

Our reference Jon Denovan 2844360
Direct line 9931 4927
Email jdenovan@nsw.gadens.com.au
Partner responsible Jon Denovan



Gadens Lawyers
Sydney Pty Limited
ABN 69 100 963 308

Skygarden Building
77 Castlereagh Street
Sydney NSW 2000
Australia

DX 364 Sydney

tel +61 2 9931 4999
fax +61 2 9931 4888

www.gadens.com.au

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Financial Services and Credit Reform Green Paper
Corporations and Financial Services Division
Treasury
Langton Crescent
PARKES ACT 2600

By Email:

**Financial Services and Credit Reform
Submission on Green Paper June 2008**

Gadens Lawyers is a top ten Australian law firm with a significant practice in the financial services arena.

We act for many banks, non-banks, financial intermediaries, and the Mortgage and Finance Association of Australia (MFAA), Australia's peak body for the mortgage and finance industries.

The writer, Jon Denovan, is a director of the MFAA and of the Australian Securities and Investment Commission (ASIC) approved external dispute resolution scheme Credit Ombudsman Services Limited (COSL).

I have been personally involved in the credit industry since 1971. During this period I have been involved in the establishment and management of many financial services companies, including the revolution started by Aussie.

We have had the opportunity to read the submission lodged by the MFAA and support it. Accordingly, we do not repeat in detail the arguments put forward by that submission.

However, for completeness we repeat the executive summary from the MFAA paper, being a summary which we support.

Executive summary

- The MFAA supports nationally consistent (Commonwealth) regulation for consumer credit and broking. Accordingly, Option 2 in the Green Paper is supported.
- The MFAA strongly opposes Option 3 as this will create a more complex and unworkable regulatory regime than that which currently exists.
- Dumping lenders and brokers in the Financial Services Reform (FSR) regime is wholly inappropriate, as selling or providing credit is fundamentally different to providing or advising on investments.

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- The MFAA supports (in relation to Uniform Consumer Credit Code (UCCC) lending):
 - (a) national licensing of finance brokers as contemplated by the NSW draft Finance Broking Bill (subject to some fine tuning and simplification of that Bill);
 - (b) compulsory membership by lenders of an ASIC approved Alternative Dispute Resolution (ADR); and
 - (c) a Commonwealth take over of the UCCC.
- The MFAA has seen no evidence that a licensing regime for credit providers is necessary or will serve any practical purpose. A simple registration scheme might be suitable for non-Authorised Deposit-taking Institutes (ADIs) to monitor ADR membership for UCCC lenders.
- The MFAA considers all credit (including more complex products such as margin lending and reverse mortgages) should be covered by the one regime. The law could specify additional disclosures in relation to some products (as currently contemplated for reverse mortgages in the NSW draft Finance Broking Bill).
- The Commonwealth has an opportunity to simplify and improve the law, reduce business costs and provide better protection for consumers. This opportunity should not be missed, but can only be achieved by well considered Commonwealth legislation covering all consumer broking and lending as contemplated by Option 2.

I have worked closely with consumer bodies and regulators, in particular the NSW Department of Fair Trading, in relation to the development of the NSW draft Finance Broking Bill. I have also attended working parties in relation to amendments to the UCCC arranged by the UCCC management committee. I am keen to continue my involvement in the development of the credit laws of Australia.

Yours faithfully



Jon Denovan
for GADENS LAWYERS