FINANCIERS' ASSOCIATION OF AUSTRALIA/INDUSTRY/SMILES TURNER DELEGATION

RESPONSE TO THE DISCUSSION PAPER

Strategies for reducing reliance on high-cost, short-term, small amount lending

An analysis of the major alternatives to the commercial provision of payday and microloans, given the impact that the Consumer Credit and Corporations Legislation Amendment (Enhancements) Bill 2011 will have commencing 1st July 2013. This analysis is based on:

- the inclusions in the current Exposure Draft released on the 24th April 2012;
- information provided during Minister Bill Shorten's recent meeting with two (only) delegates from the other peak industry representative organisation;
- information provided by the Minister's policy adviser to one (only) public company lender; and
- information provided by the Minister's policy adviser to an Financiers' Association of Australia/Industry/Smiles Turner Delegation Committee member.

Submitted to:

Mr Christian Mikula, Manager, Consumer Credit Unit
Retail Investor Division
The Treasury

and

Ms Paula Mance, Section Manager, Money Management Branch
Department of Families, Housing, Community Services and Indigenous Affairs

Prepared by:

Phillip Smiles LL.B., B.Ec., M.B.A., Dip.Ed.
Lyn Turner M.A., Dip.Drama.
Smiles Turner
P: 02 9975 4244
F: 02 9975 6877
M: 0403 054 729
E: admin@smilesturner.com.au

© Smiles Turner, June 2012

INDEX

Content	Page
Introduction	3
Research information and analysis	3
Options insufficient	4
The realities this review must face	5
Statistics used in the discussion paper are obsolete and incomplete	6
Interest rate claims	6
The statistics that must be considered	7
Prospects - discussion failure	8
Criminal opportunities	9
The approach adopted in this submission	10
Options	11
The financial management program	11
MoneySmart website	11
Centrepay or Centrelink advance	11
Advance payments	13
Question 1 - other mechanisms	13
Question 2 - access to FMP services	13
Utility bill hardship plans	14
The Home Energy Saver Scheme (HESS)	15
Question 3 - commercial lenders being obliged to advertise utility company hardship programs	15
Question 4 - encouraging use of alternatives	16
Question 5 - utility companies advising consumers early of their hardship plan	16
Question 6 - other support services	16
Question 7 - no open ended service	17
No and Low Interest Loan Schemes	17
NAB support	18
Saver Plus	19
StepUp	19
Progress Loans	21
AddsUp	21
NAB Fast Money program	22
Consumer awareness of NILS and LILS	22
Community Development Financial Institutions	22
Question 8 - can you build on existing systems	23
Question 9 - NILS and LILS eligibility expanded	24
Encourage mainstream lenders to support small amount lending	25
Mainstream bank involvement	25
Question 10 - developing partnerships to increase financial products	27
Question 11 - encouraging banks to provide small amount personal loans	27

© Smiles Turner, June 2012

Question 12 - the use of reporting to encourage greater involvement by banks	28
Question 13 - should the growth of the CDFI sector be encouraged	28
Question 14 - the financial services hub as a viable alternative	28
Question 15 - would the hub approach work for people reluctant to visit charities?	29
Question 16 - other services to be included in the hub model	29
Debt consolidation	29
Question 17 - contribution of debt consolidation loans to decreasing the cycle of debt	30
Question 18 - establishing not-for-profit debt advice service that includes a debt management service	30
Question 19 - establishing a national debt reduction project	31
Sundry thoughts	31
Other alternatives	32
Providing solar power infrastructure	32
An Australian Grameen bank	32
State Government involvement	32
Pawn broking	33
Sub-contracting the existing lenders	33
What does this all mean?	34
The Review of Not-For-Profit Governance Arrangements	34
Unannounced regulations still to cause havoc	34
A "consultation" process that has become a fraud	34
Conclusion - a flawed process	35

© Smiles Turner, June 2012

INTRODUCTION

The long awaited Discussion Paper exploring the alternatives to commercial lenders, first promised "within 3 months" by Minister Shorten in August last year, is profoundly important. However, not for the reason implied in the title and in the first paragraph of the initial page explaining the consultation process.

Despite the Financiers' Association of Australia/Industry/Smiles Turner Delegation's (the Delegation) repeated warnings in submissions to Minister Shorten, Treasury, the Joint Parliamentary Committee on Corporations and Financial Services, the Senate Economics Legislation Committee and in evidence before the Joint Committee, the Discussion Paper to which this submission is responding is presented as if the discussion that currently matters is about consumers choosing between commercial small amount, short term lenders and the alternative identified for discussion.

The statements included in the Executive Summary, at page ix, illustrate our concern in this regard -

"*The cap on costs* (in the Consumer Credit and Corporations Legislation Amendment (Enhancements) Bill 2011) *will reduce the amount borrowers can be charged to a more acceptable and controlled level*" and

"*The government therefore considers it important to canvass strategies to reduce the extent to which financially excluded consumers are dependent on these high cost small amount loans*".

These are serious misrepresentations as to the current central challenge for the two Ministers. That is not to deny that a reduction on dependence should be considered. However, there is a much bigger issue about to be created by the current Enhancements Bill, on its two stages of commencement in 2013.

It is not about reducing the cost of borrowing, it is about recognising that the current Enhancements Bill will effectively abolish most commercial small amount, short term lenders, who will not be able to survive under the proposed caps and other measures. The central issue is not reduction in small amount, short term lending but replacement.

This is not a new message from the Delegation. We have been warning all who would listen since our first meeting with Treasury officials in early May 2011. The Delegation, which represents the 86 company members of the Financiers' Association of Australia and 34 other companies, with a total of 160 lending outlets around Australia, was formed in February/March 2011 because the other industry representative organisation had adopted a policy of not providing further information to Government and did not share the same commitment to research.

Research information and analysis

All the research indicates that the currently envisaged Enhancements Bill will force the payday lenders - providing 80% of all small amount, short term loans - out of the industry sector. This is the sector covered by the up to $2,000, for up to 1 year provisions. At time of writing, an establishment fee for the loans in the relatively larger category had not been finalised, with the Government Actuaries still considering the issue.

However, in a critical telephone conversation between a senior Delegation committee member and the Minister's policy adviser who finally responded to a

© Smiles Turner, June 2012

series of phone calls and emails requesting contact two weeks before, the adviser clearly communicated that the establishment fee the Minister had in mind was considerably below the break even amount required, regardless of what the Government Actuaries might actually recommended.

Despite substantial effort by the Delegation to contact the Government Actuaries, after first learning of their involvement on the 1st June, these attempts were unsuccessful to the time of presenting this submission.

The Minister and Treasury are fully aware that the Delegation is the most significant source of researched consumer and industry sector information in Australia. That means this submission has been written without the Delegation being invited to provide accurate industry cost statistics and with no idea as to the content of the briefing that went from the Minister's office to the Actuaries.

In early May 2011, the Delegation presented cost and income charts and economic modelling supporting our assertions at the time, and since, that for loans in the $2,000-$5,000 range, an establishment fee under 35% of the principal of the loan, plus the 48% interest, would not constitute a breakeven point for almost all commercial microlenders. The Minister's policy adviser strongly intimated that the establishment fee the Minister has in mind is well below 20%.

We note the acknowledgement in this Discussion Paper that there is still a period of “consultation” going on in regard to the Enhancements Bill. However, we also note the certainty with which its major inclusions are presented as a fait accompli. These inclusions will be all that is necessary to achieve the disastrous result of great concern to the Delegation - 750,000 people denied access to their current lender, with 630,000 of these having nowhere else to go except the illegal lenders that will emerge overnight, particularly the bikie gangs.

Options insufficient

In this submission, the Delegation examines why the substantial employment of the various options to reduce reliance on commercial small amount, short term lenders would be overwhelmingly insufficient. This even more so now that the combined policies of the Minister will absolutely ensure 92% of existing commercial lenders will not be lending from the 1st July next year.

Despite repeated protests from the Delegation that the timetable for this submission meant it would be too late to assist with the debate and vote on the Enhancements Bill, we still have a most unsatisfactory scheduling situation. This has led to the final decisions concerning the content of the Enhancements Bill being made by the Minister, over the last fortnight, before any consideration of this and the other submissions.

The Enhancements Bill, as currently drafted, is effectively an attempt at legislation that will abolish most of the commercial small amount, short term lenders. On Friday 1st June, the Minister’s office appears to have given permission for the National Financial Services Federation (NFSF), one of the two peak bodies representing the small amount, short term lending industry sector, to circulate a summary of current Ministerial thinking.

Given the information available to the Delegation, at the time of presenting this submission, it appears the Minister has made up his mind without reading a single submission on the alternatives available, or being in a position to receive a Treasury briefing on the submissions.

© Smiles Turner, June 2012

The realities this review must face

This Discussion Paper process should be encouraging each of the identified alternatives, severally or jointly, to replace the commercial lenders. Commencing 1 July 2013 they will have no choice but to take over the provision of credit for all the relevant 750,000 consumers, under the provisions in:

- the current Consumer Credit and Corporations Legislation Amendment (Enhancements) Bill 2011;
- the Exposure Draft of the Bill released on 24th April 2012;
- the Regulations as revealed in the Discussion Paper entitled "*Reforms in relation to small amount credit contracts*", released on 4th April 2012; and
- in the Minister's current intentions, as signalled to the industry sector on 1st June 2012 and in the contact the Minister's policy adviser has had with individual lenders in recent weeks.

To assume there will actually be a choice for those borrowing 94% of the small amount, short term loans - including ALL payday loans and all microloans under $3,200, for under 18 months to 2 years - is to ignore every research statistic and all the research results and analyses, financial charts and economic modelling the Delegation has presented to Minister Bill Shorten, the Joint Parliamentary Committee on Corporations and Financial Services, the Senate Economics Legislation Committee and Treasury.

At this critical time, the approach taken by this Discussion Paper is a disgrace and its inclusions and assumptions provide the evidence to justify the above. It reflects the farce that has constituted the 2 year "consultation" process concerning the Enhancements Bill. It reflects Ministerial, Ministerial staff and Departmental attitudes that are dominated by ideological and philosophic considerations and not by the realities of governance - their real responsibility.

The following inclusion in the Ministers' foreword is extremely unfortunate:

"*The options in this paper seek primarily to enhance access to alternative lower cost financial or other assistance to ultimately improve vulnerable consumers' financial situations leading to improved financial health and capability for the long term*".

This is NOT the challenge that faces the two Ministers in 2013.

In accordance with the information the Delegation has at time of writing, the alternatives will have to provide at least 1.5 million loans per year commencing 1st July next year.

These loans are now averaging between $325 and $400 - so the NFP sector will need to lend an additional $468-$576 million, plus growth of demand estimated at 4.3%, to over 600,000 people - and that is BEFORE any microlending is excluded under the final 48% plus establishment fee regime - up to another $624 million.

On the published figures, the NFP sector has never lent more than $20 million in a year in this market. Even taking the recent optimistic statements of a NAB spokesperson, on current and projected resources available, the most that will be lent over the next few years is $30 million.

© *Smiles Turner, June 2012*

Statistics used in the Discussion Paper are obsolete and incomplete

The Delegation's assessment is that a number of the statistics quoted in the section "*Extent and Cost of Small Amount Lending*" are misleading and reflect a paper that has been written using obsolete figures and the exaggeration found in the dated Regulation Impact Statement concerning the Enhancements Bill, which was written in September/October 2010, but not published until June 2011.

The same, or equally deficient, figures also appear in the now totally inadequate and misleading Explanatory Memorandum that was presented with the current Enhancements Bill in September last year.

The Delegation continues to be very concerned that the Consumer Action Law Centre research report - obsolete, employing inadequate sample sizes and fundamentally flawed in its data collection and employment processes - continues to be regarded as credible research. This report, released in 2010, used research undertaken in 2008 and 2009, well before the Commonwealth takeover on July 1, 2010.

Interest rate claims

The attempt to present "*effective interest rates*" of 1,000% as frequent, in the first dot point on page 5, is intellectually dishonest, just as is the omission of dollar values that do not look anywhere near as spectacular. For example, Lend $100 for 1 day and charge $1. The annual interest rate is - shock horror - 365%. Charge $3 and it climbs to over 1,000% per annum.

To assist in putting the fees, charges and interest rates into perspective, the Delegation provides the following three calculations for consideration:

1. As indicated above, lend $100 for 1 day and charge $1 - the APR is 365%.
2. Apply the current formula, plus the maximum interest and fees that can be charged when weekly payments are made, you get the following gross incomes:

Loan amount	Loan length	Interest rate calculated as per the formula	Maximum interest and fees that can be charged
$100	1 week	48% p.a.	$ 0.78
$200	4 weeks	48% p.a.	$ 4.36
$500	2 weeks	48% p.a.	$ 6.27
$1,000	1 week	48% p.a.	$ 7.91
$1,000	4 weeks	48% p.a.	$ 1.83
$1,000	26 weeks	48% p.a.	$128.01

3. Delegation supporter, First Stop Money, included the following chart in its recent submission to Treasury, to demonstrate that company's comparative gross margins:

© Smiles Turner, June 2012

Loan Type	Principal	Term	Annual interest rate	Fees	Total repayable	Gross margin
First Stop Money (short term loan)	$300	27 days	0%	36.5%	$409.50	36.5%
ANZ Personal Loan	$10,000	5 years	11.99%	$750	$14,093.64	40.9%
ANZ Standard Variable Home Loan	$150,000	25 years	7.52%	$2,250	$335,381.67	123.6%
ANZ Low Rate Credit Card (Minimum Payment Only)	$10,000	>40 years	13.39%	$80 p.a.	$19,597.00	95.97%

These and similar figures have been repeatedly presented by industry stakeholders during the two year consultation process, but the Minister's office is dominated by an attitude that the industry sector imposes charges on consumers that are "outrageous". As mentioned elsewhere in this submission, the leading consumer advocate organisation, the Consumer Action Law Centre, identified that the desperate and vulnerable constituted 23% of all lenders. This was just 2% greater than Smiles Turner's research results included in submissions presented to Treasury and the Minister in early December 2010.

However, on the date this submission was presented the Minister's policy adviser told the Delegation committee member that the number of desperate and vulnerable who had to be protected from these "outrageous" charges, was far in excess of industry numbers. At no time during the two year consultation period has the Minister ordered departmental research and at no time during this period has any other organisation, other than the Delegation, undertaken research into this issue, to provide the Minister with contemporary information.

The only stakeholder to provide the Minister with substantial industry cost information, during the consultation process, has been the Delegation.

While the survey results of a program undertaken by Smiles Turner for the NFSF in "2008" is mentioned in the Discussion Paper - the actual research was undertaken in 2006-7 and did not include Cash Converters, Radio Rentals, or all the City Finance franchisees. Smiles Turner’s current market size figures do include these companies and a range of companies - only partly involved in small amount, short term lending - who were not canvassed in 2006-7, except Radio Rentals. The current figures also reflect growth rates of 18% compound per year since the earlier research, until this year, when it is growing by 4%.

The statistics that must be considered

- We are looking at replacing 1.5 million loans.
- We are looking at replacing a commercial loan book running at a minimum of $1.2 billion a year.
- If this “sounds” a lot, an interesting perspective on amounts can be gained by considering a Commonwealth Bank survey report, released on 23rd April

© Smiles Turner, June 2012

2012, that revealed Australians borrow $1.6 billion every month from friends, family and colleagues.

- We are looking at 750,000 borrowers borrowing, on average, 2.4 times per year.
- We are looking at 83.31% of those borrowers currently having nowhere else to go - that's in excess of 630,000 people.
- We are looking at the fact that, on the basis of the Exposure Draft Bill and Minister Shorten's approved communications on Friday 1st June - and without significant change to the intended 48% cap regime - from 1st July next year there will be just 8% of total lenders still in the market, lending 6%, by number, of the current loans.
- We are looking at the possibility of there not being any loans available for under $3,200, for terms under at least 18 months, from 1 July.
- We are definitely looking at the prospect that there will not be any legal loans available for under $2,000 and for under 1 year except from companies heading for insolvency, because of the lack of commercial viability associated with the proposed maximum 20% establishment fee and 4% monthly fee (however calculated) for this category.
- We are definitely looking at the prospect of there being very few legal lenders lending in the $2,000-$5,000 microloan category, given the combined impact of the likely commercially unviable establishment fee and the general all inclusive 48% interest rate cap, with or without the existing provision that the 48% cap must apply "at any time".
- We are looking at the need to spend an estimated $800 million on infrastructure, compliance set up, staff recruitment and staff training, to adequately replace the commercial lenders who will not be in business come 1st July next year.
- We are looking at needing $1.2 billion in loan book funding for the first 12 months to replace the commercial lenders' loan books and then an estimated $300-400 million per year for bad debts plus operating subsidy on the basis that the not-for-profit sector will have to lend at the loss creating fee and interest rate caps included in the Enhancements Bill.
- We are looking at a situation where no budget bid was lodged to address the above by Minster Shorten; and
- Even at very best - the various budget provisions impacting favourably on small amount, short term lenders will reduce demand by no more than 8%.

(Source: Smiles Turner industry analysis April 2011, March April 2012, substantial consumer and industry research November 2010, March/April/May 2011, April 2012).

Prospects - discussion failure

Despite explanation that, if they are foolish enough to attempt to stay in the industry sector, the lenders will have to charge the maximum of the caps being proposed at time of presenting this submission, the Minister's office was still erroneously stating that lenders would have the opportunity to offer various pricing to attain a competitive advantage.

This is a fundamental refusal to face reality.

© Smiles Turner, June 2012

Inherent in this challenge is the attitude of the first ministerial policy adviser involved in the process and leading consumer advocates, who believe that Minister Shorten can set any price cap structure and the industry sector has simply "to adjust its model" to accommodate. None of the advocates of this approach ever conducted any inquiry into lender costs, during the consultation process.

If this Discussion Paper fails in its mission, Ministers Shorten and Collins will have lost their one major chance to avoid a socioeconomic disaster which will be in full flight - just in time for the Federal election next year.

Criminal opportunities

The consumer advocates do not want to acknowledge it, but the Queensland Office of Fair Trading, when it investigated payday lending in South East Queensland in 1999/2000, got it right. In their report they noted that, to impose a 48% all inclusive cap on lenders so they could not remain viable, would create a major market for the illegal lenders.

Bikie gangs are already running pawnbroking shops in Queensland and they had a shopfront outlet in Adelaide until a major redevelopment of the shopping centre site forced closure.

Bikie gangs are currently using "suits" to approach lenders with offers to buy into the lenders' business, with the provision they are given full responsibility for "collections". Close associates of bikie gang members, such as girlfriends, are turning up as customers of some lenders, in circumstances where it is hard to understand why they would need to borrow - unless their borrowing is part of an attempt to learn how the industry sector works.

In addition, Lebanese/Australian and Vietnamese/Australian gangs already have extensive illegal money lending experience associated with casinos. They and the bikies are about to be handed a $1.2 billion a year opportunity on a plate - unless the end result of this Discussion Paper process provides another solution, or set of solutions, or the Cabinet and/or Caucus get it right, or the Parliament demands a major rethink in regard to the Enhancements Bill, come the week commencing 18th June.

A consequence that has been overlooked in regard to the criminal gangs buying into currently existing micro-businesses, is the opportunity the gangs will have to exploit massive consumer databases.

Another aspect of criminality is highlighted by the mention of the Stringer study on page 4 of the Reliance Discussion Paper. This supports comments made by John Bracey, President of the Australian Institute of Private Detectives, quoted in the Delegation's October 2011 submission to the Senate Economics Legislation Committee. Stringer reported "*...49 per cent of prisoners in a recent Australian study of woman prisoners and debt said they had committed a crime to repay a debt*". Mr Bracey said that desperate people who turn to crime would not do so if they were not so desperate. He reported that, in 80% of his criminal defence cases, the defendant was someone who, in desperate circumstances, got caught taking action totally out of character.

It is ominous that the Executive Summary includes the paragraph:

"*Other than the reforms included in the Enhancements Bill, the Government has not committed to implementing or advancing any particular strategy and further detail on how or whether this might occur would need to be subject to further specific consultation and analysis*".

© Smiles Turner, June 2012

However, Minister Shorten is currently committed to making it absolutely essential that some "strategy" does emerge, because he is about to ensure at least another half a million people will be relying on the success of this strategy to avoid doing business with the bikie and ethnic lending gangs. What appears to be the currently proposed Enhancements Bill is a classic example of legislation being presented without appreciating the major consequences and with a consultation process that has been chaotic and has ignored the necessity for sequential investigation. The adverse consequences now involved also reflect an inability, throughout the consultation process, for the Minister's office to focus on the detail and apply a balanced approach that the current policy adviser has continually claimed was required.

The approach adopted in this submission

The following largely reflects consumer feedback during Smiles Turner consumer surveys and from informal contact with consumers at Delegation supporter's lending premises, plus information gained during the industry surveys and during the writers' contact with in excess of 300 lenders over the last 10 years.

© Smiles Turner, June 2012

OPTIONS

The financial management program

Expansion of the options included would have to be major to be of significance as an effective solution.

Published lending figures associated with these programs reveal aggregated total annual loan books of less than $2 million and there are numerous reports of recipient numbers of far less than 250 per annum from an outlet.

The current aggregated commercial loan book is 60 times the size of that run by the NFP sector. Australia's biggest lender in the industry sector, Cash Converters, lends over 800,000 loans per year. The fourth biggest commercial lending multi-outlet company averages 8-10,000 loans per month and contact with 7 typical lending outlets across Australia, during the week commencing 28th May, 2012, reveals a current lending average of 35 to 48 loans per week, per small to medium lender, and up to 120 per week for a high volume single lender.

MoneySmart website

Although the Delegation is highly critical of the anti-lender philosophic approach evidenced in its content, such websites may serve an appropriate purpose. However, we state "may", because no research has ever been published on the effectiveness of such websites.

The challenge is to get people to read them before they get into financial trouble. Borrowers have one thing on their mind - procuring the money. Smiles Turner research reveals very low levels of interest in reading anything - including essential contract documents.

However, the MoneySmart website may be proving an exception. We note that this website received an Excellence in eGovernment Award recently, with visitor numbers reported at 28,000 per month.

The lack of interest in reading even the key documents directly related to a borrower's loan is revealed in the response to the various questions presented to lenders in April 2012. The responses showed that, with rare exception, less than 20% of the consumers read even part of their contractual documents, with less than 4% actually reading the whole of any one of their documents.

Normally, a website that does not lead to procuring a loan represents a challenge in regard to generating consumer interest. However, the eGovernment Award indicates otherwise for MoneySmart and we recommend a simple mention of its existence on commercial lenders' websites to be the most acceptable approach in the circumstances.

Centrepay or Centrelink Advances

As the Delegation included in its submission to the Senate Economics Legislation Committee in November 2011:

> "The Money Smart website states, "*If you're eligible for Centrelink payments, you may be able to get an advance payment. The amount available varies depending on the type of payment you receive. For some payments it is between $250 and $500. For other payments, such as pensions, it is between 1 and 3 week's worth of payment. You'll have to*

© Smiles Turner, June 2012

pay this money back to Centrelink over 6 months,... you won't have to pay interest or fees".

The Delegation is particularly aware that most of the above alternatives are not available to people who are not Centrelink beneficiaries.

The assistance offered may suit a portion of the *"desperate and vulnerable"*, but it appears those potential borrowers who do not fall into this category cannot expect to obtain credit through one of these sources - that includes the great majority of commercial small amount, short term lenders' customers.

The Delegation recognises that there may be a social justice issue involved, with the variety of non-commercial assistance available for a minority of Centrelink recipients. The issue may well be society's recognition that Centrelink Benefits need to be increased, not provided ad hoc and relatively easily exploited by a minority of Centrelink recipients."

In regard to Centrelink beneficiaries, it may be useful to consider the following as an indication as to how large the demand could be if all current borrowers attempted to get Centrelink Advances.

In 2006, Smiles Turner Industry Analysis, Customer and Loan Information Surveys conducted a survey of 122 lending outlets, involving the loan application forms of over 4,000 borrowers. Excluding FTB payments, these surveys revealed 49.9% of customers were employed full time (with a range, between the respondent lenders, of 10% to 98%), 24.4% derived income from employment and welfare payments combined (with a range of between 5% and 45% between the respondent lenders), and 25.7% derived income from welfare payments only.

In 2007 Smiles Turner research indicated 22.84% of consumers derived their income entirely from Centrelink benefits, 27.38% derived their income from a mix of employment and welfare and 49.78% derived their income entirely from employment.

In May 2010, the NAB Small Loans Program published its quarterly report concerning Fast Money loan products (between $1,000 and $5,000, with average of $3,414) and, in regard to their demographic profile noted that, in January-February, 27% of total applicants and 19% of those applicants who were successful, received government benefits. The figures for March were 36% and 20% respectively.

The 2007 research results were almost duplicated by the results of the April 2011 consumer survey. In that survey, consumers receiving any form of Centrelink benefit (with or without other sources of income) numbered 48.73%.

The September 2011 Smiles Turner industry research revealed that the lender respondents had an average of 33% of their consumers receiving some form of Centrelink benefit.

These people represent approximately 42% of all small amount, short term borrowers (Smiles Turner April/May 2012 survey of 1,906 borrowers nationally).

While Good Shepherd Microfinance is accessing Centrepay, a facility denied to all commercial lenders, it must be remembered that this worthy organisation only deals in dozens of loans in a month.

Available figures indicate somewhere in the vicinity of $60 million annually is currently allocated. It should be noted that there are frequency limitations and only Centrelink benefit recipients can access this service.

Under the Minister's proposed 80% protected earnings regime (only 20% of net earnings available for loan repayments), 36.04% of total small amount, short term borrowers who also receive Centrelink benefits, could be excluded from borrowing most loans. That is some 270,000 people who could now be approaching Centrelink.

The increased administrative costs to Centrelink of facilitating the massive increase in advances to those people, cannot be overlooked.

The loan numbers that could now be involved indicate that Centrelink and Centrepay may not be able to cope with the necessary expansion of services required from 1st July next year.

Advance payments

While the Centrelink advance payment scheme is a worthy facility, this cannot be considered an automatic substitute, even if every small amount, short term borrower qualified.

For every commercial loan, in dollar terms, the main challenge is paying back the principal. Smiles Turner industry analysis indicates that around 81-87% of total repayments of most loans is the principal, with interest, fees and charges rarely exceeding 20% if the contract conditions are not breached.

In short, people get into trouble primarily because they cannot afford, or do not adequately budget to repay the principal.

Advance payments are "repaid" by the beneficiary receiving less income for a period of time after the advance. In essence, they are forced to repay because the repayment amount is deducted from the benefit by Centrelink - that means Centrelink gets repaid - but what about the beneficiary's other bills?

The Delegation is unaware of any published research on the Advance Payment facility's effect. In addition, a comprehensive responsible lending/suitability review of each applicant, as is mandatory for commercial lenders under the National Consumer Credit Protection Act (NCCP) is not undertaken by Centrelink.

Question 1 - other mechanisms

The selection of money management assistance opportunities appears to lack one alternative - an enforced savings plan. The Delegation would envisage a voluntary enlistment, but an unchangeable withholding of a certain small proportion of the benefit, capable of being accessed in the same way as term deposits with a bank are - or rolled over for another chosen period.

Question 2 - access to FMP services

In that these services include financial counselling, the sooner the financially challenged consumer has access to them the better. Too often these services are offered in circumstances where the consumer is already in substantial trouble, when a proactive approach was required earlier in the money and credit mismanagement cycle.

However, Smiles Turner May 2012 research indicated a very low threshold of interest by consumers in attending financial literacy or similar programs.

© Smiles Turner, June 2012

Based on that research, it could be anticipated that less than 5% of consumers referred to counselling would bother to attend.

Utility bill hardship plans

As the Delegation included in its submission to the Senate Economics Legislation Committee:

> "As the Money Smart website explains, "*If you're having trouble paying a water, phone, gas or electricity bill, contact your utility provider. Most companies have hardship officers who can help you work out a plan to pay the bill in instalments*".
>
> No evidence from the utilities concerning their hardship programs appears to have been collected by the consumer advocates, or provided by the companies themselves, to either Parliamentary Committee.
>
> The Delegation regards this as significant, given the assumption by the consumer advocates that these companies can turn into charitable loan companies, by extending their repayment arrangements to all who apply claiming inability to pay. This assumption presumes that the shareholders will approve, when they bought their shares in a utility - not a charitable institution.
>
> It may be of interest to note that Smiles Turner consumer research in 2010 indicated that a maximum of 12.6% of respondents were aware of this opportunity. In addition, up to 4.5% of respondents have received such assistance.
>
> The April 2011 consumer survey, involving 1,305 respondents, revealed that 24.5% of respondents had availed themselves of assistance by a utility. Such a relatively large proportion may indicate an already substantial awareness of such assistance by consumers.
>
> These substantial numbers must encourage Committee examination of the capacity of the utility companies to financially accommodate any more demand for delayed payment. In addition, it must be noted that this apparent increase in demand for utility assistance did not stop the exponential growth in demand for payday and microlending."

The Discussion Paper asserts that these hardship plans "*are not well utilised or recognised*". This is inconsistent with Smiles Turner May 2012 research, which showed that 36.25% of borrowers had previously accessed a utility hardship time payment plan.

There are 6 issues associated with utility company hardship plans that are frequently overlooked:

1. the utility company still has to fund the cash flow challenge created by the periodic repayment of an amount it may have budgeted to receive at the (say) end of a particular month. For example, the company may have to borrow to pay its bills, while the hardship plan money is dribbling in;
2. sooner, rather than later, the consumer on the hardship plan is going to have to face yet another utility bill;
3. utility companies should not be considered part of the welfare or benefits system. McDonalds, the local hotel and Coles are never invited to participate in hardship plan concepts and accept deferment of income generated by the prices they charge. This raises a question of equity;

© Smiles Turner, June 2012

4. ultimately, the utility company shareholders are going to experience reduced dividends - this will encourage them to look elsewhere, to invest in shares where there are higher returns and, thereby, reduce the value of the utility company. Hardship plans imposed on private enterprise companies have the potential to distort the share market and discourage investment in their important sector. Less investment means fewer new facilities, which means less utility capacity for an increasing population and slower replacement of plant that, for environmental and safety reasons, should be replaced;
5. the extra costs of administration, together with the negative impact on cash flow and all that results from that, means that utility companies cannot offer an infinite number of hardship plans. Ultimately a maximum tolerable number is reached that may not satisfy the possible increase, due to any promotion initiative that may follow the Discussion Paper process.
6. How can you proceed with promoting the opportunity for hardship plans without researching the capacity of the utility companies to provide them? This leads to the danger of raising hopes and expectations, where there is insufficient capacity to meet those expectations.

The Home Energy Saver Scheme (HESS)

The Delegation is concerned with one element in the Discussion Paper raised within the consideration of HESS. That is the mention of the Scheme being delivered through existing NFP organisations.

It might be useful to assess the efficiency of the organisations being considered, before commitment. The NFP lender all set up with an over-abundance of staff, a call centre, substantial taxpayer funding, a big office and minimal loan activity, comes to mind.

Similarly the new concept NFP lending service that has an expensive High Street location, 3 full-time staff and invaluable media attention but, after a fortnight/three weeks of operation, still could not advance a loan because the necessary paperwork was not then available - also comes to mind.

In addition, there are the well-meaning organisations that take 4 to 6 weeks to approve a loan, in a market where the consumer needs the funds quickly and the commercial lender approves within the day. Circumstances such as this do not encourage confidence in having the Home Energy Saver Scheme placed with those organisations.

In short, no matter how well intentioned the NFP organisation, they are not set up for, nor do they have the workplace culture to successfully manage, large volumes of loans, relatively quick approvals and/or major additional service delivery, like facilitating HESS.

Question 3 - commercial lenders being obliged to advertise utility company hardship programs

In conjunction with reviewing the Regulations associated with the Consumer Credit and Corporations Amendment (Enhancements) Bill, concerning the use of commercial lenders' websites, it might be useful to consider inclusion of utility hardship programs on the MoneySmart website in detail, so there can be a referral to this "one stop shop" information facility.

© Smiles Turner, June 2012

Any attempt at providing for the individual lender to give detail is fraught with the following difficulties:

- Who selects the utility company?
- Is the lender liable for the referral if the hardship application is refused?
- Who will announce and facilitate updates in the information supplied to consumers?

Question 4 - encouraging use of the alternatives

Provided an assessment is made of the alternatives' capacity to accommodate an increase in demand for their services, then any advertising has to be placed where the lenders place their advertisements.

Both the lender, in some part, and the promoter of alternatives, completely, are appealing to the same market. People looking for lenders will see the alternative's print media advertisements, if they are in the same section of the newspaper or magazine. Local community publications should not be overlooked.

The reader should be aware of the associated costs to the taxpayer. In the current environment where lenders are seeking to reduce their print advertising costs, the Delegation notes the Geelong CDFI, trading as Good Money, is advertising in the Geelong Advertiser using coloured display advertisements costing a minimum of $2,500 per placement - an amount way beyond anything local commercial lenders can fund - plus hiring a billboard near the Corio Shopping Centre which, at approximately 10 m x 5 m, would be very expensive.

The Delegation notes that the Good Money advertising appears to breach ASIC's regulations concerning the inclusion of an Australian Credit Licence number and, due to the restrictive criteria the NFP organisations apply to their loans, the omission of "** conditions apply*", or where the conditions can be discovered, could be considered "*deceptive and misleading*".

Such are the economic constraints facing commercial lenders that any consideration of the commercial lenders' print advertising being made to mention any of the options considered in the Discussion Paper, must be abandoned. They simply cannot afford to pay for the extra space required.

Question 5 - utility companies advising consumers early of their hardship plan

It must be asked, why encourage consumers to be irresponsible right from the start? Surely they should be encouraged to repay on time and in full, as part of their education in managing their finances.

The appropriate course of action is to encourage the consumer to contact the utility company as soon as they expect, or are experiencing, financial difficulty. It is far better to have the hardship and any other alternative explained when that contact is made.

Question 6 - other support services

Unknown.

© Smiles Turner, June 2012

Question 7 - no open-ended service

Any further promotion must take into account the 6 constraints listed above on utility companies providing an open ended service for people who want to take their time to pay, or have to do so (see utility hardship plans earlier in this submission).

No and Low Interest Loan Schemes

The Delegation is pleased to note the recognition of the limitations associated with LILS and NILS included at the bottom of page 19 and at the top of page 20 in the Discussion Paper.

It may be useful to consider the issues of concern that the Delegation has explored during the consultation period.

The following information was included in the Delegation's submission to the Senate Economics Legislation Committee review of the Enhancements Bill, in October/November 2011. Unfortunately, the Delegation was unable to discover any more contemporary statistics.

Unfortunately, while charitable and community organisations make a commendable contribution, there are significant limitations in regard to the credit opportunities they offer. Therefore, they cannot provide a comprehensive alternative to the commercial microlenders. These limitations include:

- Until now, funding of no more than $20 million per annum, with the addition of $16 million, spread over the next four years, as consumers were reminded by the Minister in August;
- Loan numbers less than 20,000 per annum across all schemes;
- Currently, the non-commercial organisations involved do not have the trained people necessary for long term and substantially increased involvement;
- The organisations involved do not have the expensive number of outlets required, across Australia. While recent statements included in bank media releases would encourage the reader to believe there may be numbers around 280, the most recent ACOSS report lists 175 such financial service outlets;
- A considerable number of the non-commercial credit providers' activities have been of a pilot nature, or have only recently emerged from that pilot status;
- 94% of applicants are refused a loan;
- Terms are longer than most microloans - up to 18 months;
- Limited generally to Centrelink benefit recipients and the unemployed;
- Long delays, up to 6 weeks until being interviewed;
- Generally for white goods and emergencies, not discretionary or day to day purchases.

Smiles Turner research has consistently revealed that the percentage of commercial loan borrowers applying for a loan for a purpose that falls within the NILS' criteria, has ranged from 2.4% (2007) to 16% (2011). In May 2012 the figure was 6.28%.

© Smiles Turner, June 2012

Given that the commercial sector lends approximately 1.5 million loans a year, it is useful to note inclusions from media releases and other publicity publications presented by the ANZ and NAB and various non-commercial organisations involved in partnership with these banks, in recent years.

Further, all reports concerning these schemes indicate that none have been able break even, let alone attain some long-term viability.

NAB support

The May 2009 NAB publication, "*Growing the NILS® footprint: A summary of NAB's commitment to the No Interest Loan Scheme*", has the following inclusions:

"*Good Shepherd Youth & Family Service coordinates an expanding national NILS network, rolling out the program to over 280 other community agencies across Australia. These programs... provide approximately 5,500 small loans per annum. The total value of lending in 2008 was $4 million*". The Delegation note that the loans averaged $727.27.

The publication goes on to state, "*NILS loan features... Amount $800-2,000 (depends on individual program capacity)... loan defaults 3-5% ...loan term 1-1.5 years".*

Under the subheading "*NILS customer profile*", the top 5 loan purposes listed were, "*Fridges and freezers: 30%, washing machines: 21%, household appliances: 12%, beds: 8%, computers: 6%*". Income type was listed as "*Newstart: 20%, disability: 26%, age: 6%, parenting pay (single): 32%, parenting (partnered): 5%, other govt: 10%*".

Although claiming to have rolled out the programme to "*over 280*" other community agencies, the same report, for the three year period completed in 2008, states "*$10 million of loan capital across the nation (was allocated) to 142 groups*".

The Delegation notes that, averaging the amounts, each of the 142 groups were provided with $23,474 to cover 38.7 loans per year. Most Delegation supporters advanced in excess of that number in the last two weeks of May 2012 - at the same time reporting that lending was down for the period.

The Delegation notes that the NAB target for 2010 was "*140 schemes*" and "*9,000 loans*".

That target appears optimistic, given it would have involved a minimum loan book of $7.2 million in that year alone. This amount would have been a minimum of 218% more than the NAB had previously allocated, annually, up to 2008 and the Delegation was unable to discover any announcements of such a substantial increase in funding.

Last year the Good Shepherd service reported that its network had grown to some 100 outlets. This is still more than 500 less than the commercial lenders currently offer and that does not include recognition of the 57 known internet and telephone lenders.

The NAB 2010 Annual Review reported that, from May 2008 to September 2010, micro-enterprise loans, plus StepUp loans, plus NILS loans provided 15,445 loans. Between January and September 2010, for those 9 months alone, the commercial lenders had already lent in excess of 1 million loans.

© Smiles Turner, June 2012

Saver Plus

In 2004, in partnership with the Brotherhood of St Laurence, the ANZ Bank piloted this matched savings program. Participants are provided with financial education and personal financial coaching. They also receive a dollar for dollar saving incentive up to $500.

In 2005, the program extended beyond one state, with an allocation of $3 million from the ANZ Bank, over three years, commencing 2006. The objective was to help 5,400 families in 3 states.

At the time, it was calculated that the $3 million would not have been sufficient to fund an average fortnight's payday and microlending in Victoria, or NSW, or Queensland, the states where the Saver Plus scheme was established. It is interesting to note that the $3 million contribution was for 5 different credit areas, only one of which was payday loans.

In regard to the ANZ's Saver Plus product, details concerning their results can be found on the ANZ website (Ref: www.anz.com/about-us/corporate-responsibility). The 2009 results gave some indication of the non-commercial sector's size, relative to the commercial sector. While the Saver Plus initiative involves a matched savings and financial literacy program, the number of participants involved tell an interesting story.

At its commencement in 2004, 248 people were involved, with an ANZ investment, including the matching amount, of $810,000. In 2009, the numbers had grown to 1,192, with $3 million invested. The average for those 6 years was 837 people, with a combined investment of $890,000. At the time, a Western Australian-based franchise group, with a relative handful of outlets in three states, was easily lending that amount in under two months.

In the 2009 publication, the conclusion reads, "*We will work with our community partners and the Australian Government to reach a further 7,600 people with our Saver Plus program over two years*". In a media release dated 16th October 2009, the ANZ announced that the Saver Plus program was then being delivered from 20 locations across Australia. The anticipated 7,600 people, over the two years "*by 2011*", was to be achieved by making it available "*from more than 50 sites*".

The 2010 results listed 3,320 participants, with the ANZ investment constituting $1,624,000, delivered from 60 community sites, to an average of 55 people per site.

These figures have to be compared with those previously quoted for one of the larger multi-outlet lenders, with their 8-10,000 loans a month.

In a speech to the Commonwealth Parliament's House of Representatives on 23 May 2011, Ms Maria Vamvakinou, the Member for Calwell (Victoria), indicated that the ANZ Saver Plus scheme had assisted 253 families in her electorate since its establishment in her Melbourne suburban area in 2007. There are at least three payday and microlending outlets in her electorate, with at least one of them reported to be lending that number of loans in an average week.

StepUp

The NAB/Good Shepherd StepUp Loan Scheme started in 2004 and offered unsecured loans from $800 to $3,000. It was only available in South Australia, Victoria and NSW, with the loan purpose limited to household goods. It was a financial failure, requiring a mid-way injection of further funds.

© Smiles Turner, June 2012

From October 2004 to May 2006, the scheme averaged only 6.14 loans per pilot location, had handled 522 enquiries (an average of 74 enquiries for loans, per outlet) and, by May 2006, there were 42 active loans.

In contrast, the Smiles Turner November 2006 Loan Information Survey indicated that, at the time, there was an average of 204.8 active loans, per small amount, short term commercial lender outlet and this was excluding the two largest companies currently known as payday lenders.

The rejection rate for the StepUp Scheme was 91.7% and there were fewer than 300 loans ever issued at that time. It is interesting to note that, on required purpose criteria alone, more than 90% of commercial borrowers would not qualify for a StepUp Loan.

In contrast, the Smiles Turner surveys indicate the commercial lenders' average rejection rate as being as high as 53% - with a range of between 18% and 91%.

On the Rosemount Good Shepherd website, the loan purposes for which the NAB StepUp program applies are listed under the heading "*What are the loans for?*", as being:

"*Loans are available for items such as fridges, washing machines, computers, furniture, medical expenses, house repairs, airfares for refugee family reunion, second-hand cars, car repairs & vocational education.*

Loans are not for cash, holidays, bills or debt consolidation, and a credit check is required".

The ASIC Money Smart website adds the purposes, "*buy health items such as wheelchairs or asthma pumps... pay for car repairs (although these loans are only available to people who live in areas where there is little or no public transport)...*".

It should be noted that the Good Shepherd website states the loans are specifically for "*Individuals or families holding a current Centrelink Health Care Card or Pension Card or Family Tax Benefit Part A*", with the applicant/s having to "*have lived at their current address for more than three months*" and the ASIC website adds the criteria that "*You must also show that you can and are willing to repay the loan within 12 or 18 months*".

In a media release from the NAB, dated Friday 20th February 2009, there was celebration that the NAB StepUp loans program in NSW "*has delivered over 180 not-for-profit loans worth up to $3,000 since the program launched in NSW in October 2004. This comes as NAB has announced a national milestone of 1,200 loans valued at more than $3.2 million since 2004...".*

Public statements by the CEO and Chairman of Cash Converters indicate that most Cash Converters stores each equal or better that number of loans in just one month.

It is understood that this NAB small loans program lent 699 loans in the preceding two years, with 4 new loans advanced in June 2010. In October 2010, 81 new loans were issued. The average number of loans for the two year period was 29 loans per month. An NAB spokesperson has recently projected that their schemes will assist 20,000 people a year. However, that is still only 384 loans per week - below two Cash Converters' stores and at least 9 of the 500 other lenders around Australia - in just the last fortnight of May 2012.

© Smiles Turner, June 2012

The Delegation notes that, with is no deduction for administration, the average national StepUp loan is $2,667 per person. This is considerably more than the $275-$325 average payday loan and is likely to suit fewer than 8.6% of small amount, short term borrowers (2010 Smiles Turner industry research).

Progress Loans

The ANZ/Community Development Finance Program, involving $3 million funding, started in 2005. The target was 200 loans of between $500 and $3,000 for essential household goods (at the time, Smiles Turner research indicated that only 1.68% of microlenders' credit was for essential household goods).

On the 31st May 2006, AAP released a news item entitled "*Poor to access credit under new program*". Referring to the Brotherhood of St Laurence and the ANZ partnership, the news item noted that, "*under a pilot version of the program, 20 people have so far taken out loans this year*". This is the same number of loans that were being advanced in <u>less than one week</u>, in most of the commercial retail lending outlets at the time. In fact, at about the same time, an Adelaide lender, with 4 outlets, was lending 576 loans a week.

The ANZ "*Progress Loans Update*", dated July 2007, reported on the commencement of the Progress Loans Scheme. Eligibility criteria stipulates the loans are for Healthcare Card and Pension Card holders who have "*Demonstrated money management ability through paid utility and other personal bills and no unpaid credit defaults above $300 within last five years*".

Based on industry experience, this appears to preclude many who would be classified as *"desperate and vulnerable"*.

The purpose is described as "*household items and services, education and self development, medical and dental care*".

"*The most common loan purpose was the purchase of whitegoods like washing machines and refrigerators (27%) followed by household furniture (19%) and motor vehicles (27%)*".

In the March/April 2011, 10.4% of consumers borrowed for such purposes.

The results of the May 2006 to May 2007 Pilot Scheme reported the number of loans drawn as 140, from a total of 225 applications, with the average loan size being $1,549. A total of $216,800 was lent. Smiles Turner's May 2012 research indicated that loans of this size and above constituted no more than 10% of all lending and that possibly 9.66% of all lending was for a purpose recognised by the pilot scheme.

During that period, a Smiles Turner survey of 100 lending outlets in Queensland, including small and medium lenders, revealed that these lenders had an average of 15,500 loans on their books and, in total, had lent $30 million over the preceding 12 months (note, this amount did not include the big lenders such as the City Finance franchise group, Radio Rentals and Cash Converters).

AddsUp

The ASIC Money Smart website also lists the AddsUp program, which is described as "*A matched savings plan open to people who have successfully repaid their NILS or StepUp loan. Once you have saved $300, the bank will put in a dollar for every dollar you save, up to a level of $500*".

© Smiles Turner, June 2012

This worthwhile program does not apply to the majority of people who have a relatively urgent perceived need to borrow and no discretionary funds at their disposal. A savings plan is not much assistance to a person who urgently requires the money. Smiles Turner May 2012 research discovered 85.8% of all borrowers were in that urgent category.

It also limits the participation to NILS and StepUp borrowers, who must be Centrelink benefit etc. recipients. On that criteria alone, 57.37% of the 1,906 borrowers surveyed in May 2012 could not have applied.

NAB "Fast Money" Program

Now 4 years old, the NAB Fast Money Program was last reported as averaging 31 loans per month. This is equal to or higher than just 4 of the 19 lenders surveyed in September 2011 and constitutes less than 20% of the average loan volume in that survey. In the last fortnight of May 2012, the smallest turnover reported by a Delegation supporter was 35 loans per week.

The Delegation understands it continues to reject between 92 and 96% of all applicants and, as is mentioned elsewhere in this Submission, does not believe any lender can break even on an inclusive 48% cap.

Consumer awareness of NILS and LILS

The following table, reflects Smiles Turner 2007 National research that showed a relatively low level of consumer recognition:

Customer Response	NSW %	SA %	Qld %	WA %
Knew of a no-interest or low-interest loan scheme	12.6	6.4	12.0	12.6
Has borrowed from a no-interest or low-interest loan scheme (including Centrelink)	10.5	3.6	9.0	12.3

This awareness was canvassed in the March/April 2011 consumer survey (1,305 respondents), when consumers were asked if they had ever tried to get a loan from one of the following schemes, with the proportion of the total sample who had attempted to do so segregated into the following:

NILS	3.5%	StepUp	0.7%	Progress	1.1%	NAB Money	4.1%
LILS	0.5%	AddsUp	0.6%	Saver Plus	1.0%		

While the May 2012 Smiles Turner research did not specifically consider this issue, it may be relevant to note that 24.29% of the consumer respondents indicated that they had previously sought help from charities.

Community Development Financial Institutions (CDFIs)

The Delegation has watched the introduction of the CDFIs with great interest.

Our concern is that this initiative is now several months old and, on the basis of published reports, very few loans have yet to be provided. The Delegation has had contact with staff employed by these CDFIs and is aware that most of the 5 known established centres have yet to lend even 200 small amount, short term loans.

© Smiles Turner, June 2012

This while some have been in existence with call centres, relatively large offices or retail space, and full time staff for months. Such turnover would have forced a commercial lender out of business some time ago.

The Delegation's concern is fourfold:

1. These organisations have adopted much larger overheads than commercial lenders;
2. In at least one instance, the very limited experience of the staff, with so few loans advanced to date and an expectation that they should be able to manage a major increase in demand; and
3. Start up taxpayer and other funding was some $7.5 million. That appears to be $1.5 million per outlet. Commercial lenders report that current set up costs, inclusive of initial loan book funding, shop fit-out, security, etc., is rarely above $350,000;
4. The recent announcement of an extra $3 million in funding which, on the information as to loan sizes offered, means each centre will only be able to lend a further 200 loans. At a cost of $3,000 per loan, this is at least double commercial lenders' cost in this category of microlending.

Currently, Sydney based lenders with half the staff, and modest retail locations costing less than those rented by the CDFIs, are lending 160 to 580 loans a month. This is more in one month than most of the CDFIs have provided in the whole time they have been in operation, and the expansion offered by the recent funding promise for a year, would be consumed by the commercial lenders in less than 2 months.

It is noted that the Discussion Paper lists 5 organisations and total personal loans, to 20th March 2012, of 804 loans. That is 160 loans in total, for each outlet, with most outlets having been open for several months. A small business Queensland regional lender who supports the Delegation and who has 2 outlets, provides that number of loans in two slow weeks.

Looking at the total reported lending of 804 loans, a simplistic calculation indicates that, to date, with a total of $7.5 million funding, each loan has cost $9,328 per loan.

The Delegation appreciates that some part of the initial $7.5 million allocated may yet have to be spent, but there could not be much remaining, given the organisations have recently approached government and other backers for the further $3 million in funds.

It may well be that this scheme will need to be looked at very carefully by a Parliamentary Public Accounts Committee, or the relevant Government Auditor General. Certainly an allocation of such funds to a commercial lender would have provided many more loans, for far less overhead and other costs.

The Delegation is left wondering how much more efficient assistance could have been given to the Minister's "desperate and vulnerable", if they had just been given practical help as needed, as happened in the past, without resorting to the new infrastructure expenditure.

Question 8 - can you build on existing systems

The Delegation's view is - yes you can - and provide a greater service to the desperate and vulnerable. Such a building exercise to be limited to established successful schemes, so that the amount of funds allocated to

© Smiles Turner, June 2012

overheads is relatively small. The NFP sector would have to adopt a commercial lending culture.

This would lead to some reduction in demand for commercial loans. However, any thought of replacing the commercial lenders by such activities is extremely ambitious. There is a very long way to go when you are considering a 60 times increase in funding, for more than 100 times the number of people.

The primary reasons are as follows:

1. It is very difficult to expect a welfare culture to adapt to a commercial culture.
2. Most NFPs have never experienced the size of the demand for which commercial lenders have catered for over a decade.
3. NFPs generally do not want to become major lenders (unstructured Smiles Turner telephone contact, March/April 2012).
4. Governance structures are under review at present, but it is not known whether the Delegation's submission on governance arrangements for the NFP sector, including detail on what will be required next year, has received appropriate attention. The Delegation notes that these governance arrangements are now to be in place by the 1st July 2013 and it is hoped that they will include policy and procedures for the management of substantial commercial lending. There has not currently been any governance structure designed to recognise NFP involvement in lending tens of millions of dollars.
5. It is anticipated that NFPs will suffer high default/bad debt rates. To take a massive number of new borrowers and assess them, when the assessment time has to shrink from 6 weeks to 45-60 minutes, is not within the experience and cultural parameters of the NFP sector. Further, it may be very difficult for the NFP sector to adopt commercial debt collection practices, given their experience and philosophy is one of giving and not chasing to ensure return. The commercial sector is currently reporting bad debt rates generally within 6-16%. Without the NFPs adopting the commercial lenders' culture in regard to collections, experienced lenders believe the NFPs will endure bad debt rates of around 30% - this in some part due to a segment of the borrowers coming to recognise that the NFPs are a "soft touch".

Question 9 - NILS and LILS eligibility expanded

With the advent of the Enhancements Bill, there will be no choice but to significantly expand the eligibility and speed of approval for NILS and LILS. To do otherwise hands the consumer to the criminals, unless one of the options discussed later in this submission is adopted.

Had Minister Shorten focused on the content of his public statements in 2011 and restricted the impact of his legislative and regulatory changes to the "desperate and vulnerable" - the 23% of total small amount, short term loan consumers identified in the report published by the Consumer Action Law Centre in 2010, or the 21% identified from Smiles Turner November 2010 research - such a significant expansion may have been a big reach but, without any provision for the expansion in the 2012/13 Federal Budget, not the absolutely impossible task it is now.

© Smiles Turner, June 2012

The Exposure Draft of the Enhancements Bill circulated on 24th April and the tenure of the Discussion Paper on Regulations circulated 2 weeks before, together with what we know of the Minister's current thinking as circulated on 1st June 2012 and confirmed by the Minister's policy adviser in personal contact with individual lenders, indicates that the Minister thinks that far more small amount, short term borrowers are "desperate and vulnerable" than both the industry and the consumer advocates claim. That makes the reach far beyond anything the NILS and LILS, together with all the other options included in the Reliance Discussion Paper, could manage and the Government could fund.

The above reflects the impost of the 20%, 4% fee cap and the newly introduced 80% protected income earnings for beneficiaries who derive over 50% of their income from Centrelink. Subject to the Minister approving a realistic establishment fee, at very least the reach could also include the required replacement of most loans over $2,000 and 1 year, up to $3,200 and 18 months.

Encourage mainstream lenders to support small amount lending

The Delegation continues to be amazed how anyone could still have an expectation that the banks will do anything more than support small volume NFP lending projects (only 2 banks involved). Nothing else can be expected.

The banks have to worry about CEO bonuses, justify senior management salaries, maintain share prices and pay dividends to shareholders - in that order. Any involvement with short term, small amount NFP lending is purely part of their marketing and public relations effort, under the smoke screen of 'corporate social responsibility'.

To put the issue of banks in its proper perspective, we provide the following analysis that was included in the Delegation's submission to the Senate Committee last year.

Mainstream bank involvement

Since the 1970s the mainstream banks have progressively disengaged from microlending and now the majority do not lend under $4-5,000.

The Minister telephoned all the senior people in the Australian banks during August and all the banks rejected any relevant involvement in providing microloans, outside their subsidised support of the charities offering their limited number and range of loans.

This response should not have surprised the Minister. It certainly promotes the issue of banks withdrawing from the market as a significant one.

In 2001, the Chief Executive of the Commonwealth Bank, Mr David Murray, appeared on ABC TV News, where he threatened to *"dump poor customers if the Commonwealth Bank is forced to offer low fee accounts".*

Unfortunately, this has often been the general attitude of the banking industry. The costs of:

- assessing a potential borrower's ability to repay;
- administration of the loan;
- money holding;
- staff;

© Smiles Turner, June 2012

- interview time;
- repayment collection; and
- higher default rates;

make the small, short term lending industry a risky, unprofitable and insecure arrangement. This is a discouragement to the banking industry, who are reluctant to lend under $5,000.

While some loans are available for $2,000 and $3,000, only two of the mainstream lending institutions surveyed are prepared to lend down to $1,000. Even this figure of $1,000 is three times the size of an average micro-loan. It is this very reluctance that has created the payday/microlending market, who are willing to take the risks involved.

A 2001 UK study noted: "*On the grounds that they are non-profitable and too risky to be regarded as serious customers, most mainstream credit providers make access to their services difficult, and often impossible, for people on low incomes*".

Ref: Jones; "*Access to credit on a low income: a study into how people on low incomes in Liverpool access and use consumer credit, the co-operative bank*", 2001, p. 4. www.creditunionresearch.com/uploads/access_to_credit.pdf

The following table highlights the current polices of many of the mainstream sources of finance, in regard to small loans:

Bank	Minimum secured	Minimum unsecured
Adelaide Bank	$2,000	$2,000
ANZ	$5,000	$5,000
Bank of Queensland	$3,000	$3,000
BankWest	$5,000	$5,000
Bendigo Bank	$2,000	$2,000
Citibank	$4,000	$4,000
Commonwealth Bank	$10,000	$5,000
Members Equity	$5,000	$5,000
NAB	$5,000	$5,000
St George Bank	$3,000	$3,000
Suncorp	$5,000	$5,000
Westpac	$4,000	$4,000
Newcastle Permanent	$1,000	$1,000
AMP Credit Union	$1,000	$1,000
Bankstown City Credit Union	$10,000	$10,000
Community Alliance Credit Union	$10,000	$2,000
IMB	$2,000	$2,000
Sydney Credit Union	$5,000	$5,000
Wagga Mutual	$10,000	$5,000
Community First Credit Union	$5,000	$5,000
Family First Credit Union	$2,000	$2,000

In addition to the banks' policy, there are other factors at work in the relationship between potential borrowers and the highly technologically run

© *Smiles Turner, June 2012*

banks. As Scutella and Sheehan, stated in their May 2006 report for the Brotherhood of St Laurence, at page (iv):

"Computerised systems for analysing credit-worthiness would have automatically declined most of the pilots' loan applicants".

The above indicates that banks are not interested in the 10% of total small amount, short term loans that are going to be impacted by the introduction of the commercially unviable 48% cap and modest establishment fee. In addition, because of the combined impact of the low fee and interest rate structure, plus third party costs such as Veda Advantages' Personal Property Security Register (PPSR) service and EDR scheme fees, with or without the 48% "at any time" provision, it appears highly unlikely that loans for between $5,000 and $8,500 will be available for used car purchases. That market will also be decimated, because it will not be economically viable for a lender to accept a deal, involving a loan of that size, from any broker.

Question 10 - developing partnerships to increase financial products

The Delegation believes these partnerships are fundamentally a superficial public relations opportunity for the financial institution, allowing professional employees of community service organisations to extend their employment opportunities and be involved in a comprehensively inefficient delivery of a very limited number of financial services. The model is a failure.

Question 11 - Encouraging banks to provide small amount personal loans

This is absolutely NOT going to happen and Minister Shorten has been told that, personally, by the major banks' CEOs. There are 5 fundamental realities associated with mainstream lenders (banks, etc):

1. They left small short term personal loans over 10 years ago and they are not coming back - too much trouble and relatively unprofitable. Minister Shorten discovered this when he rang around the bank CEOs in August/September last year and was told "no" by every contact he made.
2. Their involvement in subsidising NFP loan schemes, almost exclusively limited to the NAB and ANZ, is about PR and marketing positioning. A few million dollars offered over 3 years plus, with lots and lots of feel good publicity for their involvement and a chance to claim the incredibly profitable sector has a "heart", is what we are really observing.

   The leader in this exercise is promising help with 20,000 loans this coming year. The growth in the payday and microlending market is currently trending at 4.3% - that's an increase of 32,250 loans for this calendar year. Putting it another way, the NAB will assist with just 62% of the growth in demand for the coming year. Had the growth continued at the average of 18% over the last 3 years - that would have been 14.8% of the growth in loans for the relevant year.
3. Their commercial involvement in expensive, relatively low risk credit cards is the "answer" they will continue to provide. An expansion in the use of credit cards is the last thing society needs. Look for the numerous personal bankruptcies that feature credit card debt of $20,000 and $30,000, but do not feature payday or microloans. Consider the incredibly profitable structure of having credit cards that can "max" out, with card holders paying for all that interest year after year.

© Smiles Turner, June 2012

4. The Federal Government has no real control of their pricing, as the banks' collective response to the Reserve Bank's last 50 point drop in the key interest rate revealed. Despite pleading by both the Treasurer and the Shadow Treasurer, the NAB only dropped a relevant lending rate by 32 points and the Commonwealth by 40 points. However, they all dropped their borrowing or depositors' rate by the full 50 points.
5. In the last 10 years, none of the banks have contributed annual funds to NILS and LILS schemes, whether by grant or allegedly subsidised loan, that have exceeded half their CEO's salary for that year.

Question 12: The use of reporting to encourage greater involvement by banks

Any attempt at "name and shame" is basically meaningless, given banks are used to attracting constant bad media and remain highly profitable.

Any attempt to mandate "corporate responsibility" involvement is most attractive to one of the better known consumer advocates who is a legal academic, but must fail because this is in direct conflict with the Directors Duties listed in the Corporations Act.

Company directors face substantial fines and potential loss of their right to continue to be company directors, if they do not put their company and their shareholders first. The only responsibilities mandated, and involving third parties, relate to the honesty of the communication with potential consumers of their company's products and/or services.

Question 13: Should the growth of a CDFI sector be encouraged?

The Delegation understands that the current efforts are all pilot or start out schemes. No final assessment of suitability can be determined until the pilot period is over and studied.

However, the Delegation's simple calculation mentioned previously - a cost of over $9,000 per loan to date and $3,000 into the future, including principal, when loans are generally under $1,500, is of great concern.

Also, the issue as to whether or not any of the CDFIs can survive the forthcoming legislation and regulation has still to be determined. It would be grossly hypocritical and outrageously undemocratic if, once the commercial sector was decimated, the regulatory framework was to be "adjusted" to ensure the CDFIs survived, in a regulatory environment that was denied to the commercial lenders.

Question 14: The financial services hub as a viable alternative?

This concept is at start up. Trial periods have to have expired and retrospective analysis has to be undertaken before this question can be answered.

However, what the Delegation does know is that, if Geelong is the model being used for these hubs, any person seeking to answer this question would be wise to make a visit. It is a very expensive retail shop site. There are 3 staff employed with nothing to do. The Delegation's informant was not convinced that the staff were anywhere near adequately trained. They received good media coverage of the opening earlier this year, however there were no loans available in the first period because they did not have the necessary stationery. All this suggests a lot of questions to be answered in any review.

© Smiles Turner, June 2012

Question 15: Would the hub approach work for people who are reluctant to visit church run charities?

This question can only be answered after the hub outlets have completed their pilot schemes and substantial in-depth professional retrospective research and analysis has been undertaken. However, the reluctance of people to rely on charities is a very real consideration to be factored in when the appropriate time arrives to ask this question.

In the Smiles Turner April/May 2012 consumer survey, 24.29% of the 1,906 respondents, from all over Australia, indicated that they had sought help from a charity before, but 76.86% indicated that they would not feel comfortable accessing a charity in the future.

One issue of some relevance to this topic is that, based on Smiles Turner research in 2006/7 and recently, the number of borrowers who have previously visited a charity has tripled.

Question 16: Other services to be included in the hub model?

It is far too early to answer this question. Until the trial period has concluded we have no idea if the general public will approve and use any services offered at the hub outlet. Further, we have no understanding of staff or management capacity.

However, given the massive increase in demand that will arise next year, from borrowers who previously obtained their loans from commercial payday lenders, the Delegation would not be considering adding to the existing services available at the hub unless the Government has some $1.4-2 billion allocated in the 2013/14 Federal Budget (the $600 million variation reflects an allowance for the possibility that the Government will have to fund set up costs, or whether it will fund only those NFP lenders already set up to do business).

Debt consolidation

There are 4 elements that always appear with any debt consolidation efforts:

1. We are dealing with debtors who have floundered at least once and re-arranging their debt, so they can afford to pay it back, is often not on their agenda. Legal Aid, with its efforts to ensure the debtor repays as little of their obligation as possible, is a much more attractive option for many. According to a schedule provided to the writers, Credit Repair Australia charge the consumers in financial trouble who approach them a "*non-refundable administration and service fee charge of $990*", plus "*an additional charge for every matter successfully negotiated*" (read "bullied") of $990 each.
2. Invariably, for credit defaulters, debt consolidation involves a relatively large proportion of the debt being forgiven by the credit providers. The borrower gets help, the debt consolidator makes a profit, but the lenders pay.
3. Commercial debt consolidators charge relatively substantial fees for their services and the credit providers - who are already out of pocket - are expected to pay via a reduction in the amount for which they will agree to settle. Many debt consolidators seek to make at least $2,000 from their client, regardless of the size of the original loan.

© Smiles Turner, June 2012

4. For many borrowers (but certainly not all), debt consolidation introduces a new chance for the borrower to acquire financial responsibility. This is a major cultural and behavioural change which many borrowers will fail in their attempt to achieve - leaving the credit provider to shoulder the financial cost of this failure. Anecdotal evidence suggest failure rates exceeding 35% can be expected.
5. Debt consolidation will not be an attractive option when, on current lending statistics and under Minister Shorten's proposed Centrelink benefit recipient 80% protected earnings regime, 36% of all borrowers will be unable to repay more than approximately $80 to $100 per week.

It is often overlooked - and rarely promoted - by the debt consolidator, that their actions involve a Part IX arrangement under the Bankruptcy Act, which haunts the borrower for many years thereafter.

Question 17: Contribution of debt consolidation loans to decreasing the cycle of debt

Debt consolidation can be a two-edged sword.

One advantage is that a consolidated loan can appear more manageable, encouraging greater financial responsibility.

One disadvantage is the tendency to raise the hopes of the consumer that, once the debt consolidation is in place, all will be well and they can return to an irresponsible approach to their personal finances.

Frequently, debt consolidation does not stop the borrower attempting to obtain further credit - and the wheel goes around again.

Question 18: Establishing not-for-profit debt advice service that includes a debt management service

The suitability of this service will substantially depend on the skill of the staff that will be employed.

In addition, the cost benefit analysis, as opposed to assessing the human benefit, may indicate that major resources are being invested for relatively little economic gain - as has been observed with the various subsidised NFP schemes.

Smiles Turner 2011 industry research revealed lenders had very low expectations that their consumers would use similar services, such as attending a financial literacy program, which the Delegation would regard as very similar to a debt management service. 41 lending companies with some 120 lending outlets responded. Calculated with a weighting recognising the number of lending outlets each company had - responding to the question: "*If it was mandatory to refer applicants and customers in financial trouble to financial literacy programs, what percentage of those referred do you estimate would actually undertake the program?*"

- 46% of lenders said none of their actual or potential consumers would do so.
- 15% of lenders said 0.1 to 1% would go.
- 5% said 2% of their consumers would go.
- 18% said 5% would go.

© Smiles Turner, June 2012

- 8% said 10% would go.
- 8% said 20% would go.

Question 19: Establishing a national debt reduction project

As described in the Discussion Paper, this appears to be little more than a payment service distributing proportionate repayments, similar to a trustee in bankruptcy. The concept has the advantage of not favouring the first creditor to see the debtor, but providing a more equitable spread of repayments amongst the creditors. The disadvantage for the debtor is that the debts still exist, unlike the arrangement that would apply if they chose to go bankrupt.

Another major concern has to be the relatively labour intensive nature of the service, which would undoubtedly lead to a top heavy bureaucracy and a challenge as to who would be paying for these people.

Sundry thoughts

It is of great concern to see so little mention of government funding amounts, or actual resources needed to ensure that the various options could work.

This Discussion Paper runs the risk of simply leading to a "consumer advocate-style" wish list, without the critical exploration of the issues of costs and resources.

Given the magnitude of the replacement task ahead and the timeframes involved, the failure to explore the need for Government funding in detail has been unfortunate. Dollar amounts must be addressed and this Discussion Paper should have included major quantification.

Without it, respondents are being asked for a wish list in almost total ignorance of the costs associated with their preferences. This becomes a particular concern when one considers that, to have the necessary infrastructure in place and staff appropriately trained by 1st July 2013, there will need to be substantial Government expenditure of up to an estimated $800 million provided no later than the third quarter of this financial year and, as indicated earlier in this submission, the Federal Budget in 2013/14 will have to have at least $1.2 billion allocated to fund the NFP sector's loan books.

However, the latter amount relies on the assumptions that:

- bad debt recovery rates will equal the commercial lenders' rates;
- there will not be an increase in demand over 2012 levels; and
- longer loan terms will result from the forthcoming legislation and regulations, as the Minister wants.

Without these assumptions, Budget requirements could head to over $1.2 billion.

It should be noted that Smiles Turner's contact with NFP sector lenders, during the preparation of the Delegation’s submission on NFP governance arrangements, indicated that NONE of the existing NFP sector lenders are interested in taking on any major expansion of their lending programs, particularly to the extent that will be required if the commercial small amount, short term lenders are forced to close.

This Discussion Paper may do no more than raise false hopes, encourage the passage of disastrous legislation and the approval of equally disastrous regulation. All escaping the intense scrutiny, essential major amendment and, if that fails, rejection from all stakeholders and the Parliament, that is now so important.

Other alternatives

The Delegation has considered a number of other alternatives. Unfortunately, the lack of time that is now most likely to be available to investigate these alternatives further, will not be sufficient for these alternatives to have any relevance to the first few years following the Enhancements Bill's commencement on the 1st July next year.

However, they may prove a useful inclusion in some future briefing note or Discussion Paper and for inclusion in future government policy. These alternatives include:

Providing solar power infrastructure on all residences of low income earners

Such a move would complement the Government's environmental concerns and provide a one-off subsidy, with long term positive implications.

This would significantly reduce the low income earners' electricity bills on an ongoing basis. An important initiative because electricity provider bills are an increasingly important motivator for borrowing.

An Australian Grameen Bank

This concept may have earned founder Professor Muhammad Yunas considerable world fame, but the model has some flaws in it which might discourage serious adoption by the Australian Government. The record now shows:

- 10% of all loans are overdue, with 19.5% of all loans one year overdue.
- The bank is converting many overdue loans into "flexible" loans.
- The bank has provided 15% as a provision against loan losses, when the Consultative Group to Assist the Poor (CGAP) recommends 50%.
- The 1,170 branches throughout Bangladesh are expensive to run. Accounting standards are unconventional, e.g. while a profit of $200,000 was being declared in 2000, employing appropriate accounting standards indicates that it actually lost $7.5 million in that year.

A more successful attempt at such a bank can be found in the UK. Fair Finance, established in 2005 and now financed in some considerable part by two mainstream banks, has proved a modest success. However, its loan book is understood to be less than £4 million and its loans are generally for 10 months or more and for amounts of £500.

State Government involvement

Even when the regulation of small amount, short term lending was entirely the responsibility of the states and territories, state government assistance was relatively low. The Delegation recalls Victoria, Western Australia and Queensland State Governments making some effort in the decade commencing 2000.

© Smiles Turner, June 2012

However, this assistance in providing alternatives never exceeded the Victorian Government's current contribution of $4.3 million, to the total of $7.5 million being allocated to the Good Shepherd Microfinance model.

It should be noted that any government funding must be subject to that government's Auditor General's annual scrutiny and full details of the audit presented in those Auditor General's reports to their parliaments.

Pawn broking

The traditional pawnbroking shop will not be the answer.

It is very significant that the biggest pawnbroking franchise in Australia, Cash Converters, with over 140 pawn broking stores, in recent years has moved their focus away from pawnbroking to payday and microlending. However, with knowledge of the Minister's intention with regard to the Enhancements Bill, in recent months Cash Converters has returned to concentrating advertising on its pawn broking services, in preparation for all of its franchisee-funded lending and most of Saffrock, its subsidiary's lending, being wiped out.

There are three fundamental reasons for this move:

1. The retail cost of goods traditionally pawned is continually dropping, so that the value of the second-hand model is significantly diminished as a security.
2. The current retail cost of many of the goods traditionally pawned is now so low that few people even consider a second-hand purchase.
3. Pawned goods have to be stored in cost-creating storage and sold in cost-creating retail premises if they are not redeemed.

In addition, the April 2012 consumer survey revealed the following aggregated responses to the questions included on pawnbroking:

- While 39.61% have borrowed from a pawnbroker, 71.09% do not have a suitable good that they could now pawn.
- In addition, on a monthly basis, pawnbrokers are more expensive than Minister Shorten's prosed fee caps on loans under $2,000.

Sub-contracting the existing lenders

With the proposed legislation and regulation largely commencing now on 1st July next year, barring major amendment, there will be 2,500 trained and experienced staff available for hire, over 600 lending shopfront outlets already fully set up, and trained lenders, all with Australian Credit Licenses, looking for employment.

These are the obvious targets when it comes to implementing the necessary wholesale provision of non-commercial credit by the Federal Government.

With a coat of paint to cover the old commercial lending signage on the premises, an assignment of shop and office leases, a change of stationery and names in the computer programs, replacement of the variety of presentations on the websites with a common inclusion and new shirts for the staff to wear - a maximum 4 to 6 weeks effort if the task is assigned to commercial operators - this is the ONLY alternative ready for 1st July, 2012.

© Smiles Turner, June 2012

WHAT DOES THIS ALL MEAN?

There are three fundamental elements to bear in mind.

1. **The Review of Not-For-Profit Governance Arrangements**

   This review must be considered an integral part of the current discussion. Unfortunately, the Philanthropy and Exemptions Unit of Treasury is the unit involved in the Governance Arrangements review, not the Retail Investor Division.

   As the delegation explained in its January 2012 submission concerning governance and the NFP sector, governance must include provision for that sector to be major money lenders from 1st July next year.

   In addition, Assistant Treasurer David Bradbury has just made an announcement that the new governance standards will now commence the same day as the credit legislation - 1st July next year.

   The Consumer Credit Unit, Retail Investor Division of Treasury receiving this submission must talk to officers from the Philanthropy Unit and officers from Minister Collins' Community Services Department.

   These communications must involve a holistic review of submissions concerning the current Exposure Draft Bill, any regulation Minister Shorten now has in mind, governance arrangements for the NFP sector and submissions concerning "reducing the dependence" on commercial lenders.

2. **Unannounced regulation still to cause havoc**

   When Treasury indicates what Minister Shorten's final intentions are in regard to the Enhancements Bill, as they have promised to do during this week commencing 4th June, the Delegation will provide a contemporary analysis of what has - or will probably be - included in the Regulations under the Act. Earlier considerations are in danger of being rendered obsolete.

   So great has been the amount of additional relevant information provided by way of informal communication from the Minister's office, that significant parts of the Discussion Paper on Regulations released by Treasury in April, with a final submission date of 7th May, have become obsolete.

   Treasury has the Delegation's submission on the current Exposure Draft of the Enhancements Bill and a copy will be provided to the Philanthropy Unit and to the Department of Community Services, as will a copy of this submission. All three will be accompanied by a relevant and contemporary comment on proposed regulations. A copy of the Delegation's submission to the review of Not-For-Profit Governance Arrangements was provided to Treasury in January 2012.

3. **A "consultation" process that has become a fraud**

   Both the Explanatory Memorandum released with the Enhancements Bill in September 2011 and the Bills Digest explanation of the Enhancements Bill, contain the following statement:

   "*The Bill does not impose any financial obligations on the Commonwealth …there will be limited financial impact on persons engaging in credit activities as the changes largely target misconduct*".

© Smiles Turner, June 2012

This statement is absolutely false.

As explored in considerable detail in the Delegation's submission on the Exposure Draft, the financial impact "*on persons engaging in credit activities*" is, for the majority, catastrophic and, as explored in this submission, the impact on the Commonwealth financially will be huge it the Government is to avoid a socioeconomic disaster both for the 750,000 consumers and the redundant lenders' employees.

As evidenced in this submission, the likely alternatives will either not be able to cope, or not be in existence.

At no time has the Minister, nor his two relevant policy advisers, recognised the realities of the above. There has been a continuing presumption that the Minister can envelope the commercial lenders in an avalanche of restrictive regulation and that they will still survive. This is simply not true.

Conclusion - a flawed process

We conclude where we began. This Discussion Paper and its timing is fundamentally flawed.

It was promised by Minister Shorten during the three months commencing September 2011 - and that is when it should have been circulated. The promise was never repeated by Minister Shorten and was broken, with never a mention of a postponed distribution date.

It was promised again by Minister Shorten's Chief of Staff during a time period that should have seen it available in March. The promise was broken, again without apology, explanation or the announcement of a postponed date.

In March Treasury admitted that it had written most of the Discussion Paper (either 80% or 90%) and that a circulation date would be announced during the last fortnight in March. The silence continued until April 24th - with a submission date set for 4 weeks after the date for submissions in response to the second Exposure Draft Bill, being circulated on the same day. That allowed the consumer advocates to submit their irresponsible nonsense in regard to the Exposure Draft unchallenged, in an environment where there was no process in place to look at the total results of their proposals.

We now have proposed legislation created by a Minister who has not given any attention to the consequences - beyond forcing commercial lenders out of business. Any disingenuous promise of maintaining industry sector viability has long been broken.

Ironically, the Minister's professed concern to protect consumers by vigorously and comprehensively regulating the commercial lenders, will do the very opposite, when it delivers those consumers into the hands of the criminal element that has no regard or need to comply with the law.

The challenge in employing any of the alternatives to commercial small amount, short term lenders, is that the cost to repair the substantial socioeconomic damage that Minister Shorten current intends to put in train from 1st July next year, has not been catered for and will be excessive.

© *Smiles Turner, June 2012*