



12 June, 2009

Ms. Alix Gallo  
Manager  
Consumer Credit Unit  
Corporations and Financial Services Division  
The Treasury  
Langton Court  
PARKES ACT 2600  
Email: [alix.gallo@treasury.gov.au](mailto:alix.gallo@treasury.gov.au)

Dear Ms. Gallo,

### **Exposure Draft: National Consumer Credit Regime**

I refer to my letter dated 22 May 2009 to Senator the Honourable Nick Sherry, Minister for Superannuation and Corporations Law in which I indicated that David Jones would provide comments on the proposed National Consumer Credit Regime on or before 12 June 2009.

Having now had the opportunity to assess the exposure draft and the implications on our customers, our employees, our business and the economy, I would like to make this submission for your consideration.

In summary I offer the following points:

- 1) David Jones has been providing credit cards to our customers for 47 years and during that period of time we have demonstrated that our application and assessment process already protects consumers, in line with the objectives of the Bill.
- 2) Any additional regulation is best targeted at credit providers and financial services professionals whose role is to thoroughly assess the suitability of a product for the customer. Retailers including David Jones and their sales assistants should be exempt as the role they play is to facilitate a thorough assessment by trained financial services professionals, not to conduct that assessment.
- 3) As it stands, this Bill will have significant unintended and negative consequences for consumers. In particular, they would be significantly inconvenienced, they would incur considerable compliance costs, and competition would be lessened. All for no greater protection than exists today for consumers that apply for a credit card in a retail environment.
- 4) In its current form, the Bill will have a number of unintended negative consequences for the retail industry and the Australian economy.

**DAVID JONES**

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## Key points

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**1. David Jones has been providing credit cards to our customers for 47 years and during that period of time we have demonstrated that our application and assessment process already protects consumers, in line with the objectives of the Bill.**

David Jones has been trading for over 170 years and has been offering retail finance options to our customers since well before the advent of plastic credit cards. The David Jones storecard was launched in 1961 and predates the launch of Bankcard in 1974.

Over the 47 years since our storecard was launched our many thousands of sales assistants have routinely assisted over 1 million customers in completing an application form for a David Jones storecard. Applications are assessed centrally to verify information provided to our sales assistants and to determine the suitability of the product for the customer. In particular, given the loan is unsecured; careful consideration is given to the suitability of the product for the customer and the customer's ability to repay their debt.

The David Jones card portfolio currently consists of over 900,000 customers of which approximately 400,000 shop regularly. The loan amount to our customers is typically small in comparison to other financial products that are more appropriately targeted by this Bill, with an average balance of less than \$10,000.

The David Jones core retail customer (who is also the customer of our David Jones credit cards) has an income greater than the national average and household disposable income of over \$80,000 per year. This customer segment is typically well educated, financially literate and has a strong capacity to spend on department store merchandise and to manage and repay their David Jones credit card.

Over the 47 years of running the David Jones storecard we have applied responsible lending practices. Because of this and the capacity of our customers to manage and repay their credit card debt we experienced very low default rates over the many years we acted as credit provider.

More recently, we have partnered with American Express, the world's largest and most experienced credit card provider. American Express acts as credit provider for the David Jones storecard and for the recently launched David Jones American Express card. In this Alliance, the role of David Jones sales assistants is to help customers apply for a David Jones card, while American Express' role is to assess the suitability of the card for the customer, taking into consideration their financial circumstances.

The thorough application and approval process employed today by both David Jones and American Express is designed to only grant a David Jones card to those customers who are suitable.

David Jones' long-term low bad debt rate and our reputation with customers and government authorities as a responsible lender demonstrates that protections already exist for our customers in the context of applying in-store for a David Jones card. These existing protections are in line with the objectives of the Bill.

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**2. Any additional regulation is best targeted at credit providers and financial services professionals whose role is to fully assess the suitability of a product for the customer.**

**Retailers including David Jones should be exempt as the role we play is to facilitate a thorough assessment by trained financial services professionals, not to conduct that assessment.**

David Jones supports and practices the principles of responsible lending. It is also in the interest of our company's brand and financial performance not to lend money to those who cannot afford to repay it.

If additional regulation is required it is best targeted at the point where a proper assessment of the customer can be made – that being with the credit provider and not at the retail sales floor where sales assistants help customers in the application process.

A consequence of this Bill is that retailers such as David Jones who facilitate small (on average less than \$10,000) unsecured credit lines would be regulated similarly to finance sector professionals who advise customers on a vast array of complex financial products such as secured mortgages and margin loans where the value runs into hundreds of thousands, if not millions of dollars.

We would be surprised if it was the intention of the Bill to regulate 9,000+ David Jones employees in the same way as financial services professionals. This is clearly impractical, cost prohibitive and out of proportion to the role of sales assistant.

We argue that our retail customers are well protected by current practice and current legislation. In particular:

- (a) In processing well over 1 million applications we have demonstrated that our sales assistants play a valuable role in helping customers apply for a credit card by assisting the customer in filling out all of the necessary information to enable a full assessment.
- (b) In declining a significant percentage of these applications, we have demonstrated that applications are best assessed centrally by trained financial services professionals rather than sales assistants, to ensure that customer information is properly verified and an assessment is properly made that the product is suitable for the customer.
- (c) Through our experience of low long-term default rates and given that the issue of irresponsible lending has not been of concern to our customer base or government authorities, we have demonstrated that our application and approval process works in the context of a retail environment.

As a consequence, retailers including David Jones should be exempt from this Bill as the role we play is to facilitate a thorough assessment by trained financial services professionals, not to conduct that assessment.

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**3. As it stands, this Bill will have significant unintended and negative consequences for consumers. In particular, they would be significantly inconvenienced, they would incur considerable compliance costs, and competition would be lessened. All for no greater protection than exists today for consumers that apply for a credit card in a retail environment.**

The following negative consequences would result from the Bill in its current form if applied to retailers:

- (a) Customers will be required to undergo a significantly more detailed interview concerning financial matters at the point-of-sale so as to enable the sales assistant to make an assessment of the suitability of the credit contract for the customer. Customers will see this as inappropriate and unnecessary in the context of an application for a credit card (in comparison to an application for a more complex and high value financial product such as a secured mortgage).
- (b) The cost of training all of David Jones 9,000+ sales assistants to a level of a financial services professional for the purpose of this assessment will be costly, not to mention a duplication of an assessment that will nonetheless be conducted by American Express centrally where information can be verified and assessed thoroughly. This is clearly impractical and cost prohibitive. Inevitably, these incremental costs would be passed onto consumers.
- (c) Because a retail store is an open environment, there will be complexities in ensuring appropriate standards of privacy protection at each stage of the application process for collection and protection of personal information. Addressing these complexities will involve greater costs that would also be passed on to consumers.
- (d) If it becomes difficult for staff on the retail floor to participate in the credit application process it is likely to lead to a reduction in choice for the consumer and to the stifling of competition in the credit card sector, to the direct disadvantage of consumers.

Overseas retailers have a considerable share of the credit card market as they have offered a high value alternative to that of traditional bank credit cards. The same shift towards higher value retailer co-branded credit cards is happening in Australia with companies such as David Jones, Coles, Woolworths and Myer.

Consumers shift to retailer co-branded credit cards because of the added value offered by retailers in the form of merchandise discounts, rewards programs, complimentary gift-wrapping and similar benefits. These benefits are funded through the retail margin generated from customer loyalty, and through savings made on merchant services fees that would otherwise be paid to the banks.

The additional layers of process that will result from this Bill will create the greatest inconvenience and incremental cost for creditworthy borrowers. In addition, those prospective borrowers who should not be approved would in any event have been rejected under the credit application and approval process that exists today (a process in which the credit provider makes the credit assessment).

On the basis of the negative impacts on consumers, in return for no incremental protection, David Jones believes that retailers should be excluded from the proposed Bill.

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**4. In its current form, the Bill will have a number of unintended negative consequences for the retail industry and the Australian economy.**

David Jones believes that if the Bill passes in its current form the ability to provide retail storecards, co-branded credit cards and point-of-sale financing options to those customers who can afford them will be significantly stifled. There are a number of implications:

- (a) Retail storecards, co-branded credit cards and other point-of-sale finance options fund a significant volume of retail sales throughout the industry. Any impediment to the access to this type of credit to customers who can afford it will result in significant risk to retail sales across the industry and that in turn will damage the Australian economy.
- (b) If there is a reduction in retail sales growth, this will undoubtedly have a flow-on effect on unemployment.

## **Conclusion**

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David Jones agrees with the recommendations of the Australian National Retailers Association (ANRA) and the recommendations of the Law Council of Australia in relation to the retailing industry. In particular, we agree with ANRA that:

*“The simplest approach would be to exclude the retail sector from the provisions of the Bill, on the basis that retailers are not credit providers or financial advisers.”<sup>1</sup>*

We agree that the definition of “credit assistance” should be:

*“amended to more effectively target responsible lending obligations to financial advisers and credit providers.”<sup>2</sup>*

It is a better model for legislation to regulate activities that the government actually wants to target rather than having a model that regulates every conceivable activity in an industry and then, on application, exempts specific conduct in particular circumstances. That type of legislative model involves considerable expense for each minor participant in the relevant industry (here, the credit industry) that will have to engage lawyers and other consultants to assist in making exemption applications. This significantly increases the cost of doing business for no apparent incremental benefit to consumers. Ultimately, these costs will be borne by consumers and they will lead to less competition. Most importantly, in the context of the activities of retailers in the consumer credit market, consumers are already well protected from inappropriate lending practices today.

We would be happy to elaborate on any of the points which we have outlined above, including by meeting with you to further explain David Jones’ position.

Yours faithfully,



Mark McInnes  
Chief Executive Officer  
**David Jones Limited**

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<sup>1</sup> ANRA Submission, Paragraph 30

<sup>2</sup> ANRA Submission, Paragraph 31

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