



Promoting Responsible Consumer Lending

EDR Review Secretariat
Financial System Division
Markets Group
The Treasury
Langton Crescent
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By email: EDRreview@treasury.gov.au

Dear Madam/Sir

Review into Dispute Resolution & Complaints Framework - Supplementary Issues Paper

The National Credit Providers Association (NCPA) welcomes the opportunity to make a submission on the review of the dispute resolution and complaints framework – supplementary issues paper.

Broadly the NCPA is supportive of the proposal of a new one stop shop model however has numerous concerns about some current practices by both CIO and to a lesser extent FOS and how fees are applied to small amount loans disputes.

Under the existing scheme where numerous ombudsman services act on behalf of consumers the cost for a small amount loans provider is excessive and is far in excess of the option to forgive an outstanding debt rather than dispute or defend the complaint.

Additionally, as seen across all Financial sector industry categories the volume of disputes is increasing, this is no different for the Small and Medium Loan Amount sector so this will further exacerbate any cost differential in the relationship between fees for service and the costs of forgiving an outstanding small amount loan. The number of genuine complaints as opposed to vexatious claims is a serious concern and there is little or no recourse for the small amount loans providers.

For example, the average amount of a small amount loan is approximately \$770 over 12 months. When you consider the minimum basic cost for a small amount loan provider to

challenge a dispute from the Credit Investment Ombudsman is \$985.00. This can rise substantially to as much as \$6575 if the small amount loan provider goes through the process of disputing and defending the complaint.

The high cost to the FSP, especially as a percentage of the loan amount of a complaint through our current EDR schemes is seeing more consumers not engaging in our IDR process. The main reason is the EDR is more likely to deliver an outcome in the consumers favour because it is commonly known as commercially more viable for the FSP. This is encouraging the wrong behaviour from consumers therefore increasing the complaints to EDR that simply have no merit.

One way to address this is to reduce the cost of an EDR complaint to the FSP and limit the total cost to 20% of the loan amount.

Further, make it a requirement of the process that a complainant must complete and provide proof to the Ombudsman, that an IDR process has been undertaken, however remains unresolved so the next step is to pursue an EDR. This will have the effect of reducing vexatious complaints and better and more accurately reflect the issue being pursued and only applying fees once it has been established the consumer has followed all available resolution opportunities with the FSP.

Further, introducing a penalty for unmeritorious complaints would also have the effect of lowering the number of vexatious complaints.

There are numerous examples of evidence to support the NCPA's concerns over current practises in this regard including in the Credit Investment Ombudsman's (CIO) Annual Report 2104/15, 'inappropriate conduct by paid representatives' and the CIO Newsletter, Issue 2, June 2017 page 2 #11 - "smaller firms don't want to be financially blackmailed into settling unmeritorious claims to avoid further complaint fees" as well as the QCAT website ref: fees for Debt disputes.

In addition, lawyers and credit repair agents are using the high cost to register a complaint (by a FSP) where consumers have not engaged in the FSP's IDR scheme to achieve a favourable outcome for their clients, where the client is at fault.

As a solution, the NCPA recommends agents and lawyers must be forced to engage in the IDR process before being allowed to register a complaint to the EDR schemes and must pay the cost to register a complaint to the EDR scheme.

The evidence to support this claim can be found in the CIO Annual Report 2014/15 'inappropriate conduct by paid representatives'.

We believe that the new one stop shop model of dealing with consumer complaints can be successful if the above issues are considered when framing the operating principles of the new service provider, the Australian Financial Complaints Authority (AFCA).

NCPA members looks forward to working with the government as it establishes the new external dispute resolution process consistent with the timeline outlined in this consultation process.

Date	Action
14 June	Consultation on exposure draft legislation concludes.
Mid-July	Minister For Revenue and Financial Services publicly outlines the requirements for making an application for authorisation of AFCA.
Second half of 2017	Formal application process commences. Applicants will be provided with four weeks to submit an application. Minister will authorise a company limited by guarantee to operate AFCA.
1 July 2018	AFCA commences operations

Accordingly, we believe that consumers and industry will be better served by a dispute resolution process that is transparent and equitable for all parties rather than to encourage unnecessary behaviour and complaints that only serve to further diminish the valuable service that small amount loan operators provide to the 3 million Australians who are unable to access credit through main stream finance.

We thank you for the opportunity to provide this input to this important process.

Yours sincerely

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NCPA