from me

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Mr. James Kelly
Principal Advisor
Financial System Division
The Treasury
Langton Crescent
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**CONFIDENTIAL**

01 July 2016

Dear Mr. Kelly

Members Equity Bank Ltd (the Bank) appreciates the opportunity to provide views on the public consultation of the Government's response to the Senate Economics Committee Inquiry into matters relating to credit card interest rates (the Consultation Paper). The Bank supports the bulk of the proposed actions and reforms, and believes they achieve a balance between the problems outlined in the Consultation Paper and the needs of Australian consumers in having an innovative and relevant credit card industry.

The Bank has, for some time, been concerned about the increasing lack of competitiveness in the market and has welcomed recent reforms aimed at stimulating further competition. The Bank however feels that some of the proposed actions stop short of fully addressing problems and that some may result in unintended outcomes that stifle competition and reinforce the position of the larger incumbents.

The Bank is a member of the Australian Bankers' Association (ABA) and has worked with them to determine our position on matters arising in the Consultation Paper. Where the Bank's position is consistent with the ABA position – we have confirmed this view. There are certain proposals which the Bank wishes to make specific reference to, outlined below.

**Members Equity Bank overview**

The Bank is an issuer of credit cards and is not an acquirer. The Bank's range of credit card products is currently limited to non-premium tiers and 'low-rate' products and the Bank does not offer 'rewards' products. At present, the Bank does not offer balance transfer rates below the standard purchase rate and a comparison of the existing market demonstrates significant competitiveness in the Bank's interest rates and ongoing fees. Internal market research has demonstrated the appeal of our product set to consumers who are rate and fee sensitive, are indifferent regarding high-cost options of rewards programs, platinum and above-platinum benefits and other high-cost ancillary services. This research demonstrates that consumers view the bank and its products as providing an 'alternative' to the larger card issuers. The bank considers itself a 'small-issuer' and as at April 2016 held 0.35 per cent of total APRA regulated credit card balances[1] in Australia.

The proposed actions are a result of the discussion outlined in Section 3 of the Consultation Paper – including the Governments' assessment of deficiencies in the credit card market and the arguments for Government action. The Bank notes that these matters have been discussed, at length, in previous rounds of government consultation, and will not address the underlying factors outlined in detail. The Bank, however, notes that the components of the discussion related to financial distress, customer hardship, over-borrowing and under-repayment represents a very small minority of our customer base. To that end, the Bank believes that a measured approach to proposed actions needs to be considered in order to both accurately address these concerns, but to not regulate in a manner

1 Australian Prudential Regulation Authority. *Monthly Banking Statistics.* April Statistics. Accessed on 10 June 2016 via: http://www.apra.gov.au/adi/Publications/Pages/monthly-banking-statistics.aspx

that prevents appropriate services being offered to the larger group of consumers who utilise these products responsibly. The Bank believes that Treasury can achieve more equitable outcomes for consumers and alternative ‘small issuers’ through further considering and making changes to the proposed actions.

**Prescribe a credit limit to be unsuitable if a consumer cannot afford to repay the limit within a reasonable period**

The Bank makes note that as a responsible lender, it is not within the Bank’s interest to over-extend credit to borrowers. The Bank benefits from consumers who are provided with appropriate products that meet their financial needs. The Bank implements practices consistent with our responsible lending obligations under the *National Consumer Credit Protection Act 2009* augmented with ASIC’s expectations for meeting the responsible lending obligations in Chapter 3 of the Act as stipulated in *Regulatory Guide 209 – Credit Licensing: Responsible lending conduct* (RG209). These practices demonstrate that we provide appropriate products with acceptable lending limits. These practices are complex and take into consideration a raft of information to determine the suitability of lending on a case-by-case basis. Furthermore, the Bank conducts significant investigation into the veracity of information captured at the time of application (compared to the industry norm).

It’s important to recognise that the causes of financial distress characterised in the Consultation Paper have very little relevance to the responsible lending practices at the moment of application. Over 90 per cent of hardship applications to the Bank are due to changed circumstances including separation/divorce, unemployment, subsequent disability etc and cannot be regulated for at the time of application. In addition, the Bank has a hardship process that manages customers who find themselves in subsequent financial distress and offers assistance to help control the stress of financial management in these circumstances.

The Bank believes a better approach to managing the issues outlined in the Consultation Paper, coupled with existing Responsible Lending guidelines and practices, is to include mandating the use of Comprehensive Credit Reporting (CCR) within a reasonable timeframe. CCR appropriately strengthens the ability to conduct a full and comprehensive responsible lending assessment and may ensure a product is ‘not unsuitable’ for the consumer. CCR will allow the industry to make appropriate decisions regarding lending on an individual basis utilising much richer information than what is currently available.

In addition, and in consistency with the ABA submission, the Bank supports a more targeted solution where additional support is provided to customers identified as being in financial hardship by the provision of additional solutions that help them regain control of their finances. These solutions are in addition to the industry’s Financial Hardship Package released in 2013[2]. This may be in the form of an amortized loan on outstanding debt or repackaging total unsecured lending in a format that allows customers to realistically manage repayment and servicing of their debt. The Bank would appreciate the opportunity to work with the Government in identifying specific solutions that adequately address the concerns raised in the Consultation Paper through this more targeted framework.

***Question: How should a ‘reasonable period’ be defined in the regulatory framework?***

Although the Bank does not support the approach of mandating a “reasonable period” criteria, in order to provide guidance, the Bank believes a reasonable period should be defined as no less than 7 years, however, the Bank believes that this approach should be limited to apply to any customer identified as ‘higher-risk’. In the event that it is not limited, the Bank believes that an extension of this period to no less than 15 years is an appropriate timeframe.

The Bank has not defined, in this paper, what variables can be identified to determine the limiting of this provision to specific segments of the consumer base – however, a combination of income, current liabilities, and other employment and demographic variables could be used to reasonably and broadly categorise applicants into higher-risk categories and apply a mandated, differentiated ‘reasonable period’ lending criteria to this group.

This approach not only offers better protection to high-risk groups without limiting the need for appropriate products to lower-risk consumers, but ensures the maintenance of competition within the market. Applying the Government’s proposal to make this requirement apply to new card and credit limit increase applications would severely hamper the ability of ‘small issuers’ to attract lower-risk transactional-use customers away from existing issuers with whom they already hold a large limit. The Bank feels this would be a barrier for lower-risk customers

[2] http://www.bankers.asn.au/Consumers/Are-you-experiencing-financial-difficulty-

to switch not only their existing credit card product – but other 'package' products in which the credit card is bundled with a current account and mortgage – where they cannot be provided an appropriate level of credit that matches their existing unsecured lending exposure.

This reform, as currently proposed, would therefore potentially have the ability to cause a perverse result in further entrenching the inertia effect and providing little incentive for banks to compete against other low cost competitors.

The Bank agrees with the Potential Consequences outlined in the ABA submission and believes the proposal would present limited options for consumers to adopt relatively low-cost, regulated credit card products such as the Banks' (in favour of products outside of the banking system with less favourable interest rates). In addition, the Government needs to provide clarity on the application of the minimum monthly payment under a 'reasonable period' proposal as this has the potential to significantly alter the nature of the credit card product. Consumers utilise credit card products for various reasons, including as a pure transactional mechanism, security and assurance factors, and smoothing out cash flow. Altering the nature of the product to treat responsible lending obligations in the form of an amortized loan may negatively impact the utility that consumers derive from credit cards and limits competition as issuers will be increasingly unable to provide a relevant product to new customers.

**Issuers to prominently disclose in advertising and marketing material a card's interest rate and annual fee and issuers to provide consumers with information about the annual costs of their credit cards**

The Bank strongly agrees with this recommendation and feels the best approach to achieve maximum effectiveness is one in which significant prominence is presented in all marketing and advertising material. In addition, the Bank recommends that a representative APR calculation be adopted, similar to that in the European Union and that an Australian calculation take into effect the difference in interest calculations between issuers.

The Bank notes the approach adopted in the United Kingdom under the Consumer Credit Directive[3]:

> *..if an advertisement includes an interest rate or any amount relating to the cost of credit, it must also include a representative example. This must contain certain standard information including a representative APR. The example must be clear and concise and **must be more prominent** than the information that triggered the inclusion of the example.*

The Bank believes that this standard serves as an appropriate example to be adopted in Australia. In addition, the Bank believes that inclusion of the interest rate should be mandatory in any headline for credit cards, including but not limited to balance-transfer offers and rewards-points based offers. The Government can also provide the industry with a standard example that it must use in order to provide a common reference point for comparison. Under this approach, the Bank notes an existing UK premium rewards product advertised at '22.9% p.a.'. The Representative APR is prominently displayed within the same heading as 76.0% p.a.. The Bank believes advertising of this nature would outline the true cost to be incurred by consumers and allow consumers to compare 'like-for-like' examples.

The Bank would also like this extended to 'comparison providers' (commonly known as 'aggregators') – where paid or unpaid display of existing advertising would require a prominent display of a representative APR – including in tables where prospective customers can sort issuers by non-price or temporary-price metrics (points, balance transfer offers etc).

For ease of implementation and to provide greater relevance to consumers – display of the highest interest rate potentially to be incurred by customers on the product could be used instead of a representative APR (in the majority of cases this would be the cash-advance interest rate).

**Require issuers, acquirers and card networks to facilitate the transfer of recurring payments across cards**

The Bank strongly supports any requirement to mandate industry participants transfer recurring payments across card issuers and networks. The Bank notes Treasury's call-out of an issuer's submission to the Senate Inquiry that suggested 'card number portability' in Australia would result in significant industry costs. The Bank agrees with this view and therefore strongly urges the Government to mandate industry standards to facilitate the transfer of

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3 The Department for Business Innovation and Skills. *Regulations implementing the consumer credit directive – Quick start guide, August 2010*. Her Majesty's Government. Accessed on 10 June via: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/422679/bis-10-1072-consumer-credit-directive-quick-guide.pdf

Australian domestic recurring payments within a reasonable time period so that ‘card number portability’ is not required.

The Bank believes recurring payment transfer inertia is a major barrier to customers switching to lower cost and more appropriate credit card products and there exists cost-effective methods available that the Government can use to overcome these barriers and increase competition in the industry. Both three-party and four-party schemes, whilst operating global infrastructure, accommodate regional and national requirements (including requirements specific to Australia) and the Bank is willing to discuss a number of solutions that may be extended to better facilitate the transfer of recurring payments across issuers without significant outlay in technology and infrastructure.

**Other proposed reforms**

Please find attached the Bank’s views on the further proposed reforms and questions in the Consultation Paper in Appendix 1. Where the Bank has not specifically provided a view on the proposals in the Consultation Paper – the Bank supports the view of the ABA.

As a responsible lender, the Bank is eager to work with Government in ensuring a robust competitive industry aimed at improving consumer outcomes. We feel these proposed reforms are a step in the right direction and with further consideration and adjustment are able to balance the desired outcomes. Thank you again for the opportunity for the Bank to provide its views on this significant change within the Australian credit card market and we look forward to discussing these recommendations moving forward. Please contact Srikanth Yalamanchili, Head of Cards, to discuss any of the matters raised above in greater detail.

Yours Sincerely

**Ms. Rebecca James**

**Chief Marketing Officer, Members Equity Bank Limited**

**Appendix 1 – Proposed actions and specific questions**

| Proposed Reform | Specific questions | Summary response |
|---|---|---|
| The Government proposes to broaden the prohibition on unsolicited credit limit increase offers to all forms of communication, and to remove card issuers' ability to seek consumers' prior consent to receiving unsolicited offers. | N/A | The Bank shares the view of the Australian Bankers' Association |
| Consumers are provided with simple, electronic options to initiate the cancellation of a credit card and reduction of credit limit | How would this option be implemented to be consistent with the Government's commitment to ensure regulation is technology neutral? | The Bank shares the view of the Australian Bankers' Association but notes the following:<br><br>Online and, increasingly, mobile solutions are the norm for customer interaction and as such – requiring issuers to provide customers with an option in a secured log-on environment is likely to remain technology neutral. The Government should consider some customer segments to have direct-person or face-to-face interaction during these instances, particularly where customers may be threatening to close in order to attract reimbursement of fees and charges as a result of a poor experience. As a result, an electronic request should simply by another avenue by which customers can access this service |
| Issuers to provide consumers with information about the annual costs of their credit card use and to clearly display annual fees | Apart from those detailed in the Consultation Paper, are there other types of information that could be presented to increase consumers' attention to the costs of their credit card usage? | Notification to customers of upcoming annual fee periods in statement periods before they are charged.<br><br>Significant notification to customers at a specified time prior to the expiry of introductory pricing plans (balance transfer or purchase rate offers) |
| | What aspect of the presentation and distribution of the information would be important in ensuring that it is seen and has the intended effect? | The Government should consider the active promotion of switching to e-statements by some issuers and whether consumers read these statements in the same way as they read paper statements. Ensuring that they simply do not reflect the paper statement but are formatted in a way that highlight the reader's attention to fees and charges. In addition, the Government may mandate that notifications and warnings appear about fees and charges and require acknowledgement by the user prior to displaying the detailed e-statement, with consideration of the costs these technical updates require. |
| Issuers to provide consumers with personalised information on potential savings from | To what extent would the information provided under this proposal induce consumers to switch to lower | The Bank shares the view of the Australian Bankers' Association |

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|---|---|---|
| alternative credit card products | cost cards? | |
| | What aspects of the presentation and distribution of the information would be important in ensuring that it is seen and has the intended effect? | The Bank shares the view of the Australian Bankers' Association but notes the following:<br>As per the comment above – the Government needs to consider e-statements and whether opportunity exists to incorporate greater warnings and notifications through electronic mediums |
| Consumers are provided with notifications of how much credit they have used | What are the most appropriate triggers to provide these notifications, or should these notifications be periodic rather than tied to specific events? | The Bank shares the view of the Australian Bankers' Association |
| | What is the most appropriate method for card issuers to provide these notifications? | The Bank shares the view of the Australian Bankers' Association |
| Pro-active assistance for consumers who persistently make small repayments | What factors would maximise the take-up of repayment tools by consumers who are subject to under-paying? | The Bank shares' the view of the Australian Bankers Association but notes the following:<br>The Bank does not believe this proposed action will address under-payment issues raised in the Consultation paper. |
| | What is the most effective and efficient way to engage consumers who are persistently making small repayments to suggest an alternative course of action? | |
| Substantially raise the level of minimum required repayment | Taking into account the potential benefits and costs discussed above, is there merit in further investigation of this policy option? | The Bank does not believe there is merit in further investigation of this policy option given the other proposed reforms surrounding over-borrowing |