NEW ZEALAND BANKERS ASSOCIATION

Submission

to the

Ministry of Business, Innovation and Employment

on the

Credit-related Disclosure and Rebate Regulations Discussion Document – November 2014

1 December 2014

NEW ZEALAND BANKERS ASSOCIATION
Level 15, 80 The Terrace, PO Box 3043, Wellington 6140, New Zealand
TELEPHONE +64 4 802 3358 FACSIMILE +64 4 473 1698 EMAIL nzba@nzba.org.nz WEB www.nzba.org.nz

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About NZBA

1. NZBA works on behalf of the New Zealand banking industry in conjunction with its member banks. NZBA develops and promotes policy outcomes which contribute to a strong and stable banking system that benefits New Zealanders and the New Zealand economy.

2. The following fourteen registered banks in New Zealand are members of NZBA:
   - ANZ Bank New Zealand Limited
   - ASB Bank Limited
   - Bank of New Zealand
   - Bank of Tokyo-Mitsubishi, UFJ
   - Citibank, N.A.
   - The Co-operative Bank Limited
   - Heartland Bank Limited
   - The Hongkong and Shanghai Banking Corporation Limited
   - JPMorgan Chase Bank, N.A.
   - Kiwibank Limited
   - Rabobank New Zealand Limited
   - SBS Bank
   - TSB Bank Limited
   - Westpac New Zealand Limited.

Background

3. NZBA is grateful for the opportunity to submit on the discussion document in relation to the Credit Contracts and Consumer Finance Amendment Act 2014 (the Act) and the regulations made pursuant to the Act (the Regulations).

4. The process around the development of the Act has been a good example of policy development that has actively involved the industry. NZBA commends the ongoing commitment to meaningful consultation and engagement and appreciates the opportunity to participate in this consultation.

5. The following submission makes some brief comments on the discussion document.

6. If you would like to discuss any aspect of the submission further, please contact:

James Pearson
Associate Director – Policy
04 802 3353 / 021 242 0603
james.pearson@nzba.org.nz

General

7. NZBA does not support the calculation method for minimum repayment disclosure.

8. In relation to the time frame for development of regulations, we note that these regulations will require significant technology system changes to implement. Large organisations such as registered banks can only make technology changes within specific "change" windows which require long lead in times for development and risk management. Given the lack of detail at this point it will not be possible to implement the changes by 6 June 2015.

9. Our members have indicated that they would likely need between six and 12 months to implement technology changes to accommodate any minimum repayment warning. On this basis, we submit that a transition period should be applied whereby the Regulations are in place by 6 June 2015, with a commencement date of, for example, 1 December 2015. This will meet the legislative objective of having the Regulations in place in the prescribed timeframe but will also allow the industry a reasonable time to implement the necessary system changes so as to comply with the Regulations.

Costs of Borrowing

1. What information about the costs of borrowing do lenders currently make publicly available?
2. Will the information described at paragraphs 32 to 34 assist consumers in comparing different products?
3. What are the costs to creditors in publishing and updating the information described at paragraphs 32 to 34?
4. How often might a lender's "costs of borrowing" change?
5. Is there different information and/or further information about costs of borrowing that could be described through these regulations? If so, please describe and set out the reasons why (e.g. potential benefits to consumers; potential compliance costs).
6. Would a prescribed form (i.e. format) of disclosing costs of borrowing assist consumers? Why/why not? If yes, how would you suggest the information be presented in a way that meaningfully assists consumers?

10. NZBA supports the decision not to prescribe a form that lenders must use when disclosing the cost of borrowing.

11. NZBA does not support a requirement to always disclose the formula or calculation used to set fees. We believe requiring lenders to disclose the formulas or calculations they use for certain fees will not help a borrower make an informed decision or a comparison between lenders. In addition, disclosing the formulas will conflict with the responsibility that information is not confusing to customers. We would suggest that providing a reference to consumers as to where they might access that information should be sufficient.

12. NZBA does not support requiring lenders to state the period that interest or fees will apply, due to the difficulty in implementation, in particular for long term lending. It will not be possible for lenders to decide, in advance, how long a particular interest rate will be available or when or if it will change its fees. These matters are often subject to market changes and will be uncertain.

13. We also believe the regulations should allow lenders flexibility on how they publish information about the costs of borrowing. In particular, we submit that lenders should not be required to disclose information about interest rates and fees together, given the frequency at which information on rates may change.

14. Lenders should be able to disclose the costs of borrowing in the most effective way for that lender and product, with the condition that those fees and interest rates are readily accessible for customers, e.g. by telephone and online.

15. In relation to question 4, other than interest rate or fee changes, the cost of borrowing would change if for example a customer requested a top-up.

16. It is unclear what is intended by the reference to a "range" of interest rates or charges in paragraph 33 and this may lead to confusion as to what must be disclosed. NZBA submits that this should be clarified.

Model Disclosure Statements

7. Do you have any comments on the proposed amendments to the model disclosure statements (in particular, the drafting of the "right to cancel" and information on unforeseen hardship)?
8. From a creditor's perspective, what are the benefits of these disclosure statements, and do you currently, or are you likely to, use them?
9. From a consumer's perspective, is the information in these model disclosure statements presented in a useful and clear way? If not, how could the model disclosure statements be improved?
10. Would you find it useful for the model disclosure statements to be provided in a word format on the Ministry's website?

17. The banking industry does not use these, but we note that it may be useful to reconsider the model disclosure forms. More comprehensive changes may be required for high risk lenders.

18. Based on the above NZBA strongly submits that the wording of the “debtors right to cancel” should not be compulsory, and that lenders should be able to use their own wording to describe the ‘debtors right to cancel’.

Warning on credit card statements

19. NZBA supports a simple static warning. We do not support calculation style warnings, and consider the research cited does not reflect evidence to support this type of warning. In fact, the research tends to support the opposite in the NZ context. In general, we do not think international precedent should be imported without further consideration. NZ credit card consumer repayment data is significantly different and so are levels of financial literacy.

11. In your experience what proportion of credit card holders make only the minimum repayment each month? What proportion repays the balance in full each month?
12. What information is currently available to consumers regarding the costs of repaying the balance at the minimum repayment?
13. What information would be most helpful to consumers in altering them to the costs of repaying the balance at the minimum repayment?
14. What other information and tools do credit card providers make available to credit card holders regarding the costs of repaying the balance at the minimum repayment? How often are these resources used by consumers? Do you consider them to be effective?

20. Between 1 and 3% of NZ credit card customers pay the minimum each month. This figure is significantly lower than the equivalent statistics in the United States and United Kingdom, where as many as 13-14% make the minimum repayment each month. In the US only a third pay in full, whereas in NZ it is over 50%.

21. The more relevant question is whether this information would have any effect on consumer behaviour. That is not clear. However, the behaviour of those who pay the minimum is likely to be more affected by the fact they are unable to pay more, than a belief that the minimum is all that is required. We would caution relying on this research in the New Zealand context given the very low numbers of customers making minimum repayments and half of the market making full repayments.

22. Some of our members with Australian parents have done internal analysis and advised there has been no change to the number of customers who only pay the minimum repayment each month despite this disclosure being required in Australia.

23. We also note that there are very useful calculators readily available on bank websites which help customers work out how much interest they could save if they paid off debt faster.

24. We would be happy to work with officials further on what the warning would look like, and for your information we **attach** a copy of our January 2014 memo on credit card disclosure.

15. In your view, should the minimum repayment warning be a non-calculation based written warning statement, or should it include calculated information similar to that included in the United States and Australian examples?
16. If the minimum repayment warning was to include calculated information, what calculations should be included?
17. If the minimum repayment warning was to include calculated information, are there any assumptions that these calculations should be based on? How should these assumptions be treated in the billing statement?
18. Should a calculated warning statement outline only the interest charged, as under the Australian warning, or the total cost including principal and interest as under the United States warning?
19. Should the minimum repayment warning include the contact information of a debt counselling service, like the United States? Or the contact details of the credit card provider, as under the Australian example?
20. What are the compliance costs of introducing a written, non-calculated minimum repayment warning?
21. What are the additional compliance costs of providing a calculation-based minimum repayment warning similar to that used in (i) the United States and (ii) Australia (as opposed to a warning statement only)?
22. What are the additional benefits of providing calculated information to the consumer (as opposed to a warning statement only)?
23. Are there any circumstances in which a minimum repayment warning should not be required?

25. Overall, we are unsure whether any type of repayment warning would be useful and as the requirement was introduced at Select Committee (without prior consultation), we did not have an opportunity to submit on this point. In these circumstances, and in the absence of NZ specific evidence, we would support a static warning over a calculations-based warning.

26. We support customers being able to readily contact the bank (rather than a debt counselling service) to discuss their circumstances and concerns. NZBA submits that the proposals in the Discussion Document may have the effect of discouraging customers from seeking assistance.

27. The minimum repayment warning should not be based on international examples. We note that New Zealand customer behaviour in relation to credit card repayment is significantly different to behaviour in the U.S. and U.K. Also as noted above in relation to Australia we understand calculation warnings have had limited impact on behaviour.

28. The minimum repayment warning should not include calculated information similar to the Australian warning. A message with calculations would require a calculation engine to be built to provide the figures. In addition, rather than being beneficial,

more specific calculated information could end up simply being confusing as a number of generalised assumptions would have to be made. The Australian calculations appear to be at a very high level using representative interest rates similar to APR regulations. Our memo of 30 January 2014 refers to this point.

29. As discussed above NZBA does not support the provision of calculated information to customers as we do not consider that there are additional benefits for consumers over and above a warning statement.

30. It is difficult to estimate compliance costs with so little known about the exact form the calculation may take. A very basic estimate suggests that technical development costs alone may cost up to $250,000 per bank to implement system changes.

11. Should the New Zealand minimum repayment warning be based on any of the international examples explored in this discussion document and/or are there any aspects of these international examples you believe should be adopted in New Zealand?
12. Are there any aspects unique to the New Zealand credit market that should be reflected in a minimum repayment warning?
13. Are there any issues that arise with providing the billing statement, and the minimum repayment warning, electronically?
14. How should the minimum repayment warning be provided electronically?
15. Are there other ways for lenders to alert credit card holders to repayment issues other than, or in addition to, minimum repayment warnings?

31. NZBA members are submitting individually on these points.