ANGLICARE
THE CARE THAT CHANGES LIVES

ANGLICARE Sydney Submission to the Assistant Treasurer, Senator The Hon Arthur Sinodinos AO

National Consumer Credit Protection Amendment (Small Amount Credit Contracts) Regulation 2014

7 March 2014

1. ANGLICARE Sydney

1.1 ANGLICARE Diocese of Sydney (ANGLICARE Sydney) is a Christian organisation operating a wide range of community services and programs across the Sydney Metropolitan and Illawarra regions of NSW; it embodies the Christian commitment to care for all people in need, as comes from Jesus' command to love your neighbour as yourself.[1] Our range of services includes: counselling; community education for families; family support services; youth services; emergency relief (ER) for people in crisis; foster care and adoption for children including those with special needs; migrant services including humanitarian entrants and newly emerging communities; English as a second language classes; aged care both through nursing homes and community services; opportunity shops providing low-cost clothing; emergency management services in times of disaster; disability case management and respite and chaplains in hospitals, prisons, mental health facilities and juvenile justice institutions.

1.2 Economic hardship is most prevalent among people accessing ER services. ANGLICARE Sydney is currently one of the most significant providers of ER in NSW, operating across ten service sites. We have been providing ER services for more than 40 years across the Sydney Basin and the Illawarra. We also provide financial counselling services at our Liverpool, Mt Druitt, Bondi, Waterloo and Darlinghurst sites, No Interest Loan Scheme (NILS) at Nowra, Mt Druitt and Liverpool, and StepUp at Liverpool and Mount Druitt. The observations made in this submission are based on the feedback from our services in the field.

2. Response to Exposure Draft of National Consumer Credit Protection Amendment (Small Amount Credit Contracts) Regulation 2014

2.1 ANGLICARE Sydney welcomes the proposed amendments to the Regulations as measures which aim to provide greater protection for consumers of small amount credit contracts (SACC) and address avoidance activity of lenders. However, we have an ongoing concern for consumers of SACCs and medium amount credit contracts (MACC) in vulnerable financial positions who may feel that their only option for immediate and urgent financial assistance is by borrowing from a payday lender.

2.2 ANGLICARE Sydney requests that the Assistant Treasurer allow us to take this opportunity to present the following brief overview of our concerns regarding the regulatory framework for small amount credit contracts.

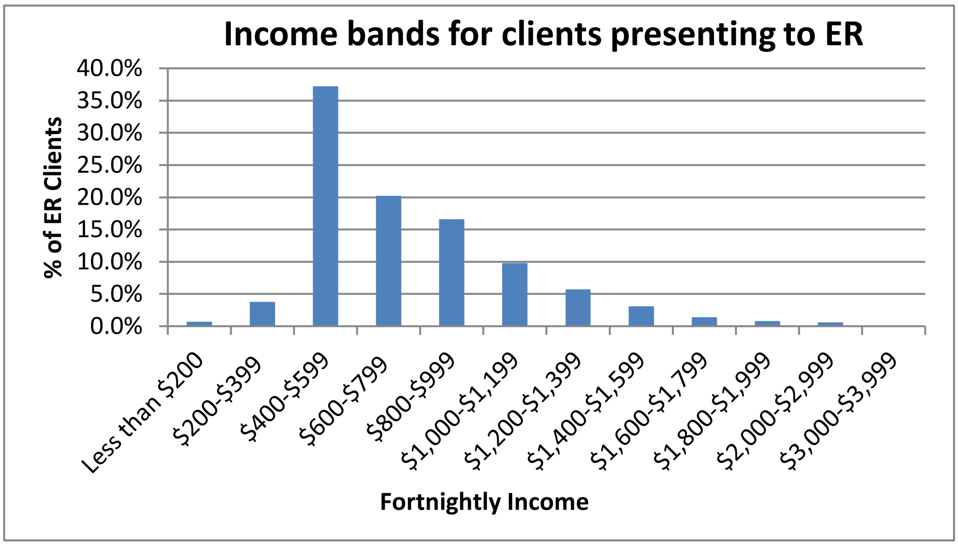
2.3 ANGLICARE Sydney acknowledges that short-term loans are sometimes a necessary source of income for consumers unable to access the mainstream credit market (specifically, banks and credit unions). However, we question whether the statutory maximum interest and fee rates are justifiable in a context where many consumers of small and medium amount credit contracts are financially vulnerable and marginalised. Our frontline workers have observed situations where the negative financial impact of short-term high interest loans can lead to people being unable to pay for necessities such as food and utilities. Feedback from workers indicates that most of these people would have enough money to live on if they did not have to pay back their debts at such cost. It is our view that consumers would benefit if they had access to a greater range of financial products – such as microfinance loans and mainstream credit loans.

1 The Gospel of Matthew, chapter 22 verse 39.

3. Financial Exclusion, Credit Debt and ER

3.1 **Economic hardship is significant** for those presenting to the ANGLICARE ER services. About 4 in 5 clients (78.5%) in the period of July 2007 to January 2014 have incomes of less than $1000 a fortnight – or around $500 per week. Chart 1 illustrates these findings.

Chart 1



3.2 This inadequacy of income is reflected in **an inability to accumulate savings** to provide a buffer for unexpected expenses. In the 2008 University of NSW study of indicators of disadvantage only 26% of clients interviewed had access to $500 or more to draw down on in case of an emergency.[2] By comparison, more than three quarters of the national population were able to access emergency funds of the same value. Under such circumstances any unforeseen expense such as the need to replace the water heater or whitegoods, an unexpectedly high utility bill or the costs of a funeral can send a low income household into debt and the need to access either ER or credit. As a consequence, a number of people access ER services either with significant financial debt or a need to resolve credit card debt. Since ANGLICARE began consistently collecting ER data in July 2007 across all its service sites, there have been 17,668 visits recorded in relation to financial debt.[3]

3.3 People on low incomes are vulnerable to **financial exclusion** with inadequate access to mainstream financial services. Accounts for low income customers generally pay little interest, incur high fees, require minimum balances and generally limit the number of free transactions. ANGLICARE service workers have commented that financial institutions which are not keen on attracting low income customers do not provide appropriate products or facilities to encourage such customers into the system. Low income households pay fees on accounts which require a minimum balance. Wealthier clients – with term deposits, home loans or other investments are often waived from the payment of such fees. Given the nature of the waiver it is almost always out of reach of the

2 Saunders, Peter et al (2008) *Towards New Indicators of Disadvantage: Material Deprivation and Social Exclusion in Australia,* Social Policy Research Centre: University of NSW, p42.

3 For the period July 2007 to January 2014.

disadvantaged and low-income client. Additionally, banks also provide discounted services for members of professional associations – these are not available to low income and disadvantaged customers.

3.4 This situation may well be exacerbated if the individual has **low levels of financial literacy**. ANGLICARE workers have observed that in the financial counselling program most clients have found it difficult to understand their bank statements and are therefore unaware of the charges they have incurred or the reason for these charges.

3.5 Financial exclusion is also exacerbated by the **lack of access to technology** among low income households. The move from over-the-counter banking to use of ATM's, telephone and internet banking and the use of EFTPOS facilities has in many ways revolutionised the delivery of financial products. To take advantage of these new systems however requires access to the technology. In the case of internet banking and even the use of ATM's for some this may not be feasible or easy. Fees on over-the-counter transactions have increased regularly whereas customer usage of the internet to avoid these fees is encouraged. Unfortunately many low income customers do not have access to a computer and therefore are forced to use over-the-counter transactions which are more costly.

3.6 Given this combination of low income, lack of adequate savings and inadequate access to mainstream banking and financial services, low income households often find themselves in the hands of 'pay day lenders'.

4 Pay Day Lending Issues

4.1 The provision of these high cost, short term loans is **exploitative of people on low incomes** since it is predominantly these households using this kind of borrowing. ANGLICARE workers note that a number of people on DSP benefits often resort to this sort of financing, as do single mothers and many who are not financially literate. A report released in August 2012 by RMIT, the University of Queensland, Good Shepherd, QUT and NAB indicates that most borrowers were on low incomes with 78% of research participants receiving Centrelink payments when interviewed.[4] A basic finding of the report was the exceptionally high incidences of poverty and low incomes among participants.[5] The study found that:

> *Interviews with 112 individuals who had borrowed, or had attempted to borrow, short-term cash loans from payday lenders comprise the research core of the project. Being 'caught short' has structural and personal dimensions. The fact of poverty pervades the lives of most borrowers interviewed. Eight people were homeless. Only nine respondents owned their homes or had a mortgage, with most (75 per cent) renting their accommodation either privately (36 per cent) or publicly (39 per cent). Less than a quarter (24 per cent) had some form of paid employment.*[6]
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> *Half (48 per cent) the income-supported interviewees had left school by the end of Year 11, compared to only a quarter (28 per cent) of borrowers not in receipt of a Centrelink payment.*[7]

4 Marcus Banks, Greg Marston, Howard Karger and Roslyn Russell (2012), *Caught short: Exploring the role of small, short-term loans in the lives of Australians*, August 2012, 22.

5 Ibid, 23.

6 Ibid, 15.

7 Ibid, 17.

4.2 For many people borrowing from pay day lenders, it is **not a one off occurrence**. The difficulty in repayment leads to refinancing the debt to a point which is often unsustainable. The *Caught Short* report highlights the issue with cycling, spiralling and parallel loans.[8] In that study what emerged was:

- 44% cycled through their loans – immediately taking out a new loan once the previous loan has been paid out.
- 23% found themselves in a spiralling process of refinancing the balance of a partially paid-out loan to start a new loan.
- 25% stated they took out two or more parallel loans from the same or different lenders simultaneously.

4.3 Borrowers are then caught in a **vicious cycle of debt** from which it is almost impossible to extricate themselves. ANGLICARE microfinance workers in Mt Druitt state that the negative financial impact of short term high interest loans can be extensive with many unable to pay for their basic necessities like food or utilities. Feedback indicates that most would have enough money to live off if they were not required to pay back their debts at such cost. One ANGLICARE worker noted:

> *It breaks my heart to see people struggling in this cycle, and it's even more horrific when there are children involved, and you know they won't have food in the house in the coming week. When clients present with these debts, and are looking for help to get away from them (keeping in mind that not everyone wants a way out . . . they will go back and start the cycle again as soon as they feel like they need extra cash!), it gives us an opportunity to partner with them for 4-5 weeks, while they break the cycle (via a contract to provide food vouchers).*

4.4 Notwithstanding the responsible lending conduct obligations, it seems that some **clients are unaware** of how much they are actually paying back. Most are attracted by the marketing of easy and fast access to cash and are surprised when they are shown how much they are paying in fees and interest. Often a payday loan sets clients off on a debt cycle with some coming in to ANGLICARE with multiple loans from different lenders operating at the same time. People with gambling issues are also particularly vulnerable to the attraction of "easy" money.

> ***Jenny's story:*** *Jenny contacted ANGLICARE as she was in rental arrears. She explained that the arrears had accumulated following a car accident last month. The accident was a hit and run and the other car was not identified. The accident had left her with a repair bill of $1400, which she paid herself. Jenny explained that she needed the car for her 4 children.*
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> *Jenny went on to say that she did not have the available cash to pay for the repairs so she got a "quick payday loan". She did not realise the interest rate was at 48%. Jenny had arranged for the payday loan to be direct debited from her account, however, once this money was taken from her bank account she didn't have enough money to pay rent and buy food for her and the children.*

8 Ibid, 41.

Jenny shared how she has always budgeted well and never been in rental arrears before; she was studying at the local TAFE hoping to get a job and better her family circumstances.

Jenny was 4 weeks ($1440) behind in her rent when she came to ANGLICARE however she had managed to pay back 2 weeks ($720). Jenny said she had borrowed some money from her mum to help provide food for her family over this period. Jenny's landlord had been understanding of situation and had written a support letter.

ANGLICARE was able to assist Jenny with money to pay off her rental arrears. Jenny was referred to a legal service for information regarding the pay day loan.

5 Recommendations for Further Reform

5.1 **Use of Microfinance programs as viable alternatives to payday loans**: ANGLICARE Sydney strongly recommends reform to ensure that socially and financially excluded consumers are clearly informed of and offered alternatives to SACCs in the form of No Interest Loans Scheme (NILS), StepUP, AddsUP, Centrelink advances and other microfinance programs suitable for low income consumers requiring short-term low interest finance. There needs to be increased consumer information and awareness of financial counselling and alternatives to SACCs for people on low incomes and/or with low financial literacy. In addition to the current statutory requirement for a warning with information about alternative options,[9] pay day lenders should be required to offer to potential consumers referrals to financial counselling, utility bill assistance and sources of no or low interest loans as alternatives to pay day loans. Microfinance programs, financial literacy programs and support services need to be supported with appropriate funding to ensure they are available to vulnerable people in the longer term.

5.2 **Review and reduce the capped interest and fee rates:** The current interest and fee capping for SACCs means that, as an example, a consumer who takes out a $2000 loan could end up paying $1360 in interest and fees over 12 months (upfront fee of 20% and 4% interest per month). This would equate to a weekly direct debit for the consumer of $64.62, a significant amount for people on low incomes who are juggling housing, food and other household costs. By comparison, the weekly repayments for the same loan amount and term under the StepUp scheme would be $39.50, with the total amount of interest paid over the 12 month totalling $54.00.[10] We note that the payday industry is growing,[11] despite many lenders' submissions to the Green Paper that a 48% cap on interest and fees was unsustainable for the short-term small amount lending industry.[12] We respectfully submit that the maximum interest and fees rates be reviewed and reduced, in an environment where the industry is growing and financial circumstances of already vulnerable consumers are worsening.

5.3 **Increased options for low income consumers in the 'mainstream' credit market:** Mainstream credit providers (including banks) need encouragement to enter the low

9 As outlined in National Consumer Credit Protection Regulations 2010, sch 7.

10 Interest charged at 5.99% per annum on a principal interest loan reducing to zero over 12 months. See examples at http://cr.nab.com.au/docs/131229-update_pricing-changes_flyer.pdf

11 http://www.smh.com.au/business/westpacs-risky-dealings-with-payday-lender-cash-converters-20131108-2x76c.html

12 Explanatory Memorandum, Consumer Credit and Corporations Legislation Amendment (Enhancements) Bill 2011, 11.119.

income consumer credit market, potentially through the introduction of grants or tax incentives, as per the recommendations of the Social Investment Taskforce in the United Kingdom. Ideally, these options would be accompanied by initiatives that would enable low income earners to build up their savings, reduce reliance on payday loans and establish a reliable credit history.

5.4 **The Federal Government assist in the development of collaborative programs between credit unions and community groups for consumers who are not eligible to access microfinance products.** Such an initiative may increase the customer base of credit unions and give them a competitive edge over banks in the low-income market, thus reducing the costs associated with payday loans. Community organisations have assisted with product development, training and providing advice. In the United States, there are at least two credit unions that have offered payday loans with an interest rate of 10.75% - 11.75%, which is considerably lower than the Australian interest cap.

6 Conclusion

ANGLICARE Sydney welcomes the amendments outlined in the exposure draft of the Regulation as measures to assist in the protection of consumers and address avoidance activity by lenders. Our concern is that further industry reform is required in order to protect vulnerable and financially excluded consumers on low incomes and/or with low financial literacy, including measures such as increased options, awareness and referral to alternative loans and financial counselling, and review of the maximum interest and fee rates chargeable by small amount credit lenders.

ANGLICARE Sydney thanks the Assistant Treasurer for this opportunity to share our organisational experience of clients dealing with small amount credit contracts and present our recommendations. We invite the Treasury to contact us for any further information.

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