



Financial Services and Credit Reform Green Paper Submission - 1 July 2008

Background

The Senior Australians Equity Release Association of Lenders (SEQUAL) is an association representing the providers of reverse mortgages (sometimes referred to as "Seniors Equity Reverse Loans") and currently represents 13 of the lenders in the market who provide over 95% of the lending volumes in the market. Prospective members must demonstrate that they meet SEQUAL's Code of Conduct prior to joining.

SEQUAL's main aim is to ensure that lenders conform to a Code of Conduct in order to encourage the responsible use of Equity Release in the community. The Code of Conduct requires SEQUAL members to:

1. Treat all Borrowers with respect and dignity;
2. Participate in an ASIC approved External Dispute Resolution Scheme;
3. Ensure that all products carry a clear and transparent 'no negative equity' or 'non-recourse' guarantee. That is, the Borrower(s) will never owe more than the net realisable value of their property, provided the terms and conditions of the loan have been met;
4. Strongly encourage Borrower(s) to discuss the transaction with family members and to seek independent financial advice from a qualified financial adviser;
5. Strongly encourage Borrower(s) if entitled to Centrelink benefits, to discuss the transaction with Centrelink to ensure they fully understand the impact;
6. Ensure that the Borrower(s) obtains independent legal advice performed by the solicitor of their choice. Prior to the completion of the transaction, the Borrower(s) or their solicitor will be provided with full details of the benefits the Borrower(s) will receive, and the obligations they are entering into;
7. Clearly and accurately identify all costs to the Borrower(s) that are associated with the transaction;
8. Not assert or imply to a Borrower(s) that the Borrower(s) is obligated to purchase any other product or service offered by the Member or any other company in order to enter into an equity release product;
9. Provide in writing, a fair and complete package of equity release documents, covering the benefits and obligations of the product. This will include making available to the Borrower(s) and their advisers a tool illustrating the potential effect of future house values, interest rates and the capitalisation of interest on the loan; and
10. Ensure that all loans are written under the Uniform Consumer Credit Code (UCCC), irrespective of the use of proceeds from the loan. All Members will comply with the Privacy Act, Trade Practices Act any other relevant Code or Regulation at law.



SEQUAL is pleased to be able to provide this submission on the Financial Services and Credit Reform Green Paper. We would note that we have generally confined our comments to areas of relevance to the provision of reverse mortgages specifically, but the issues we have raised may be relevant more widely.

1. General Comments

SEQUAL is supportive of the overall direction of the Green Paper in relation to national regulation of brokers and the need for additional information for consumers on reverse mortgages that can be easily understood. The major concern is that such regulation does not make it impossible for consumers to access these loans which have the ability to greatly increase the living standards and enjoyment of retirement for many older Australians when used sensibly.

2. Specific Comments

Chapter 1.A.iv - Background

The numbers quoted in this section regarding to the volume of loans and growth rates do not accord with the SEQUAL/Deloitte Research of the past few years which show settlements (ie new loans settled) and growth rates as follows:

- 2004 : \$217m
- 2005 : \$315m (Growth rate of 45%)
- 2006 : \$520m (Growth rate of 65%)
- 2007 : \$466m (Reduction of 10%)

We would also note that the ASIC report, which has resulted in most of the comments in this section, while providing some useful feedback on the industry, are based on a report that comprised of only 29 interviews from customers of only 3 lenders, and the interviews were actually conducted in late 2006. In the interim, the education of both consumers and intermediaries such as brokers and financial planners has significantly increased, as evidenced by the fact that over 1,300 intermediaries have been accredited as Reverse Mortgage Consultants by completing industry accreditation from SEQUAL-approved training organizations in the past 18 months. In addition, the SEQUAL Code of Conduct has been enhanced with even stronger consumer protections. For this reason, we do not believe the ASIC Report of November 2007 can be entirely relied on as an accurate assessment of the market at this time.

Nevertheless, there are a number of pertinent points made, including:

- **The need for long term planning by borrowers.** It is important to not treat older consumers in a patronising manner and to allow them to make decisions regarding their own assets and money where possible. SEQUAL's Code of Conduct has a number of checks and balances, including strong recommendations to obtain financial advice as well as to speak to Centrelink and their beneficiaries, and a mandatory requirement to consult their lawyer before proceeding to take out a reverse mortgage. However, it is not always possible to make people plan for the long term, especially when there are pressing and immediate financial needs involved. In these circumstances, a trained intermediary force and better consumer education and information can have a role to play.
- **The need for improvements in the structure and operation of these products.** Since the date of ASIC's report, there have continued to be major improvements both in the products offered to the market and in aspects of the SEQUAL Code of Conduct relating to product design. As regards the latter, SEQUAL has defined the parameters of the required No Negative Equity Guarantee to ensure it applies in all circumstances other than 3 prescribed situations (fraud by the borrower,



willful damage to the property, and non-approved or non-arms-length sale of the property). As regards product improvements, there are many instances of improvements to the products of many lenders, including options such as the ability to protect equity for later use, the ability to take the proceeds as a regular income, and specially designed products to assist in the transition to aged care. Commentators from both the UK and the US (ostensibly the most developed markets in these products globally) have commented to SEQUAL that the products available to Australian seniors rank with the best products available anywhere in the world, and are arguably better. In addition, CHOICE, who have been critical of some reverse mortgage contracts in the past, have recently commented (CHOICE Magazine, June 2008 edition) that “reverse mortgages have come a long way”, noting that contract conditions had significantly improved in recent years. CHOICE also illustrated a case study showing that using a reverse mortgage with a regular payment facility was financially more advantageous than downsizing.

- **The information available to consumers.** There is a real and definite need for ensuring that Australian seniors are well informed about these products. Recent research commissioned by SEQUAL from RFI (“It’s On the House”) based on phone interviews with 1,000 over 60s found that 78% recognized the term “reverse mortgage” however only 40% could select the correct definition. This research was conducted in late 2007 and released in early 2008. It is therefore incumbent upon Government to provide Australian seniors with unbiased information on their options for releasing home equity to help fund their retirement without scaring them away from using options such as reverse mortgages which can substantially improve many retirees’ standards of living.
- **Consumers’ access to financial advice.** As noted above, SEQUAL has now ensured that over 1,300 intermediaries (including mortgage brokers, financial planners, accountants and lawyers) have been trained to a standard specified by SEQUAL in order to become accredited Reverse Mortgage Consultants (RMCs). Consumers can now access the names and contact details of these accredited people on the SEQUAL website. SEQUAL is also pursuing specific initiatives with both the financial planning and legal communities to provide specialist courses for these important adviser segments. SEQUAL believes there is now critical mass and the necessary geographic spread of accredited RMCs to ensure that all Australian seniors can obtain access to advice and assistance on reverse mortgages, and that this will only increase as a result of SEQUAL’s initiative to develop training standards and accreditation. What is now needed is sensible regulation to define the obligations on such advisers in relation to advice around reverse mortgages.
- **The need for a level playing field for advisers in this area.** SEQUAL agrees that there needs to be consistent regulation of all advisers providing advice around reverse mortgages, and that such advisers should be nationally licensed.



Chapter 1.E – Options for Reform

SEQUAL generally supports the need for consistent national regulation and licensing of mortgage brokers and lenders in relation to all forms of consumer credit (ie Option Two) and makes the following comments relating specifically to reverse mortgage and mortgage lending:

- The issues relating to reverse mortgages are common in all States and Territories of Australia, and therefore lend themselves towards national regulation. 10 of SEQUAL's current 13 Members operate in all States and Territories.
- It is crucial that a definitive definition of reverse mortgages is contained in legislation. Some progress had been made with this in the NSW Draft National Finance Broking Bill. The reason for this is that the credit requirements for reverse mortgages, and the protections required from a reverse mortgage, are different to standard mortgages. In particular, the ability to make regular repayments is not required for a reverse mortgage, while borrowers need to be protected by a robust No Negative Equity Guarantee to protect them against the debt ever exceeding the value of the security property. It is important that mortgages that look similar (eg some Lines of Credit) but without the protections of reverse mortgages, are excluded from the definition of reverse mortgage, and that any requirements for brokers generally to take into account the ability to repay the loan is not required when dealing with a reverse mortgage.
- Financial planners are crucial to the provision of advice to seniors. It is important that financial planners are not discouraged from providing this advice by the imposition of regulatory barriers, such as the need to obtain an additional license. SEQUAL submits that a licensed financial planner should be considered to be licensed to provide mortgage advice, including reverse mortgages, as long as they have done some relevant training in the required area as required under ASIC's current training regime for licensed financial planners (eg under PS146), such as a SEQUAL-accredited course on reverse mortgages.
- It is important that the requirements on those who are required to be licensed under national legislation are reasonable and do not make it difficult to obtain advice and assistance. SEQUAL believes that the introduction of barriers that are too high will simply result in consumers either not being able to obtain advice or spurning any advice that is too expensive, and they will inevitably look to purchase the product directly from lenders without any guidance, which could lead to irresponsible borrowing and the purchase of inappropriate products, or in seniors increasing their reliance on the Government purse or simply living less fulfilling lives in retirement.
- Specific disclosure requirements for reverse mortgages need to ensure that relevant information is provided to prospective borrowers in a clear and easily understood format which allows for easy comparison between products. SEQUAL believes this can be achieved by establishing a simple disclosure regime for disclosure documents, which can be replicated in contracts, which sets out a range of fundamental information such as fees, interest rates, key contractual conditions such as defaults, the No Negative Equity Guarantee and other product features available. SEQUAL does not believe that the inclusion of a Comparison Rate, as currently required, leads to useful information for consumers as it is currently constituted, and is even less applicable for reverse mortgages.

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