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1 July 2008

Financial Services and Credit Reform Green Paper
Corporations and Financial Services Division
Treasury
Langton Crescent
PARKES ACT 2600

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Green Paper Financial Services and Credit Reform: Improving, Simplifying and Standardising Financial Services and Credit regulation (June 2008) ("Green Paper")

GE Capital Finance Australasia Pty Ltd ("GE") welcomes the opportunity to make the following submission in relation to the Green Paper.

In short, GE supports Option 2 of the three options proposed in Section 1 and Option (a) in Section 6 of the Green Paper.

1. Background to GE

GE has several businesses operating in Australia, including GE Money and GE Commercial Finance.

GE Money is the consumer finance division of General Electric, a company that has provided financial services for 70 years. GE Money is one of Australia's leading consumer finance companies, offering an extensive range of consumer finance products, including personal loans, auto loans, credit cards, mortgages, insurance and promotional retail finance. GE Money has assets in Australia in excess of AUS\$36 billion and over 3 million customers across Australia and New Zealand and its financial services are distributed through numerous sales channels, including over 12,000 retailers, 2300 accredited auto dealers, 5,500 brokers, 400 branches, a direct sales channel, and the Internet.

GE Commercial Finance is the commercial finance business of the General Electric Company, and operates in more than 35 countries around the world. GE Commercial Finance's customers range from small and medium size enterprises up to multinational organizations. GE Commercial Finance has assets in excess of AUS\$10 billion, and over 150,000 customers, across Australia and New Zealand.

GE Commercial Finance's Australian operations commenced in 1991. Since then it has grown rapidly through organic growth and other major acquisitions. GE Commercial Finance in Australia is a full service provider of financing solutions, managing credit applications, credit underwriting and funding, credit authorisation, billing, remittance, customer service and collections. With its registered office in Melbourne, GE Commercial Finance now employs over 1,100 people in Australia.

Due to the range of products, distribution channels and number of customers, GE has a significant and distinctive interest in the Green Paper. Although GE conducts the 6th largest financial services business in Australia (ranking just behind St George bank in assets) we do not take deposits and our perspective on the matters in the Green Paper is unlike that of any other financial institution operating in Australia.

2. General Comments

By way of introductory comment, GE emphasises the overarching need for:

- Consistent regulation of all forms of consumer credit and that the regulation of mortgages and broking should not be split from other forms of consumer credit such as credit cards, car loans and other personal loans. Accordingly, GE supports Option 2 of the three options proposed in Section 1 and Option (a) in Section 6 of the Green Paper;
- Consistency in, and simplification of, the current medley of consumer protection and credit regulation and careful consideration of how responsibility for credit can be transferred from the States to the Commonwealth;
- Practical consideration of the process required to achieve the implementation of such significant legislative change;
- An implementation timeframe to be developed *after* the process, mechanisms and structure for reform are determined, as an arbitrary deadline will not of its own accord make legislative change successful for Regulators, lenders or consumers;
- The momentum for current regulatory initiatives and change to be maintained, for example, the National Broking legislation and Default Notices review;
- A regulatory system which is able to respond quickly to national and local practices and needs (including enforcement needs);
- Well funded, adequately resourced and experienced regulator, backed by governments with the political will to take appropriate enforcement action;
- Timely and effective communication between government, regulators, industry and consumers regarding issues that affect financial services;
- Appropriate funding and recognition of the need for objective and rigorous research into consumer issues and the most appropriate form of regulation, such that an objective measure of what method of regulation will best serve the basic policy objective of consumer protection is developed;
- Competitive neutrality – (that is, ensuring that regulation does not create a competitive bias in favour of any particular products or financial services providers or distribution methods within any market);

- Changes to privacy regulation to permit and facilitate comprehensive credit reporting (also known as “positive credit reporting”) for 2 major reasons: (i) to promote and facilitate responsible lending practices by all lenders in Australia; and (ii) to enhance competition by allowing all lenders to have access to the same information as the basis for their lending decisions;
- We have been impressed with the thought and care which has clearly informed the recommendations of the Productivity Commission on its recent Review of Australia’s Consumer Policy Framework report. We would strongly urge those who are framing the Government’s response on the Green Paper to take full account of the work already done by the Productivity Commission, and to have regard to its recommendations; and
- We have read the submission on the Green Paper made by the AFC, and we support the AFC’s views where they deal with matters covered in this submission. In respect of other matters, we expressly refrain from expressing any view.

3. Specific Comments

We will only provide specific comment on Section 1, “Mortgages, Mortgage Broking and Non-Deposit Taking Institutions” and Section 6 “Other Credit Products” of the Green Paper.

GE submits that it is essential there be consistent regulation of all forms of consumer credit and that the regulation of mortgages and broking should not be split from other forms of consumer credit such as credit cards, car loans and other personal loans. Accordingly, GE supports Option 2 of the three options proposed in Section 1 and Option (a) in Section 6 of the Green Paper.

Current Arrangements and Current Issues

GE is of the view that there needs to be consistency in consumer protection and credit regulation. There are numerous pieces of regulation that currently apply to a financial services business, including the Consumer Credit Code, Chapter 7 of the Corporations Act, the ASIC Act, the Trade Practices Act, State Fair Trading Acts, the Privacy Act, the Spam Act, the Do Not Call Register Act, the EFT Code and the Code of Banking Practice.

Ideally, current regulation could be simplified by reducing the number of laws. In particular, efforts should be focused on achieving consistency in the concepts used, and requirements imposed, in the range of legislation and codes. For example: different concepts of consumer and non-consumer and the meaning of small business are used in different regulatory items; different requirements for giving notices to customers (eg notices of contract variation) apply under the Consumer Credit Code, Chapter 7 of the Corporations Act and industry codes of practice; different requirements apply for statements of account under the Consumer Credit Code and the EFT Code.

If mortgages (as opposed to other forms of consumer credit) were to be separately Federally regulated, it is our view that this would add complexity to the regulatory system, adding cost for industry and contributing to consumer misunderstanding of how credit products work. For example, it will be confusing for consumers if the form of credit they have (eg motor loan, credit card, personal loan as opposed to home loan) dictates different forms of disclosure or enforcement even when the loans are with the same lender. Also, any such additional costs would be passed on by industry to consumers with the unintended consequence of making consumer credit more expensive.

Further, the current inconsistencies are the source of considerable expense and inefficiency for industry. Inconsistencies should be removed and should have to be expressly identified and justified in the future when amendments or new legislation are proposed. GE would submit that consumer regulation should be further integrated, rather than separated.

Mortgage Broking

GE supports the proposal to introduce uniform national legislation to regulate finance broking. We understand that the focus of regulatory concern is the small proportion of introducers of finance who sell products that are not appropriate for customers or who engage in fraud and undesirable sales practices. We regard consistent national regulation as a means of simplifying unnecessary complexity and reducing costs which in turn should result in lower costs to consumers.

An issue of credit reform will be how to maintain momentum, focus and dedicate resources to important initiatives such as national broking regulation.

Options for Reform

GE supports Option 2 of the three options proposed in Section 1 and Option (a) in Section 6 of the Green Paper. At Section 1 of the Green Paper, it discusses the suggestion that credit be included in the definition of a financial product for the purposes of the Corporations Act as "providers of credit products and services would then be subject to rules about quality of advice and disclosure...".

GE is of the view that legislation based on the Consumer Credit Code (with some improvements) should also be considered rather than seeking to replace it with the conduct and disclosure requirements under Chapter 7 of the Corporations Act or any other new regime.

To change the credit regulation system radically may result in significant implementation and compliance burdens and costs without a comparable compensating benefit for either credit providers or their customers. Further, such a change is likely to mean a significant delay in implementing any move to a national system. Such a change would also result in a significant competitive advantage to existing entities (such as ADIs) who may hold Australian Financial Services Licences in connection with offering "financial products" without any clearly identified regulatory, economic or consumer benefit of adding consumer credit to the definition of "financial product". This is consistent with our view that any proposed changes should be competitively neutral and not favour existing parties.

However, if it is determined that Chapter 7 of the Corporations Act should be expanded to include credit, or if the Consumer Credit Code is to be updated and adopted at a Federal level or even if entirely new legislation is to be created, GE would submit that careful consideration be given to planning the process by which such regulatory change should occur and then determine an appropriate timeframe for implementation, particularly consulting industry, consumer representatives and State and Federal regulators.

In addition, transferral of responsibilities for the regulation of credit to the Federal legislature and Federal regulators will need to take into account the challenges of:

- The ability of a Federal regulator to be sufficiently responsive to purely local issues; and
- The potential for the loss of expertise and knowledge of local regulators.

Consideration needs to be given as to how States and Territories should not be entirely excluded from the regulation of consumer credit.

GE submits that a strength of Federal Regulation could be the set up, co-ordination and funding of a group that represents the public, State and Federal governments and industry participants to consider and discuss industry issues, share experiences and exchange information on a regular basis for example, on matters such as new product initiatives and potential issues as well as new regulatory proposals. Information provided through such arrangements might be provided on a "without prejudice" and confidential basis.

With regard to the comments on the proposed changes, GE supports the view that the Government should not regulate bank fees and charges as part of the options for regulation discussed. We assume in making this comment, that "bank fees and charges" should cover all credit fees and charges.

Some credit fees and charges are already subject to regulation by the Uniform Consumer Credit Code, common law Doctrine of Penalties and the ASIC Act and GE would propose that rather than seeking to further regulate credit fees and charges by enacting further legislation, that mechanisms be considered that would test the existing law. If it is considered that consumers are not sufficiently funded or do not have the appetite to challenge these fees, then a mechanism may be to review the jurisdictional issues such that a Regulator would be more able to test fees in court.

Alternatively, it may be that guidelines should be issued by ASIC which indicate what amounts would be considered as reasonable for certain fees or guidance as to the method of calculation.

We would argue that regulation of bank fees and charges discourages new investment and innovation, increases compliance costs for industry and can lead to increases in prices for consumers.

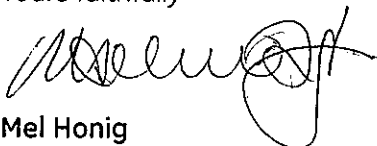
As previously stated, GE is of the view that if the Australian Government is to assume responsibility for consumer credit, this responsibility should be for all forms of consumer credit. GE is of the view that this will be the most efficient means of regulation for business and the simplest method of regulation for consumers to navigate.

We would welcome the opportunity to discuss our submissions, and would very much like to participate in any working parties, round tables, or discussion groups and otherwise assist with this Government initiative.

We believe there would be considerable benefit to be gained if Treasury were to establish a Consultative Group of stakeholders to work with you in the development of reforms to the regulation of consumer credit (along the lines of the Attorney General's Consultative Group on Personal Property Security Reform). As noted above, our size and distinctive business model means that no other finance institution in Australia has the same interests in the process and outcomes of the reforms, which flow from the Green Paper.

Please contact me with any queries by phone or email as per the details below.

Yours faithfully



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