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FINANCIAL
SERVICES

Manager
Consumer Credit Unit
Retail Investor Division
The Treasury

Via email: poscredit@treasury.gov.au

4 April 2013

Dear Sir/Madam,

Discussion Paper – The Exemption of Retailers from the *National Consumer Credit Protection Act 2009*, January 2013

Nissan Financial Services Australia Pty Ltd (**NFSA**) is grateful for the opportunity to comment on the Treasury Discussion Paper.

Our submission is set out in the annexure to this letter.

Please let us know if we can be of further assistance.

Yours sincerely

A handwritten signature in black ink, appearing to read "Peter A Jones".

Peter A Jones
Managing Director
Nissan Financial Services Australia Pty Ltd

Nissan Financial Services Australia Pty Ltd

Submission

Discussion Paper – The Exemption of Retailers from the *National Consumer Credit Protection Act 2009*, January 2013

Summary

Of the three options set out in the Discussion Paper, option 1 is NFSA's strong preference for the following reasons:

1. The point of sale exemption was introduced in recognition of the additional administrative and financial burden that motor vehicle dealers would be required to bear if they were to be subject to the requirements of section 29 of the NCCP.
2. The Discussion Paper does not contain any evidence of market failure or sustained adverse consequences for consumers which would justify the introduction of option 2 or option 3.
3. Given the lack of evidence to suggesting market failure as a result of the current point of sale exemption, there is little value in imposing a significant and potentially cumbersome compliance framework to rectify a situation that has not been shown to exist.

Background

Treasury released its Discussion Paper – The Exemption of Retailers from the *National Consumer Credit Protection Act 2009* (the **NCCP**) in January 2013.

Section 29(1) of the NCCP requires that a person must not engage in a credit activity if the person does not hold a licence authorising the person to engage in the credit activity. The term 'credit activity' is defined in section 6 of the NCCP and relevantly includes the activities of motor vehicle dealers arranging finance for motor vehicle purchasers on behalf of NFSA.

Regulation 23 of the *National Consumer Credit Protection Regulations 2010* (the **Regulations**) exempts Nissan dealers from the requirement to be licensed or authorised by an Australian Credit Licensee.

The exemption from the licensing requirement was introduced in 2009 in recognition of the fact that many retailers do not administer credit applications and most do not provide credit. In the motor vehicle dealer scenario, this meant that dealers were not required to undertake the administratively difficult and expensive task of, for example, training staff in order to comply with the NCCP requirements or joining an ASIC approved External Dispute Resolution Scheme. The introduction of the point of sale exemption was generally regarded as being appropriate at the time it was introduced.

About NFSA

NFSA offers retail financial services through independently owned franchised Nissan dealer network. Many Nissan dealers use NFSA as the exclusive financier (or the first choice financier) for their retail customers. Accordingly, NFSA operates as a genuine point of sale financier.

NFSA does not offer finance to consumers other than through the Nissan dealer network. Unlike some other financiers in the market, NFSA operates as a 'single channel' financier that it does not, for example, offer finance through a separate broker network.

As an Australian Credit Licensee, NFSA complies with its licensing obligations under the NCCP. Unsuitability assessments are conducted in-house along with credit assessments and all aspects of loan administration. NFSA also provides business manager training to individuals in the dealer network to maintain standards throughout the Nissan dealer network.

Treasury's recommendations

In its Discussion Paper, Treasury put forward three options for the regulation of point of sale vendors arranging finance on behalf of financiers.

For the reasons set out below, Option 1 represents NFSA's strong preference.

Generally, NFSA would expect the relevant regulator to examine a particular market or sector and move to introduce legislative change only if evidence of market failure warranted additional regulation.

NFSA is not aware, anecdotally or otherwise, that the current exemption regime has led to adverse outcomes for consumers. NFSA notes that no evidence of any such adverse outcomes is contained in the Discussion Paper.

Given this lack of evidence, NFSA does not believe that imposing the NCCP regime on point of sale financiers is warranted. Compliance with the NCCP requirements is cumbersome and costly for motor vehicle dealers.

In NFSA's view, there is little value in revisiting significant legislative change in the relatively short period since the implementation of the NCCP regime