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[VIA EMAIL financialservicesgreenpaper@treasury.gov.au]

Financial Services and Credit Reform Green Paper
Corporations and Financial Services Division
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Langton Crescent
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GREEN PAPER
Financial Services and Credit Reform

We appreciate the opportunity to provide a response to the Green Paper (**Paper**) on Financial Services and Credit Reform.

Suncorp is an ASX top 20 company providing banking, insurance, investment and superannuation and focuses on retail customers and small to medium businesses. Suncorp is Australia's 6th largest bank with approximately $61 billion in assets and we provide home loans, personal loans, savings and transactions accounts, margin lending and credit cards.

We are also a member of the Australian Bankers' Association (**ABA**) and the Australian Finance Conference (**AFC**) and endorse in principle both of their submissions.

GENERAL COMMENTS

We acknowledge the complex task being undertaken by the Federal Government relating to deregulation and harmonisation of existing similar laws. The appointment of a Minister with responsibility specifically for deregulation is certainly a positive step forward for both business and consumers.

Suncorp supports the proposition that consumer credit should be regulated at federal level. We concur with the Productivity Commission that, if implemented properly, federal regulation will deliver significant efficiency benefits.

We are strongly of the view that the desired efficiency benefits can only be achieved through maintaining consistent credit regulation across all product categories. In fact, we propose that options proposed in the Green Paper that involve a separation of regulation between credit categories will create substantial inefficiencies from the status quo. We believe a simple uplift of the template Uniform Consumer Credit Code ("UCCC") into a federal Act, administered by ASIC, is a far simpler, more efficient and less onerous process for business, consumers and the proposed regulator.

Further, we do not support the proposal to federally regulate consumer credit under Chapter 7 of the Corporations Act, better known as the Financial Services Reform (**FSR**) regime. We support and encourage the Government's significant steps to improve consumers' financial literacy and understanding. Customer protection that is proportionate to the risks it is designed to mitigate is welcomed and encouraged. However, we feel that a number of the proposals in the Paper (particularly Chapter One) do not address the identified current market failure, or more correctly, the specific areas of the market with shortcomings. We believe some of these reforms should be more targeted towards lenders and their agents who are not prudentially regulated, or whose products and services fall outside UCCC regulation.

In our opinion, the objectives of improved consumer protection can be better and more efficiently met through more targeted initiatives than the options proposed, which in our opinion inadequately address the two distinctly different identified objectives of improved system efficiency and increased consumer protection.

We also query the following points with the Paper:

- Seemingly greater emphasis placed on the recommendations from the House of Representatives Standing Committee Report on Home Loan Lending (September 2007) over the Productivity Commission's Review of Australia's Consumer Policy Framework Report (May 2008);

- The argument that mortgage lending makes up 86% of personal credit by 'dollar amount' needs to be balanced against the fact that there is a greater 'volume' of non-mortgage lending accounts. Thus more consumers would be advantaged by all consumer credit -related products coming under a national regime;

- The proposition that non-bank lenders have provided additional competition to the mortgage sector and have been able to provide consumers with lower cost finance needs to be balanced against the proposition that they also charge the highest fees, according to ASIC's Mortgage Entry & Exit Fee Review (April 2008);

- The viewpoint that the UCCC focuses on 'a limited range of conduct requirements' is debatable, when the true purpose and experience of that Code is considered;

- It refers several times to unquantified numbers of issues of inappropriate advice and mortgage broker activity (which are not in question) but the proposals to remedy appear disproportionate to the identified current market failure;

- The potential benefits of taking a national regulatory approach would not be fully realised if only consumer mortgage lending went to the national regime and credit cards and personal loans remained with the States and Territories.

1. MORTGAGES, MORTGAGE BROKING AND NON-DEPOSIT TAKING INSTITUTIONS

We realise that since adverse market conditions have been having a much greater effect on mortgages in general, there has been much more of a focus on consumer assistance. As suggested in the Paper, we agree that a national approach will provide advantages. Having to operate in only one jurisdiction rather than eight would certainly be welcomed.

However, to impose further regulatory change beyond simple uplift of UCCC to the federal regime and include regulated credit under FSR would create extremely large and disproportionate initial costs for lenders and duplication and complexity whilst lenders would be forced to transition their processes to FSR.

To address the current problems with mortgages we suggest simply having the UCCC made as national legislation as well as introducing national legislation specific to finance brokers. This simple transition is the most appropriate solution for consumers, business and the proposed regulator.

The UCCC already delivers the following benefits:

- It is based on the principles of truth-in lending which will allow borrowers to make informed choices when purchasing credit;
- It applies rules which regulate the credit provider's conduct throughout the life of the loan but without restricting product flexibility and consumer choice;
- It provides for significant redress mechanisms for borrowers in the event that credit providers fail to comply;
- It has achieved a high level of compliance and disclosure among sector participants.

At this time, we are unable to accurately quantify the cost of the proposed changes under any of the Options but we would conservatively estimate implementation costs to be in millions of dollars. The implementation cost would be expected to be significantly more if regulation under FSR was introduced as proposed as one of the options in the Green Paper. The required timeframe for responding to the Paper has not allowed a sufficient period to consider in depth all monetary impacts.

Treasury would of course recall the initial cost and significant transition time for the FSR regime when initiated in 2003. That regime continues to undergo further 'refinement' with issues such as dollar disclosure and satisfactory PDS's still unresolved.

We welcome the proposal not to regulate bank fees and charges.

Practical impacts of applying FSR regime under any of the Options

Some of the impositions would include:

- Obtaining a new Australian Financial Services Licence (**AFSL**) or amended AFSL, in addition and duplication to authorisation with APRA;
- Product Disclosure Statements (**PDSs**) for mortgages and possibly Financial Services Guides (**FSGs**) for use by intermediaries;
- Potentially Statements of Advice (**SOAs**) as existing mortgage terms and conditions will only suit an UCCC regime;
- Potentially Supplementary PDSs for any changes throughout the life of a loan;
- New systems, documentation, scripts, sales processes under FSR requirements;
- New training and if an advice model is adopted, accreditation or more complex accreditation;
- Development of an FSR significant breach reporting process;
- Appointment of lending brokers as Authorised Representatives (**ARs**);
- Significantly more complex documentation and time consuming processes for consumers at point of sale

If the FSR regime is to be used, industry will need a similar lead time to that when it was first introduced in 2003, namely a voluntary opt in by the proposed start date but with a 2 year transition period to allow system changes, documentation and processes, depletion of existing documentation, licence applications/amendments, training and (possible) accreditation of staff.

The government must also consider the impact and timing of the Paper's proposed reforms against those already proposed for or underway in our industry, including Anti-Money Laundering, Basel II, Personal Property Securities and a Financial Claims Scheme are having or will have a large impact on our already stretched resources.

We agree there would be 'significant transitional and ongoing costs for both the Government and business'. We acknowledge that any compliance costs will plateau over time and competition will likely become healthier for the customer but the same argument is valid and with greater advantages for all stakeholders for national legislation based simply on the current UCCC model.

Financial Product Advice

If mortgages are transferred to FSR, the ability of a mortgage provider to offer and sell the product via a model of advice of their choosing is paramount. In our experience, mortgages are comparatively well or better understood by consumers compared to products such as securities and investments.

Because most existing home loan borrowers either payout or refinance their loans every 3 – 4 years, if an FSR regime is imposed, regulated mortgages should be treated in a similar way to Basic Deposit Products with exemptions. At the very least, only first home buyers should be need to be given any form of personal advice in the FSR context.

Authorised Deposit-taking Institutions (ADIs)

Suncorp, like other ADIs, currently has more prudential requirements placed upon it in comparison to the non-deposit lending institutions. These provide a safeguard against systemic improper dealings with our customers and in our view indirectly provide increased consumer protection. The Paper has not considered this distinction between ADI's and non-ADI's in reforming regulated credit.

Non-deposit lenders

We encourage some further regulation of non-deposit lenders as they are currently responsible for a much greater proportion of complaints than their market share indicates, when comparing those of ADIs. Some simple amendments to the UCCC model to include them may be an answer here.

Brokers

We support the proposal to have national legislation apply to Finance Brokers including those involved in mortgages. Both the Finance Brokers Association of Australia and the Mortgage and Finance Association of Australia have supported federal legislation for some time.
Both currently have Codes of Practice in place to ensure avenues of redress for their customers.

Another alternative to inclusion of credit in FSR

Suncorp suggests the Government immediately invoke the simple 'federalised' UCCC uplift model we support, and then plan a second phase, say 2 years after implementation, inviting feedback and consultation with industry and consumer groups to review its operation. ASIC would by then have the benefit of a year's experience in regulating credit and its input would also be invaluable. This process would more effectively identify what is working and what is not.

2. TRUSTEE CORPORATIONS

We support this proposal in principle due to the creation of uniformity with national legislation. Enhanced competition will be created and provide opportunities for new entrants into this market.

Greater transparency and awareness of the processes for gaining and retention of a licence is also required. We agree that some supervisory arrangements should be more rigorous for trustee corporations.

We agree that a more cost effective and timely External Dispute Resolution (**EDR**) mechanism for beneficiaries is necessary for personal trust assets. However, we would encourage this industry leveraging the existing EDR models under the newly converged Financial Ombudsman Schemes (FOS) rather than creating a new model.

3. MARGIN LENDING

We recognise the substantial growth in this sector over the last 8 or so years referred to in the Paper. Conversely, Suncorp has seen a substantial contraction in product usage in recent months.

Our preference for margin lending under the options is number 3, but again as part of the simple uplift of UCCC. To attempt to place it into the FSR regime would be excessive for a product/service that is tailored more toward affluent and financially literate investors and who have access to taxation advantages when using this product.

The practice of Margin Lending and Securities Lending should not be confused – much of the press associated with margin lending in recent months has arisen from issues with entities involved with securities lending instead of traditional margin lending.

Suncorp margin lending is an investment product targeted at individuals/ entities who understand both how the market works and how investment gearing operates. All details regarding margin calls are fully disclosed to such customers.

We have approximately 3500 margin lending customers.

In the last year, we have had only 2 EDR complaints related to the margin lending services we have provided. We therefore question the rationale for regulating it heavy-handedly.

FY07/08 has been one of the most turbulent experienced in recent years and during this period we have appropriately managed a significantly higher volume of margin calls. If we have a customer who is unable to meet a margin call within the designated time period we will work with them to either close out the position or find alternative ways to meet the call. We would therefore be happy for there to be an industry standard on the timing of margin calls.

While the Paper highlights that the Lender has no obligation to contact the investor when a margin call is made, our internal policy and processes nevertheless require this step. This small task ensures that the customer relationship is robust and transparent and reinforces our good customer service ethic.

The Paper refers to the situation of some contracts allowing the lender to unilaterally withdraw the facility or withdraw a particular company's stock from their acceptable list of equities over which margin lending is accepted, thereby forcing full repayment. While this does occur in certain cases, it is only where it is deemed necessary by the models used to determine our customer's gearing ratio and those customers are contacted immediately to work through the call.

Our policy for the Loan-to-Value Ratio (**LVR**) ranges from 30% to 75% of the value of stock. A stock which has an LVR range of 70% to 75% is a highly liquid security and typically sits within the ASX 20. We have also changed our policy to manage single stock customers more closely. The beneficial ownership of the stock remains with our customer at all times.

We believe Suncorp's margin lending terms and conditions are clear and easy to understand. Mandating the use of PDSs for Margin Lending may increase complexity for customers rather than assist their understanding.

We believe a substantive change in the regulation of margin lending may bring about a decrease in competition for that product. By placing margin lending into FSR, some market participants will be forced to depart if advice models will be necessary to sell the actual product. The costs associated with the set up and on-going compliance measures incurred by FSR, coupled with continuing funding pressures, will make various business models unsustainable.

4. DEBENTURES

Suncorp has nothing to add on the proposals regarding Debentures.

5. PROPERTY SPRUIKERS

Suncorp would support licensing, conduct and disclosure under a comparable national scheme for these activities.

6. OTHER CREDIT PRODUCTS

We have previously outlined our preferred model for changes to mortgages and we prefer to see precisely the same occurring for all consumer credit – uplifting the current UCCC into the federal sphere but not into the FSR regime. We see no reason to federalise only one section of consumer lending. Duplication is in contradiction to the Government's mandate to harmonise legislation and deregulate where possible.

Should the government decide to implement Option 3 in Chapter 1 and regulate nationally on mortgages alone, many of the benefits will not be realised.

SUMMARY

We are happy to elaborate on or discuss our response in more detail.

Please contact me in the first instance to discuss any aspect of this response, or alternatively our Manager Banking Compliance, Darren Rose on (07) 3836 1985.

Yours sincerely

Chris Cunnington
Executive General Manager, Regulatory Affairs

CC Darren Rose, Manager Banking Compliance