



## HEAD OFFICE

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Dear Sir

### **National Consumer Credit Protection Bill Submission on exposure draft released 27 April 2009**

#### **1) Introduction**

Mortgage House is a subsidiary of Global Mortgage Equity Corporation Pty Limited the holding company for a group of mortgage originators and managers. The group originates residential mortgage loans through the following entities (differentiated by the roles performed within the mortgage industry):

**Mortgage House of Australia Pty Ltd** ("MHA") manages retail distribution through 51 branches and a limited broker network of Mortgage House branded residential mortgage loans to retail borrowers. These loans are currently funded from our own special purpose funding vehicle, The Paladin Mortgage Trust. MHA's income is derived as a combination of trailing commission plus the surplus from the Paladin Mortgage Trust after funding and administrative costs.

**Paladin Wholesale Funding Pty Ltd** ("PWF") manages wholesale distribution of residential mortgage loans to third party originators funded from The Paladin Mortgage Trust. These originators then arrange loans to retail borrowers. Income is derived as a trailing commission from the Paladin Mortgage Trust, the majority of which is passed through to the originator.

**Mortgage House Broker Services Pty Ltd** ("MHBS") is the accredited entity for the supply of third party funding (provided by major banks, and other non bank funders) to retail residential mortgage borrowers where our own branded product does not meet borrower requirements. Income is derived as an upfront commission payment plus trailing commission from the respective funders.

**The Paladin Process Pty Ltd** performs all loan processing and administration for the group utilizing the group's proprietary mortgage origination system (e-MMs) to manage

loan applications and subsequent administration. The Paladin Process is the manager and servicer for our funding program through the Paladin Mortgage Trust, holding an Australian Financial Services Licence (Lic No 312912) since August 2007. It derives income as management fees from MHA, PWF, and MHBS on a cost plus basis.

The group has approximately \$2.8 billion of mortgages under management. Despite the disruption in the wholesale funding markets, we continue to fulfill our objective in the provision of quality home loan products with competitive pricing, packaged with numerous features to support customer flexibility and convenience. The group places an emphasis on technological solutions and superior customer service, continuing to offer a very competitive alternative to consumers.

As a significant non bank lender operating across Australia we are very supportive of the Government's move to a uniform regulation of credit markets and will be applying for a license to compliment our existing AFSL. We have been following the discussion conducted by the Mortgage and Finance Association of Australia and support their submission in regard to the proposed legislation. However, our organization does not quite fit some of the concepts envisaged in the draft legislation and in this regard we make this submission to identify those matters of particular concern.

## **2) Comments on draft legislation**

### **Trust Structure. (See following diagram)**

We originate loans with Perpetual Trustee Company Limited as Trustee and lender of record. However as manager we are responsible for all borrower negotiations, the Trustee having control of the assets and concerned more with the integrity of the financing arrangements. As manager of the Paladin Trust we indemnify the Trustee for any breaches of the UCCC. We therefore request that we be able to provide the same indemnity to the Trustee for criminal acts under the Bill. Similarly, given the nature of our loan origination structure we propose that we should be able to obtain indemnities from our credit representatives in regard to loans referred to us.

### **Commission disclosure**

As described above, our mix of funding sources means that we straddle the market between a bank type funding structure (through our trust where we are responsible for prudent financial management) and as a broker, arranging loans with third party funders (with an agreed commission income and no responsibility for underlying funding). It becomes difficult in the trust structure to disclose commissions earned by the group as this is akin to disclosing a bank's gross spread over its deposit base. We therefore request a modification to the commission disclosure requirements to exempt exclusive arrangements (as between Mortgage House and the Paladin Trust) and first choice exemption (similar to the existing NSW exemption in regard to Finance Broking Contracts), and thus place the GMEC group on the same basis as balance sheet lenders.

Where commissions are disclosed in brokered arrangements it would be preferable to have it disclosed in bands as a percentage given the potential for different remuneration levels for

different loan products from the same lender and between lenders. Furthermore a dollar amount is inappropriate across all loan products as trail commission is based on loan utilization, which can vary from fully drawn fixed rate loans to variable utilization on line of credit loans.

### **Provision of Credit Assessment**

Our credit process provides for the final review and sign off by the borrower of a system generated loan application form containing the relevant data which formed the basis of our credit assessment. This can readily be expanded to include a statement showing how the data was utilized to arrive at borrowing capacity. However, there are other qualitative matters within our credit policies (which may be of a more general nature) which we request would not need to be disclosed as not contributing to the borrower's understanding of the transaction.

### **Customer Complaints**

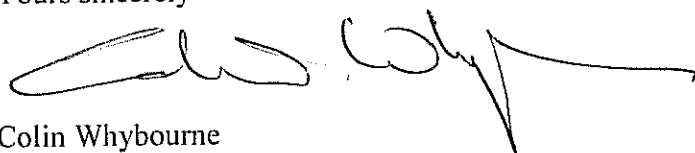
As a member of the MFAA, the GMEC group companies are members of the Credit Ombudsman Service Ltd (COSL) dispute resolution service. We find that this is very effective in resolution of borrower complaints, with the majority being settled without the necessity to go to a determination. However in our experience with COSL, a number of borrowers have been referred back to us as no complaint had been raised with us prior to lodgment with COSL. Given our success with our internal dispute resolution arrangements we request that any legislated notices referring borrowers to External Dispute Resolution should refer to our own IDR as the starting point for resolution of a complaint and to explain that EDR can only assist if there is a genuine dispute.

### **Direct Debit Default Notice**

The majority of our borrowers make regular payments by direct debit. However where a direct debit fails (e.g. through insufficient funds) the borrower is only in arrears under our loan documentation if there is no redraw available. It is not automatic that a missed direct debit results in default. Where a failure does result in the borrower's account being over limit we contact the borrower within days of the occurrence and the problem is normally promptly rectified. It is therefore inappropriate within our loan conditions to require a default notice to be issued on every instance of a failure of a direct debit.

We trust that these comments are useful in identifying areas where the legislation could be modified to accommodate our business model without compromising the overall objectives of the legislation.

Yours sincerely



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