NIMBLE
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Attn: Manager
Intermediaries and Regulatory Powers Unit
Retail Investor Division
The Treasury
Langton Crescent
PARKES ACT 2600

By email: consumercredit@treasury.gov.au

28 February 2014

Dear Sir/Madam

Re: Submission on the draft National Consumer Credit Protection Amendment (Small Amount Credit Contracts) Regulation 2014

We write to you in response to the release of the draft *National Consumer Credit Protection Amendment (Small Amount Credit Contracts) Regulation 2014* ("Regulations"). The provisions proposed under the Regulations intend to close out certain avoidance opportunities under the national credit legislation in respect of small amount credit contracts ("SACCs"). We wish to make a submission in support of these proposals.

Background to Nimble

As you are aware, Nimble has been an active stakeholder in the consultation process for the *Consumer Credit Legislation Amendment (Enhancements) Act 2012* and associated regulations which regulate the SACC product. Over the last few years, Nimble has made several submissions on each of the legislative drafts, including making verbal submissions at the Parliamentary Joint Committee on Corporations and Financial Services Inquiry in 2011. You will therefore be familiar with how Nimble are differentiated in the marketplace. We will briefly summarise these differences again.

Our customer base:

- are employed with average gross annual income of $64,000 and not Centrelink dependant; and
- 77% have a clear credit history and all have a desire to engage with a short-term credit solution rather than the longer term commitment required by more traditional solutions.

Nimble offer:

- small amount loans of between $100 to $1,200 for a maximum period of 50 days to financially literate customers with no roll-overs permitted;
- Nimble's fee structure is transparent, set out as a 20% establishment fee, plus a 4% monthly fee, with the overall cap on costs not exceeding 200% of the principal amount. No broker fees, third party fees or other fees are recouped from the customer;
- repayments are typically within 30 days. The average advance is $550 over a period of 24 days;

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- we only offer loans to employed customers earning a minimum level of income and who meet our lending criteria, and as such, only 24% of total applications are approved;
- a purely online product, in line with the preferences of this customer base.

Submission

The Explanatory Statement to the Regulations states:

> *" The introduction of the cap on costs for small amount lending has resulted in an unintended increase in avoidance activity. Some credit providers are avoiding the cap on costs by using existing exemptions in the national credit legislation more broadly than they were intended for. This has allowed unlicensed credit providers to provide credit to consumers quicker by circumventing the responsible lending obligations, while charging more than is allowed under the cap on costs."*

Nimble consider that the occurrence of this wide-scale avoidance is deeply concerning and has consequences for:

- the integrity of the legislation;
- legitimate licensed credit providers;
- the recipients of SACCs.

Integrity of the legislation

If the loopholes are not closed, this could affect the integrity of the legislation, as thoroughly consulted, debated and passed by Parliament. The relevant recipients of the legislation - credit providers, consumers, and regulators - need to be able to operate with legislation that has certainty and clarity, and that is not open for abuse.

Legitimate licensed credit providers

At present, if there are credit providers that are offering the SACC product who are taking advantage of loopholes to increase revenue, this is creating an unequal playing field in the market. This is because there are legitimate credit providers such as Nimble who are correctly operating within the parameters and cost caps of the legislation, who are properly licensed and subjected to the oversight and review of the regulator.

As the legislation is intended, Nimble customers are subjected to:

- a rigorous and responsible assessment of their financial capacity to repay a loan;
- they receive a loan that is an appropriate amount with an appropriate and transparent repayment schedule for their individual financial situation and purpose; and

- they are charged fees within the prescribed cost caps for this product.

It is only fair that other providers operate with the same level of responsibility and rigour.

The recipients of SACCs

Ultimately, it is the SACC consumer who will be disadvantaged by credit providers who do not adhere to the legislation as intended. The legislation was intended to protect the "vulnerable" class of consumer, and if it is being used in a way that is unintended, it will be the consumer who has to pay for the weaknesses in the legislation. If a credit provider charges fees outside of the costs cap, consumers will be forced to pay for fees that they are not required to pay. Similarly, if a credit provider is operating under an exemption to the national credit legislation, consumers may not be afforded certain protections (such as responsible lending) owed to them under that legislation.

Obviously, if there is wide-scale avoidance and consumers are being "penalised", there is a risk that the Government will simply "shut down" the SACC product. This will leave a huge gap in the market which legitimate businesses, such as Nimble, currently fill by providing a viable alternative to long term credit products.

In summary

Nimble thoroughly support the need for reform to achieve integrity in the legislation, a level playing field in the market, and ultimately to protect the recipients of SACCs, from inappropriate lending practices. As such, Nimble support the proposals set out in the draft Regulations.

Should you need to contact us, please do so on the following details:

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Yours sincerely

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