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SACC Review Secretariat
Financial System and Services Division
Markets Group
The Treasury
Langton Crescent
Parkes ACT 2600

Via email: consumercredit@treasury.gov.au

Dear Panel Members,

Good Shepherd Australia New Zealand and Goulburn FamilyCare welcome the opportunity to provide feedback on the Review into Small Amount Credit Contract Laws ("SACCS Review"). Our organisations directly work with people who use these services, and understand first-hand the importance of a robust and appropriate regulatory framework to protect consumers, particularly those who are vulnerable because of low-income.

We would like to endorse the submission made by Good Shepherd Microfinance and do not wish to repeat information already provided in their submission but rather, elaborate on some of the points made. We will also make some more specific comments on the viability and sustainability of the national No Interest Loan Scheme network, which is a critical component in ensuring safe, fair and affordable credit alternatives for low-income consumers.

Specifically we wish to comment on:

1. The balance between consumer protection and industry viability and greater protections for people receiving Centrelink payments.
2. Enabling better access to information on cheaper credit and non-credit alternatives for consumers seeking SACCs.
3. Providing adequate support for alternatives to SACCs.
4. A register of borrowers of SACCs to reduce the incidence of parallel borrowing (borrowing from more than one credit provider at a time).

In addition, we unequivocally support the inclusion of consumer leases into the laws regulating small amount credit contracts.

About our organisations

Good Shepherd Australia New Zealand is a community services organisation that aims to disrupt the intergenerational cycle of disadvantage with a focus on women and girls. We achieve this through services that address social and economic exclusion.

Our specific expertise is in:

- Safety and resilience – supporting women to be resilient provides a buffer between an individual and adversity, allowing them to achieve improved outcomes in spite of difficulties
- Financial security – supporting women to ensure they have access to sufficient economic resources to meet their material needs so that they can live with dignity
- Educational pathways – assisting women and girls to overcome the obstacles in their life that hinder them from achieving their educational/vocational capacity.

We offer financial counselling, financial information and support work, the provision of microfinance including NILS and StepUP and other programs designed to promote financial wellbeing and resilience.

FamilyCare is a dynamic non-government, not-for-profit organisation which commenced in Shepparton in 1984. We now offer child and family services, carer and disability support services and community development activities to families and young people across the Goulburn Valley and West Hume Region, with offices in Shepparton, Seymour, Cobram, Kinglake, Alexandra and Wallan.

FamilyCare works in partnership with the community, reflecting best practice by assisting families and individuals to enhance their strengths throughout their lives, through the provision of responsive and proactive services. We are a key provider of microfinance programs in the Goulburn Valley area.

1. **The balance between consumer protection and industry viability (discussion paper questions 1, 2, 6, 8)**

The current regulatory regime does not appear to be hindering the growth of the Small Amount Credit Sector. Since the introduction of the regulations, the sector has seen a surge in growth, particularly in online services. The Australian Securities and Investment Commission (ASIC) estimate that the industry has grown 125 per cent from 2008-2014 (bearing in mind the protections were introduced in 2011).[1]Additionally, despite the increase in the number of providers in the SACCs sector there appears to be little to no impact on price competition. Most lenders appear to charge the maximum allowable under the act.

In the negotiations that preceded the enactment of the Credit Act, commercial providers of small credit contracts lobbied hard for concessions, particularly in relation to the capping of interest rates and fees. As a consequence, the originally proposed caps at 48 per cent per annum inclusive of fees was changed in favour of a structure that allows for higher profit margins for loans that are less than $2,000. Many providers still claim the final outcome was too harsh. In our view the exponential growth in the small credit market since the Credit Act commenced confirms that the pricing rules were not too harsh and indeed could be more stringent, without placing undue limitations on commercial activity. We hope the Review will revisit the question of caps to rates or fees as we believe that it is an opportune time to do so. As interest rates moderated and have remained at historically low levels, the for profit small credit market has continued to charge effective interest rates much higher than any other credit market.

[1] Australian Security and Investment Commission (ASIC) (2015) Payday lenders and the new small amount lending provisions http://download.asic.gov.au/media/3038267/rep-426-published-17-march-2015.pdf

Commercial providers and their lobbyists have consistently claimed that the consumers who use their products are exercising choice and most are not vulnerable, disadvantaged or both. Other data however, suggests otherwise.[2,3] This extends to the consumer lease market - a good example is ASIC's recent report *Cost of consumer leases for household goods.*

Quoting from other research material, ASIC noted that the value of the consumer lease market for household electronic goods in Australia in 2014 was around $570 million. The previous year, an independent review of the Centrepay system concluded that over $200 million would be paid from Centrelink benefits to consumer leasing companies that year alone. ASIC commissioned RMIT to undertake a more detailed review of a sample of consumer leases to benefit recipients and concluded there was significant negative price differentiation which resulted in those receiving benefits paying much more than other consumers. In extreme cases Centrelink recipients paid up to eight times more than the normal retail price of the leased goods.[4]

Whilst this particular ASIC research focused on the consumer lease submarket it provides strong evidence that people receiving benefit incomes are disproportionately the customer base of small amount credit providers. Those customers pay more on what are already higher charges than the mainstream credit market, presumably because they have limited alternatives. Most disturbingly of all, the business model has thrived on the back of direct access to benefit incomes.

We are encouraged to see that ASIC is investigating poor practices in the small credit market and the consumer lease market and has in recent years increased its enforcement activity. We believe that focus should continue and argue strongly against reducing compliance obligations.

We strongly support the views expressed by financial counsellors and consumer advocates over many years, that access to payments from the Centrelink benefit system should be tightened and specifically exclude exploitative credit arrangements such as those offered by consumer leasing companies.

2. **Enabling better access to information on cheaper credit and non-credit alternatives for consumers seeking SACCs**

Research demonstrates that people who apply for small loans tend to be experiencing a level of financial stress.[5] A disclaimer at the bottom of a page is inadequate to ensure that consumers are made aware of cheaper options given their need for relatively quick assistance. In situations where financial vulnerability is a given, information must be provided to consumers explicitly and as part of the application process. Ideally, assessment and application processes for SACCS would be comprehensive enough to make absolutely sure the client is aware of and encouraged to use safer and cheaper credit (for example No Interest Loans) and non-credit alternatives (for example payment plans and hardship provisions) to meet their needs.

Disclaimers should be more explicit through the application process, with the consumer actively demonstrating that they have seen and understood information on alternatives but wish to proceed with the SACC instead. A link to the Moneysmart website, which outlines these options, would improve consumers' access to information on safe and affordable alternatives to small amount credit contracts greatly and we would support that.

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[2] Banks, M; Marston, G; Karger, H; Russell, R (2012) *Caught Short: Exploring the role of small, short-term loans in the lives of Australians, The University of Queensland*, Brisbane and Do you really want to hurt me?

[3] National Australia Bank (NAB) (2010) *Do you really want to hurt me? Exploring the costs of fringe lending – a report on the NAB Small Loans Pilot* NAB Melbourne

[4] ASIC (2015) *Cost of consumer leases for household goods*, http://download.asic.gov.au/media/3350956/rep-447-published-11-september-2015.pdf

[5] Banks et. al. *Op. Cit*.

3. **Providing adequate support for alternatives to SACCs**

The No Interest Loan Scheme coordinated by Good Shepherd Microfinance was developed by the Sisters of Good Shepherd in 1981. In little over a decade the NILS network has grown from a small local operation in the suburbs of Melbourne to a national platform involving over 250 outlets. Good Shepherd Microfinance estimates that around 23,000 NILS loans will be written this financial year. FamilyCare is one of the community partners providing access to NILS loans to its clients across the Goulburn Valley. In 2014/15 FamilyCare wrote 147 NILS loans to a value of over $120,000.

The growth in NILS would not have been possible without the significant investment of capital provided by the National Australia Bank. A number of governments have also provided vital support and we acknowledge the contribution of the Commonwealth, initially in providing fee free access to the Centrepay system and in more recent years providing funding for the administrative overheads of operating NILS distributed by Good Shepherd Microfinance.

As important as the Commonwealth's assistance has been and continues to be, there is an immediate challenge to maintain current lending levels.[6] A more significant investment would allow NILS to continue to grow as an affordable credit alternative for more low-income people. Greater security of funding beyond June 2017 and an earlier commitment to this funding would also allow providers to plan strategically and longer-term to improve consumers access to safer credit. Confirmation and distribution of the recent funding did not reach providers until some weeks after the previous funding period had expired, creating uncertainty in the sector.

Whilst the growth of a national NILS program has been extremely positive and relatively quick, and we applaud the Commonwealth government for maintaining a level of funding for programs, there is a real and increasing risk its growth might just as rapidly reverse if greater investment is not made.

Returning to the data contained in ASIC's report on the consumer leasing market, it appears highly likely that an amount of between $100-$150 million of Centrelink benefits will be paid to consumer lease providers for fees and charges in 2015. By way of contrast the total being provided by the Commonwealth to support NILS this year is less than $4 million. Investment in these programs is a clear way of reducing reliance on SACCs and improving access to credit for people on low incomes.

Unless NILS providers receive greater certainty in funding and resources that better reflect the cost of conducting lending activity properly and prudently, there a significant and increasing risk that the network will decrease in size and capacity. The case for investment in NILS has been well made by Good Shepherd Microfinance and we urge the Commonwealth to take a proactive lead in this process as market dysfunction disproportionately impacts low income and disadvantaged consumers.

4. **A register of borrowers of SACCs to enable there to be less parallel borrowing (borrowing from more than one credit provider at a time)**

The majority of payday loans are taken out for recurring expenditure including bills, rent and food.[7]The main driver is a lack of income, or an inability to meet ongoing expenses. The larger, less frequently recurring expenses that drive their demand are car repairs or car costs.

Providing credit in many of these circumstances does not deal with the underlying challenge. The demand for credit when it is being used for essentials is largely inelastic – people are prepared to pay

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[6] Some programs are receiving about half of what is needed.

[7] Banks et. al. *Op. Cit*.

more when they are in a more desperate situation. Application processes need to facilitate building financial capability to support these issues to not recur.

There are further arguments that it is about giving consumers greater choices however it is clear that payday loan demand is driven by lack of choice.[8]Safer alternatives (including safe credit) need to be developed to support people in having greater choices. Hence they need to be viewed as less of a 'mainstream' option and more of a 'last resort' option.

The other challenge with payday lending is that it traps people in a cycle of debt. Borrowing practices could be understood in three categories:

1. Cycling – immediately taking out a new loan once the previous loan was paid off (approx. 20 per cent of borrowers)
2. Spiralling – refinancing a partly paid-out loan to start a new loan (approx.. 25 per cent)
3. Parallel – simultaneously taking out two or more loan from the same or different lenders.[9]

Overwhelmingly payday loans were not one-off, but by their design and cost trap people in a cycle of debt.

A register of loans would reduce this occurring and help prevent consumers from getting stuck in these debt traps and we support the introduction of this.

Thank you for the opportunity, and please feel free to contact either one of us for any further clarification.

Yours sincerely

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[8] *Ibid.*
[9] *Ibid.*