Dear Fleur

Thankyou for the opportunity to comment on the revision to RG 209 responsible lending guidance. This guidance is essential in providing regulatory certainty for banks and ultimately better, more predictable outcomes for their customers.

Firstly, it is clear after reading the briefing paper that there is both a guidance on the question of what is "reasonable" verifications, and that the guidance has been enhanced and updated over the years by ASIC. It is also clear that the existence of this guidance is not widely known by the public - submissions to the Royal Commission complained that ambiguous legislation wasn't being supported by detailed policy from a supervising umpire. That view - which was also an opinion expressed in media outlets - is therefore misinformed.

In this context ASIC - in its review process for RG209 - will need to be wary of the prospect of submissions based on misinformation. As a matter of diligence submissions based on misinformation (for example where the consultation paper has not been read) should not factor into the revision of RG209.

Please find my submissions following.

*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.*
*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?*

To formulate this correctly ASIC needs to understand what the implications of CCR are. It is very likely that a number of previous checks - such as the number of previous credit applications a borrower made - are entirely deprecated by CCR and should be removed. In this sense - CCR if it achieves its objective of informing a complete picture of a borrowers liabilities - should be used to simplify the checks of borrowers circumstances. Credit rating agencies may play less of a role in the new, post-CCR world, and ASIC should not seek to leave a role for traditional credit rating agencies if there is none. This should also leave a reduced role for income and expense verification - as even if this costly exercise is performed, income and expenses can very quickly change (interest rate changes, unemployment, birth of disabled child etc) and is thus an inherently unreliable indicator of affordability compared to the total amount of debt a borrower has at the time of application.

Due to the importance of the total amount of debt and it's potential to remove need for other checks, ASIC should ensure that there is not a "race condition" - that an applicant cannot apply for two loans at the same time , be approved for both and execute both where servicability would have only permitted one loan.

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

Competition between licensees is essential in ensuring a broader range of investment activity (and thus economic activity) can be financed (aka "the atlassian example").

The revised guidelines should be tested to ensure it is not creating market scenarios where boutique financing for individuals is blocked as a result of the changes. Affordability is often better in boutique scenarios and boutique scenarios are more likely to represent genuine economic activity and innovation.

*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?*

This should be unnecessary - if banks are doing this the assumption is they have assessed a credit risk and found the customer may not find the product affordable. It is likely banks have been over-using this metric due to inadequate systems, data and general laziness - however if proper competition is maintained among licensees - combined with better data sharing - the resulting technology change and market pressure should result in banks overcoming these obstacles without need for specific guidance.

Thankyou

Simon