



Promoting Responsible Consumer Lending

ASIC Enforcement Review
Financial System Division
The Treasury
Langton Crescent
PARKES ACT 2600

26th July 2017

By Email: ASICenforcementreview@treasury.gov.au

Dear Madam/Sir

ASIC Enforcement Review – Strengthening ASIC’s Licensing Powers

The National Credit Providers Association (NCPA) welcomes the opportunity to make a submission on the ASIC Enforcement Review - Strengthening ASIC’s Licensing Powers.

The NCPA is in-principle supportive of the proposal to provide the Australian Securities Investment Commission (ASIC) with greater regulatory powers in relation to licence cancellation and/or suspension where ASIC forms the view that behaviour of an ACL holder is unprofessional, and promotes a product or products that have been designed to avoid the intention of the law.

As the NCPA represents many involved in the highly regulated Small Amount Loans Sector (SACC) we are always concerned to see both licenced and unlicensed providers exploiting exemptions or loop holes in the Credit Act. This behaviour serves to undermine the law and places consumers at risk when the very stringent protections applying to SACC loans are avoided.

As such, this submission makes the following observations on behalf of NCPA members and the 1 million Australians who rely on the small and medium amount loans sector for assistance when choosing not to finance through main stream loan providers.

The NCPA supports all 7 stated positions as alignment of AFS and Australian Credit Licensing requirements should be standardized and robust. Examples of these concerns are the likes of issues covered under the National Consumer Credit Protection Act 2009; *(14-150MR – ASIC v Teleloans Pty Ltd and Finance & Loans Direct Pty Ltd. In this Federal Court case the companies claimed they do not have to comply with certain consumer protection laws*

under the National Consumer Credit Protection Act 2009 (National Credit Act) because their loans are exempt under a short-term credit exemption)¹

These additional provisions would provide ASIC with the powers to review, suspend and or cancel an ACL for those businesses/entities that;

- structure business arrangements to be sufficiently complex as to intentionally fall outside the scope of the Corporations Act 2001
- structure products that deliberately fall outside the Credit Act 2009
- fail to satisfy the ongoing requirement to be of a fit and proper nature to retain a license (within certain checks and balances).

The NCPA continues to promote responsible lending practices and to refuse membership for those who it considers to not be of sufficiently good character.

The NCPA will continue to work with the regulator to assist in detecting and identifying those organisations that do not meet the standards of the NCPA and contribute to a negative image of the small and medium loans sector.

The NCPA thanks the ASIC Enforcement Review for the opportunity to provide this submission to the review.

Yours sincerely

Rob Bryant
Chair
NCPA

¹ Both listed and overseas based companies offering loans from \$100 to \$2000 as alternative credit products such as Line of Credit or Redraw accounts where all SACC protections and prohibitions are avoided.