eg. Lunch at a cafe

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

In all circumstances, a consumer's income, recurring expenses and credit report should be subject to verification.

However, discretionary, variable living expenses that are not regular are very difficult to verify due to the significant number of expense categories and irregularity.

It is for this reason that R4K believes that irregular, discretionary, variable living expenses require further guidance or not be either inquired or verified.

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

As R4K already adheres to extensive inquiry and verification steps there would be little effect on access or cost of credit for consumers. If there were any significant changes, R4K would need to reassess any impacts.

B1Q7 What would be the effect on business costs of ASIC identifying particular inquiries and verification steps? Please provide details of the effect on compliance costs for the licensee, and any factors that are likely to affect the level of

cost or cost savings.

As R4K already adheres to extensive inquiry and verification steps there would be little effect on compliance costs. If there were any significant changes, R4K would need to reassess any impacts.

B1Q8 In your view, what would be the effect (either positive or negative) on competition between licensees? Please provide details.

If Inquiry and verification steps are mandated by ASIC i.e. bank statements, credit reports etc, a more level "playing field" would be achieved between licensees as similar information would be inquired and verified to determine whether a lease is unsuitable.

Proposal

C1.C2: R4K Feedback

C1 We propose to amend the current guidance in RG 209 on forms of verification to:

- (a) clarify our guidance on kinds of information that could be used for verification of the consumer's financial situation, and provide a list of forms of verification that we consider is readily available in common circumstances; and
- (b) clearly state that views on what are 'reasonable steps' will change over time, as different forms or sources of verifying information become available. For example, developments in open banking and data aggregation services will assist licensees to efficiently confirm the financial situation of a consumer (including allowing simultaneous inquiry about and verification of some information).

C1Q1 Please provide details of any particular types of information that you consider should be reflected in the guidance as being appropriate and readily available forms of verification?

We consider the examples as appropriate.

C1Q2 Do you consider that the examples included in Appendix 1 are appropriate? Why or why not?

We consider the examples as appropriate.

C1Q3 Are there particular issues with using data aggregation services that you consider should be raised in our guidance? Please provide details of those issues, and information that you consider should be included in our guidance. For example, would it be useful to include specific guidance on matters the licensee could, or should, raise with the consumer before obtaining the consumer's consent to use this kind of service?

It would be useful to include guidance regarding consumer consent to use this kind of service. eg. Does the fact that they provide their banking login details constitute consent?

C2 We propose to expand our guidance on what are reasonable steps to verify the financial situation of a consumer by:

- (a) more clearly stating that it is not sufficient merely to obtain verifying information but not have regard to it, or to use a source of information to verify only one aspect of the consumer's financial situation if it contains other (potentially inconsistent) information about other aspects of the consumer's financial situation; and
- (b) including an 'if not, why not?' approach—that is, if a licensee decides not to obtain or refer to forms of verifying information that are readily available, they should be able to explain why it was not reasonable to obtain or refer to those forms of verification in the circumstances of the particular consumer involved.

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?

Yes, more clarity around the inquiries and verification steps of RG 209 would be useful. In particular, the following areas require more detail:

- Verification of:

- ***Income support or expense splitting with other parties who aren't party to the application***
- ***Which discretionary, variable living expense categories require verification***
- ***Discretionary, variable living expenses treatment that is non-recurring or irregular eg. Lunch at a café. Clarity around what ASIC is seeking here would be useful.***
- ***Avoidable expenses that a consumer is willing and able to reduce to meet a licensee's suitability test***

More detail would be useful as RG 209 does not specifically discuss the correct treatment of such items.

C2Q2 Would an 'if not, why not' approach encourage improvements to current verification practices? Why or why not?

R4K does not believe an "if not why not?" approach would encourage improvements to current practices other than possibly exceptional circumstances as consumers should be expected to provide details for credit inquiries.

C2Q3 What are the benefits, risks and costs for consumers in this approach (including any effect on access to and cost of credit for consumers)?

Risks to consumers of this approach may include the reliance of less extensive inquiry and verification leading to the unsuitability test.

C2Q4 What additional business costs would be involved in this approach?

There would be no additional costs for R4K with this approach.

C2Q5 In your view, what would be the effect (either positive or negative) on competition between licensees? Please provide details.

An "if not why not?" approach may lead to a lessening of competition between licensees as some may not fully attempt the appropriate inquiry and verification measures required for responsible lending.

This would not be a level playing field.

eg. Consumers have a choice of providers.

Provider A - Requires the guidance outlined by ASIC in the appendix such as bank statements.

Provider B – Doesn't require bank statements.

Provider B may rely on the "if not why not?" approach and be at a competitive advantage.

Proposal

C3: R4K Feedback

C3 We propose to clarify our guidance in RG 209 on the use of benchmarks as follows:

- (a) A benchmark figure does not provide any positive confirmation of what a particular consumer's income and expenses actually are. However, we consider that benchmarks can be a useful tool to help determine whether information provided by the consumer is plausible (i.e. whether it is more or less likely to be true and able to be relied upon).
- (b) If a benchmark figure is used to test expense information, licensees should generally take the following kinds of steps:
 - (i) ensure that the benchmark figure that is being used is a realistic figure, that is adjusted for variables such as different income ranges, dependants and geographic location, and that is not merely reflective of 'low budget' spending;
 - (ii) if the benchmark figure being referred to is more reflective of 'low budget' spending (such as the Household Expenditure Measure), apply a reasonable buffer amount that reflects the likelihood that many consumers would have a higher level of expenses; and
 - (iii) periodically review the expense figures being relied upon across the licensee's portfolio—if there is a high proportion of consumers recorded as having expenses that are at or near the benchmark figure, rather than demonstrating the kind of spread in expenses that is predicted by the methodology underlying the benchmark calculation, this may be an indication that the licensee's inquiries are not being effective to elicit accurate information about the consumer's expenses.

C3Q1 Do you consider that the proposed clarification of guidance about use of benchmarks would be useful? Why or why not?

We believe that if full verification according to the current guidelines is adhered to then benchmarks are not useful.

As R4K undergoes a full verification process including living expenses we believe guidance on benchmarks are largely irrelevant to consumer leasing consumers.

C3Q2 Please provide information on what buffer amounts you currently apply, or would otherwise consider to be reasonable.

R4K uses buffer amounts in it's current process but does not utilise benchmarks.

C3Q3 What are the benefits, risks and costs for consumers in this approach (including any effect on access to and cost of credit for consumers)?

Not applicable to R4K

C3Q4 What additional business costs would be involved in this approach?

Not applicable to R4K

Proposal

C4: R4K Feedback

C4 We propose to update the current guidance in RG 209 on reasonable inquiries about the consumer's requirements and objectives to reflect the findings and guidance in Report 493 Review of interest-only home loans: Mortgage brokers' inquiries into consumers' requirements and objectives (REP 493).

C4Q1 Do you consider that the proposed clarification of guidance about understanding the consumer's requirements and objectives would be useful? Why or why not?

Consumer leasing has a unique product offering to a credit contract and therefore guidance regarding requirements and objectives would be useful.

C4Q2 What are the benefits, risks and costs for consumers in this approach (including any effect on access to and cost of credit for consumers)?

Many consumer leasing applicants have less access to other forms of credit and a risk to this access for credit could exist whereby guidance concerning a consumer's requirements and objectives is too narrow and prescriptive and does not consider that other credit options may not exist.

C4Q3 What additional business costs would be involved in this approach?

It is unlikely that there would be further costs associated with this.

Proposal

D: R4K Feedback

D1 We propose to include new guidance in RG 209 on the areas where the responsible lending obligations do not apply.

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.

Not applicable to R4K.

D1Q2 Are there any forms of small business lending where licensees are unsure about whether the responsible lending obligations in the National Credit Act apply? Please describe the situations which give rise to this uncertainty.

D2 We propose to include new guidance in RG 209 on:

- (a) the role of the responsible lending obligations, and in particular the obligation to take reasonable steps to verify information provided about the consumer's financial situation, in mitigating risks involved in loan fraud; and
- (b) risk factors that might indicate that additional verification steps should be taken.

D2Q1 Would specific guidance about loan fraud and the impact on responsible lending obligations of the licensee be useful? Would guidance encourage broader improvements in processes for identifying fraud and reduce the risk of consumers entering unsuitable credit contracts as a result of fraud? Why or why not?

Yes, this would be useful, particularly in regard to processes involving "application processors" and "application approvers" because licensees need to make it convenient for consumer's to provide their information to frontline team members which must be handed off to an approver to test unsuitability.

D2Q2 Please provide details of any risk factors that you consider it would be useful to identify, and additional verifying steps you consider to be reasonable in those circumstances.

No comment

D2Q3 What are the benefits, risks and costs for consumers in this approach (including any effect on access to and cost of credit for consumers)?

No comment

D2Q4 What additional business costs would be involved in this approach?

No comment

D3 We propose to include guidance in RG 209 to clarify how repayment history information may be used, including that:

- (a) the occurrence of repayment difficulties on one product will not necessarily mean that a new credit product will in all cases be unsuitable for that consumer; and
- (b) this information should instead trigger the licensee to make more inquiries to enable it to understand those repayment difficulties, and the likelihood that the

D3Q1 Would guidance about use of negative repayment history information and hardship indicators reduce the risk that credit providers consider it necessary to refuse applications for further credit products that may in fact be affordable for the consumer? Why or why not?

Yes, guidance about the use of negative repayment history information and hardship indicators would be useful. The growth of Afterpay has increased the frequency of this information and so guidelines around debt amount thresholds

circumstances of the consumer leading to those difficulties will mean that the consumer would also be unable to meet financial obligations under the new product being considered.

that could be used to reduce the risk that providers refuse applications would be helpful.

D3Q2 What are the benefits, risks and costs for consumers in this approach (including any effect on access to and cost of credit for consumers)?

R4K believes there could be a reduced risk of hardship and/or unsuitable agreements in this approach and potentially improve access to credit.

D3Q3 What additional business costs would be involved in this approach?

More detail would be required to approximate costs.

D4 We propose to include new guidance in RG 209 about maintaining records of the inquiries made and verification steps taken by the licensee, reflecting our findings and recommendations on good recording practices included in REP 493.

D4Q1 Do you consider that guidance on industry best practice for recording the inquiries and verification steps that have been undertaken would be useful for licensees? Why or why not?

Yes, this would be useful. R4K has invested significantly in a digital CRM system which it believes should be mandatory for all licensees in particular, to quickly and accurately provide all information made during the unsuitability assessment.

D4Q2 Please provide any comments on the particular recording practices identified as 'best practice' by ASIC, and whether you consider those practices are generally appropriate for licensees.

R4K has invested significantly in a digital CRM system which it believes should be mandatory for all licensees in particular, to quickly and accurately provide all information made during the unsuitability assessment.

D4Q3 What are the benefits, risks and costs for consumers in this approach (including any effect on access to and cost of credit for consumers)?

A benefit to consumers is fast and accurate requests to written assessments.

D4Q4 What additional business costs would be involved in this approach?

No additional costs for R4K.

D5 We propose to provide additional guidance in RG 209 on what information we think should be included in a written assessment.

D5Q1 Would it be useful for ASIC to provide an example of a written assessment to illustrate the level of information that we think should be included? Why or why not?

Yes, this would be useful to have industry consistency for consumers and is largely what R4K currently uses.

D5Q2 Please provide any comments on the example set out in Appendix 2.

R4K supports this example assessment.

D5Q3 What are the benefits, risks and costs for consumers in this approach (including any effect on access to and cost of credit for consumers)?

The benefits for consumers in this approach would be the consistency of the format which would enable more transparency to them regarding their application/lease.

D5Q4 What additional business costs would be involved in this approach?

The written assessment would not add significant costs to the business as long as we received suitable time to action the example provided.

Final Comment

Rent4keeps welcomes greater clarity around responsible lending conduct and updating RG 209, particularly around guidance of inquiries and verification.

In addition to some of the other guidance suggested such as requirements and objectives, record keeping, credit history and written statements, it is hoped that these measures will promote a “level playing field” for the consumer leasing industry and improved outcomes for consumers.

Thank you for providing R4K with the opportunity to make this submission.

Yours Truly,

A handwritten signature in black ink that reads "Kevin Payne". The signature is written in a cursive, slightly slanted style.

KEVIN PAYNE

Master Franchisor