

21 January 2022

Senior Manager, Credit & Banking
Financial Services and Wealth Group
Australian Securities and Investments Commission
Level 7, 120 Collins Street
Melbourne VIC 3000

By email: product.regulation@asic.gov.au

Dear Sir/Madam

ASIC Consultation Paper 355 – Product intervention orders: Short term credit and continuing credit contracts

We refer to Consultation Paper 355 and make the following submission.

Proposal D1 – Proposal to make the short term credit product intervention order

D1Q1 Do you consider that short term credit facilities, when issued to retail clients in the way described in paragraph 23, have resulted in, or will or are likely to result in, significant detriment to retail clients? Please provide any relevant case studies and evidence (including qualitative and quantitative data) which support your response.

We consider that short term credit facilities issued to retail clients as described in paragraph 23 do result in significant detriment. This detriment can extend beyond the direct financial hardship experienced by the retail client as a result of the model described. It has the potential to prevent other lenders, such as Cash Converters, from assisting the retail client in a regulated and responsible manner.

Lenders, such as Cash Converters, adhere to the responsible lending requirements under the National Credit Act. It is that adherence to responsible lending obligations which impacts Cash Converters ability to assist a consumer, who may be experiencing detriment due to a lack of affordability brought about by the excessive charges levied by lenders under the model.

D1Q2 Do you consider that ASIC should make the order, which is substantially the same terms as the 2019 order (i.e. ASIC Corporations (Product Intervention Order – Short Term Credit) Instrument 2019/917)? Please give reasons to support your response, including whether you consider that there have been any significant changes in matters relevant to ASIC's decision (such as the financial circumstances of retail clients) since 14 September 2019.

Yes. The original justification for making the order still exists. While there was a shift by some lenders towards continuing credit contracts following the original order coming into effect, in the



absence of an appropriate order in relation to short term credit, the door remains open for lenders to operate under a similar model to that adopted prior to the 14 September 2019 order.

D1Q3 Are you aware of entities, including BSF Solutions and Cigno Australia, that are currently issuing, or likely to issue, short term credit facilities in the way described in paragraph 23? If so, please provide any relevant evidence to support your response.

Cash Converters is aware of BSF Solutions and Cigno Australia but does not actively monitor the behaviours of specific lenders. Nevertheless, we are fundamentally opposed to the practices which the order seeks to prevent.

D1Q4 What alternative approaches could ASIC take that would achieve our objectives of preventing the significant detriment identified in this paper?

Cash Converters agrees with ASIC's proposed approach.

Proposal D2 – Proposal to make the continuing credit contracts product intervention order

D2Q1 Do you consider that continuing credit contracts, when issued to retail clients in the way described in paragraph 48, have resulted in, or will or are likely to result in, significant detriment to retail clients? Please provide any relevant case studies and evidence (including qualitative and quantitative data) which support your response.

We consider that continuing credit contracts issued to retail clients as described in paragraph 48 do result in significant detriment. The detriment caused by this model is substantially the same as the detriment identified under D1Q1 above. That is, the models are essentially the same and cause the same detriment, with the only real differentiation being that they operate under different National Credit Act exemptions.

D2Q2 Are you aware of entities, including Cigno and BHSF, that are currently issuing, or likely to issue, continuing credit contracts in the way described in paragraph 48? If so, please provide any relevant evidence to support your response.

Cash Converters is aware of BSF Solutions and Cigno Australia but does not actively monitor the behaviours of specific lenders. Nevertheless, we are fundamentally opposed to the practices which the order seeks to prevent.

D2Q3 Are you aware of any changes in the continuing credit contracts market – including changes to the continuing credit contracts that were issued in the way described in paragraph 48 – since the publication of CP 330 (July 2020) and the Addendum to CP 330 (November 2020), which may be relevant to ASIC's proposal to make a continuing credit contracts production intervention order? If so, please provide any relevant evidence to support your response.

We are not aware of any changes in the continuing credit contracts market since the publication of CP 330 which may be relevant to ASIC's proposal.



D2Q4 Do you agree with our proposal to make a continuing credit contracts product intervention order in Attachment 2 to this paper?

Yes. The identified model is clearly designed to circumvent responsible lending obligations, which should apply under the National Credit Act. Cash Converters fully support the intervention powers which will allow ASIC to eliminate any avoidance of responsible lending obligations. This will ensure all lenders operate within the guidelines of the National Credit Act.

D2Q5 What alternative approaches could ASIC take that would achieve our objectives of preventing the significant detriment identified in this paper?

Cash Converters agrees with ASIC's proposed approach.

Your sincerely

Cash Converters