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Dr Richard Grant
Acting Committee Secretary
Senate Economics Legislation Committee
Parliament House
CANBERRA, ACT 2600

BY EMAIL: economics.sen@aph.gov.au

Dear Dr Grant,

Consumer Credit and Corporations Legislation Amendment (Enhancements) Bill 2011

GE Capital Finance Australasia Pty Ltd ("**GE Capital**") welcomes the opportunity to make this submission on the Consumer Credit and Corporations Legislation Amendment (Enhancements) Bill 2011 ("**Bill**") to the Senate Economics Legislation Committee ("**Committee**").

GE Capital has several financial services businesses operating in Australia, including the consumer finance business. GE Capital has a significant and distinctive interest in proposed reforms affecting the regulation of financial services, and specifically consumer credit. Although GE Capital conducts a significant financial services business in Australia, we do not take deposits and our perspective on proposed reforms is unlike that of any other financial institution operating in Australia.

GE Capital is a division of the General Electric Company, a company that has provided financial services for 70 years. GE Capital is one of Australia's leading consumer finance companies, offering an extensive range of consumer finance products, including personal loans, credit cards, insurance and promotional retail finance. The consumer finance business of GE Capital has ~3 million customers across Australia and New Zealand and its financial services are distributed through numerous sales channels, including over 10,000 retailers, 1,400 brokers, in excess of 100 branches, a direct sales channel and the internet. GE Capital's Australian operations commenced in 1995 and have since grown rapidly through organic growth and major acquisitions. GE Capital now employs more than 4,000 people in Australia and has established its headquarters in Melbourne.

We have significant concerns with respect to the following aspects of the Bill:

1. Implementation Timing

The Bill currently provides that the majority of the bundle of reforms commence 1 July 2012. Many of the reforms will require significant IT systems changes and business process changes. Such changes require lengthy lead times to permit comprehensive and robust compliance frameworks to be implemented.

We (like many other industry participants) are currently focusing significant resources on implementing reforms to Personal Property Securities and the reforms to credit card practices resulting from the National Consumer Credit Protection Amendment (Home Loans and Credit Cards) Act 2011. Much of the detail of the credit card reforms is to be provided in Regulations that have not yet been finalized – yet these reforms also have a commencement date of 1 July 2012.

In our view, the commencement date of the Bill is unrealistic and will result in increased execution risk. The minimum required lead time is 12 months from the date the Bill is passed – and longer if this would result in a commencement date that coincided with the IT systems freezes that GE Capital and its partners have in place over the Christmas and New Year festive season.

2. Financial Hardship

The proposed amendments to section 72 of the National Credit Code ("**NCC**") result in the loss of 2 key components that are currently in the NCC. They are:

- the cause of the hardship must be reasonable; and
- if the credit contract were varied (without reducing the amount ultimately payable by the debtor) there is a reasonable expectation that the debtor would then be able to meet his or her obligations under that credit contract.

We support flexibility in the types of variations to credit contracts that can be made when a debtor is affected by hardship. GE Capital currently offers its customers more flexibility than is required by the NCC. Therefore, our view is that the loss of the 1st key component does not make section 72 unworkable. However, we do not believe that variation is warranted if there is no reasonable expectation that the proposed variation to the contract will enable a debtor to meet his or her obligations under the credit contract. This is the key to whether a variation to the credit contract should be made. The loss of this 2nd key component will render section 72 unworkable.

In addition, the changes proposed to section 72 will remove the need for a customer to make an "application" (which involves providing the credit provider with sufficient information to enable an assessment of the customer's situation). Instead, customers will only be required to "notify" credit providers of their inability to pay – this notification (which may be verbal) will trigger a formal process requiring a response from the credit provider within 21 days. As a matter of practicality, providing customers affected by hardship with tailored solutions requires sufficient information – which can only be provided by the customer. If there is no obligation imposed on customers to provide such information it is likely that credit providers will have no viable option but to decline more requests for hardship variation. This, in turn, will result in more complaints and, ultimately, a failure to achieve the government's policy objective.

In summary, a credit provider must be able to decline to vary a credit contract on hardship grounds where there is no reasonable expectation that the proposed variation to the contract will enable a customer to meet his or her obligations under the credit contract. In addition, the 21 day response period should not start to run until the customer has provided information that is reasonably sufficient to permit the credit provider to make an assessment.

3. Cap on annual "cost rate"

We have significant concerns about 2 aspects of the proposed sections 32A & 32B of the NCC:

(a) Firstly, the scope of what is to be included under the proposed section 32B(3(4)) for the purposes of calculating the 48% cap requires clarification; and

(b) Second, the proposed exemption for ADIs results in a lack of competitive neutrality that has no basis in policy.

GE Capital understands that the provision of financial services, including consumer credit, will always require a certain degree of regulation. However, where regulation is determined to be necessary, the reason for regulating and the outcome that regulation aims to achieve should be clearly articulated at the outset. From that starting point, the regulation should:

- be designed to achieve its specified objective without unintended consequences;
- apply in a way which results in competitively neutrality; and
- not be introduced unless there is adequate evidence, or compelling logic, to suggest that it will achieve its objective.

The current proposal to regulate to control pricing fails, in many respects, to satisfy these conditions, and the result will be to restrict competition and limit innovation.

We would be happy to discuss our submission further with you. Please contact Debra Kruse on (03) 9921 6859 in the first instance.

Sincerely

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Skander Malcolm
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