



Submission to the Treasury on the
National Consumer Credit
Protection Bill 2009

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Background

The Lending Industry XML Initiative (LIXI - www.lix.org.au) is the national standards body within which lenders and lending-related organisations reach a common understanding of financial transactions in order to facilitate electronic integration.

As a non-profit, independent industry organisation LIXI members include all the major bank and non bank lenders, broking groups, mortgage insurers, valuers, lawyers and others in the lending distribution chain, as well as software and IT providers to the lending industry.

LIXI members collaborate together via a working group process to develop the standards to best meet the needs of the members and the wider lending industry.

The major benefits of implementing standards within the mortgage lending industry are improved operational efficiency for all participants and ultimately the delivery of a better overall consumer experience.

Introduction

LIXI welcomes the draft National Consumer Credit Protection Bill 2009 and related legislation and understands the benefits for both the industry and consumers.

However, there are a number of practical implications in implementing the proposed legislation that face the entire industry, including:

- ensuring all industry participants communicate in a consistent way by using standardized terminology, particularly in relation to interpreting the consumer's financial situation;
- determining if a product is unsuitable, particularly in borderline situations; and
- inconsistencies across lenders in definitions of product features and how the various fees and charges are applied (eg establishment fees versus application fees)

LIXI believes that standards can play a major role in:

- simplifying credit product terminology to aid consumers understanding and decision making; and
- assisting the smooth implementation of the regulations within the industry.

LIXI proposes that with government support, the industry can work together to develop a vocabulary of common terms to address these issues prior to January 2010.

Key Areas of Interest for LIXI

Responsible Lending Requirements

The draft legislation requires (in Chapter 3) that the licensee:

- make a preliminary **assessment** or an **assessment** as to whether the contract will be **unsuitable** for the consumer;
- make reasonable inquiries about the consumer's **requirements** and **objectives** in relation to the credit contract;
- make reasonable inquiries about the consumer's **financial situation**; and
- be able to give the consumer a written copy of the **assessment**.

Understanding "Financial Situation" and the Assessment of Suitability

The draft legislation does not prescribe the nature or details of the inquiries about the consumer's financial situation, however it is reasonable to infer that the nature or details of the inquiries about the consumer's financial situation must be those that are relevant to determining if the credit contract will be unsuitable.

It is LIXI's view that the data gathered regarding the consumer's financial situation (regardless of whether the licensee is providing credit assistance or is a credit provider) should be commonly understood and each item of data should have a standard interpretation.

Understanding "Unsuitable"

The draft legislation makes only a very general foray into defining what "unsuitable" means, and allows for the regulations to prescribe circumstances in which a credit contract is unsuitable.

The draft regulations however make no reference to standardising any definition of "unsuitable" and leaves the interpretation up to the advisor. LIXI's view is that this puts the advisor in an untenable position if the consumer protest later that the credit contract has caused hardship.

LIXI proposes that we work with industry and government to reach an agreed broad understanding of how the consumer's financial data is assessed in the context of serviceability and risk such that a licensee can demonstrate that the assessment was adequate at the time. This may include a greater common understanding of the terminology around lending product rates, fees and features, as well as the calculated values used to assess risk.

Accepting Limitations on Standardisation

Lending policy in relation to loan approval and the level of risk accepted, varies from lender to lender. However the method by which risk is calculated and the interpretation of the data that is used to determine the risk also varies from lender to lender.

LIXI's view is that it is not necessary to standardise lending policy as long as the interpretation of the data used to calculate the risk is standardised.

Summary/Next Steps

LIXI believes that participants in the lending industry are well placed to agree of standardising the terminology and utilization of financial data and lending product details.

LIXI welcomes any opportunity to work with the appropriate government and industry representatives during the consultation phase of the proposed legislation to ensure implementation of the legislation runs as smoothly and efficiently as possible for the benefit of government, industry and consumers.

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