

# Submission on discussion document: Consumer Credit Regulation Review

## Your name and organisation

<b>Name</b>	John Bolton
<b>Organisation</b>	Squirrel Money Limited

## Responses to discussion document questions

### Regarding the excessive cost of some consumer credit agreements

1	<p>Do you agree that the problems identified with high-cost lending (even where it is compliant with the CCCFA) are significant? Do you have any information or data that sheds light on their frequency and severity?</p>
	<p>Yes we agree that the problems with high-cost lending are significant.</p> <p>We see consistent evidence of high-cost lending and its negative impact coming through customer lending applications. Borrowers with high cost lending tend to be recidivist borrowers, with other consumer finance debt, and failing to cover their financial commitments.</p> <p>We will generally decline an application for debt-consolidation where there is high-cost lending present.</p> <p>Squirrel P2P lending does not fit into the high-cost lending category. Our average interest rate is 12.49%, median interest rate is 12.75% and out of over 1,400 loans, Squirrel has only had six customers in the Hardship category over the past three years.</p>
2	<p>Do you support any of the extensions of Cap Option A? What would be the impact of these extensions on borrowers, lenders and the credit markets? Do you have any information or data that would support an assessment of the impact of these extensions?</p>
	<p>We support capping borrower default costs. Capping costs for all loans, not just high-cost credit puts more responsibility on the lender. It introduces consequences for poor credit policy without borrowers having to go into bankruptcy, or no asset procedure which are both harsh on the borrower.</p> <p>We prefer an approach that passes costs/risks back to lenders rather than prescriptive regulation that may reduce competition.</p>
3	<p>Do you agree with our assessment of the costs and benefits of the options for capping interest and fees? Are any costs or benefits missing? Do you have any information or data that would help us to assess the degree or estimate the size of these costs and benefits?</p>
	<p>We agree with a cap for all lending, not just high-cost lending that passes risk/costs back to lenders who are making the credit decisions.</p>

Any cap would need careful consideration and to avoid unintended consequences.

We have a loan product for homeowners that has an interest rate of 7.95% for all approved borrowers and a default interest rate of  $7.95\% + 10\% = 17.95\%$ . In this instance all borrowers get the benefit of an exceptional consumer finance rate, but if they go into arrears they pay significantly higher interest reflecting the increased credit risk. Noting that at 17.95%, even the default interest rate is low compared to other lenders and still low compared to credit cards.

4

Do you have any suggestions for the design of options for capping interest and fees? If so, what would be the impact of your proposed design on borrowers, lenders and the credit markets?

Cap default/arrears costs to 40% of the original loan amount including recovery costs.

5

Which interest rate cap options, if any, would you prefer? Which interest rate options would you not support? Please explain how you made your assessment.

We'd prefer a framework that can be applied to all consumer finance lending rather than distinguishing between high-cost and everyone else. In our case, as noted above in Question 3, we have a product that has higher default interest than nominal interest but there is a significant benefit to consumers in terms of lower every day interest rates.

Generally, an approach that is too prescriptive will have unintended consequences and may lessen competition and increase overall borrower costs.

Our preference would be Option A but done in a way that it can be applied to all consumer finance lending.

## Regarding continued irresponsible lending and other non-compliance

6

If directors have duties to take reasonable steps to ensure that the creditor complies with its' CCCFA obligations, should any duties apply to senior managers?

Yes senior managers should be accountable.

7

If there are to be more prescriptive requirements for conducting affordability assessments, what types of lenders or loans should these apply to?

Squirrel is concerned with legislation that is too prescriptive and that increases costs and reduces competition. Borrowers want to deal with lenders that are "easy to do business with". There is an asymmetry of information between banks and other lenders that allow banks to provide very fast and easy approvals as their technology improves.

Having an overly prescriptive approach that forces excessive data collection on to otherwise good borrowers would further reduce competition. Noting that NZ is already not very competitive with high average borrower rates.

Credit card rates are around 20% with default rates circa 2%. Finance companies are charging

	<p>on average similar rates yet can fund their consumer finance lending off wholesale rates of around 5%.</p> <p>A triaged approach makes sense. Those with high credit enquiries or existing debts and on lower incomes should require more due diligence. A borrower with a good credit history and good income should have a relatively simple and painless experience.</p> <p>If more of the default / hardship costs are borne by the lender, then lenders are incentivised to make better decisions.</p>
8	<p>Should there be any change to the requirement that lenders can rely on information provided by the borrower unless the lender has reasonable grounds to believe the information is not reliable? What would be the impact of such a change on borrowers, lenders and the credit markets?</p> <p>A lender should generally be able to rely on borrowers provided information, unless the borrower is at high risk of being a vulnerable borrower. For example, with a high quality borrower with good credit history (comprehensive credit check) and income living in a top-30% geo-location who own their home, we should be able to rely on their information without having to request bank statements.</p>
9	<p>Do you consider there should be any changes to the current advertising requirements in the Responsible Lending Code? If so, what would be the impact of those changes on borrowers, lenders and the credit markets?</p> <p>We recommend that the critical information disclosed in advertising becomes mandatory. However, it must be succinct and written in plain English.</p> <p>Defined guidelines should be issued with the different mediums of advertising. For example, a big print ad will have room for a disclaimer copy, whereas an online banner ad does not. Different criteria should be issued based on channel/medium.</p>
10	<p>Do you agree with our assessment of the costs and benefits of the options to reduce irresponsible lending and other non-compliance? Are any costs or benefits missing? Do you have any information or data that would help us to assess the degree or estimate the size of these costs and benefits?</p> <p>We think the MBIE paper does not recognise the cost of lessened competition as a result of (1) poor current disclosure to allow proper price comparisons, (2) rate baiting by lenders advertising lower rates than consumer could reasonable expect to get (e.g. rates from 6.99% when the average borrower rate is circa 16%), and (3) the higher costs of prescriptive regulations. Consumer finance margins are high. There would be a significant consumer benefit to increasing competition, whilst protecting vulnerable borrowers.</p>
11	<p>Do you have any suggestions for the design of options for reducing irresponsible lending and other non-compliance? If so, what would be the impact of your proposed options on borrowers, lenders and the credit markets?</p> <p>We think a licensing regime that supports good practices would be strongly beneficial to the industry.</p> <p>There needs to be more emphasis on encouraging competition and lowering borrower costs at the same time as making sure we look after vulnerable borrowers.</p> <ol style="list-style-type: none"> <li>1. Cap default costs for borrowers giving them a lower cost option than bankruptcy and</li> </ol>

no-asset-procedure. Pass the risk back to lenders to manage and wear the cost of poor credit decisions.

2. Lift advertising standards and make it easier for borrowers to compare different lending options.
  - a. Do not allow rate baiting – advertising rates that consumers cannot reasonably get.
  - b. If a lender does advertise a rate range, then it should also prominently disclose its median borrower rate.
  - c. Make sure the actual establishment fees and monthly fees are disclosed with the same prominence as interest rates. Alternatively, move to an annual cost of credit approach.

12

Which options for reducing irresponsible lending and other non-compliance would you support? Which would you not support? Please explain how you made your assessment.

We would support the following options:

- Registration Option A, B and C
- Enforcement Option A, B and C
- Responsibility Option A; as long as there is differentiation between those borrowers who require more in depth analysis and those that don't, based on their profile and credit history
- Responsibility Option B; as long as the requirement is kept to the critical information and required clauses are simple and to the point and considers the medium / channel.
- Responsibility option C.

As a P2P lender we are required to meet our license requirements and believe that the rest of the industry should be required to be licensed as well.

We would not support options:

- Enforcement Option D; We would want to see evidence and a clear indication of exactly how increasing the levy or adding more staff is going to have a positive impact. Are there other ways to fund this enforcement?
- Enforcement Option E; don't believe that advocates' motivation for reporting lenders to the commerce commission would always be appropriate.

Regarding continued predatory behaviour by mobile traders

13	Do you agree with our assessment of the costs and benefits of the options for covering additional credit contracts under the CCCFA? Are any costs or benefits missing? Do you have any information or data that would help us to assess the degree or estimate the size of these costs and benefits?
	No comments to add
14	Do you have any suggestions for the design of options for covering additional credit contracts under the CCCFA? If so, what would be the impact of your proposed options on borrowers, lenders and the credit markets?
	No comments to add
15	Which options for changes to cover additional credit contracts would you support? Which would you not support? Please explain how you made your assessment.
	No comments to add

## Regarding unreasonable fees

16	If prescribed fee caps were introduced, who should they apply to, and what process and criteria should be used to set them?
	<p>We are generally not supportive of a prescriptive approach as it risks reducing competition and innovation and having unintended consequences. Different companies will have very different cost structures and approaches. The focus should be on transparency and making it easy to compare lenders.</p> <p>We are supportive of overarching caps that limit the consumer risk and pass more credit risk back to lenders where it can be managed and where it will incentivise better credit processes.</p>
17	Do you agree with our assessment of the costs and benefits of the options for capping interest and fees? Are any costs or benefits missing? Do you have any information or data that would help us to assess the degree or estimate the size of these costs and benefits?
	We agree with the assessment of the costs and benefits options for capping interest and fees.
18	Do you have any suggestions for the design of options for reducing unreasonable fees? If so, what would be the impact of your proposed options on borrowers, lenders and the credit markets?
	Having to justify the level fees are set at should remove unreasonable fees. This should result in fees that are reasonable for the borrower as well as covering lenders costs.
19	Which options for changes to fees regulation would you support? Which would you not support? Please explain how you made your assessment.
	We support a combination of option A and B where specific fee caps are regulated and set through substantiating the fees through a reasonable test. An acceptable range of fees would need to be included to accommodate different lenders rather than a cap. The issue

	<p>with a cap rather than a range is that lenders may default to the cap fee which does not benefit the borrower.</p> <p>We do not support option C , as it does not work for risk based pricing and has too many variables making it confusing for the borrower.</p>
20	<p>Have you seen issues with excessive broker fees, or other unavoidable fees charged by third parties, being added to the loan? If so, are there any specific changes that should be made to the regulation of third-party fees? What would be the impact of these changes on lenders, borrowers and third parties?</p>
	<p>Broker fees could be 1% for a non-bank first mortgage, to 5% for a small second-mortgage or a flat fee for an unsecured loan.</p> <p>Broker fees should be disclosed upfront to the borrower.</p> <p>Broker costs in the “non-bank” space will be significantly higher and that will be reflected in their fees.</p>

## Regarding irresponsible debt collection practices

21	<p>Is this an accurate picture of the problems for consumers experiencing debt collection? Do you have information that confirms or refutes these issues, or sheds light on how widespread or severe they are?</p>
	<p>As a P2P lender we do not receive the types of feedback outlined. This will depend on the quality of the agency used for debt collection as well as the instructions given by the lender to the debt collector.</p> <p>Clear policies and processes that are fair and reasonable will avoid many of these issues. Squirrel has minimal complaints we have had to work through with the customer from the collection processes.</p>
22	<p>What information should be provided to borrowers by debt collectors? When and how should this information be provided?</p>
	<p>Standard information should be available at any point in time electronically. If debt collectors cannot provide standard information (should be stipulated what this is) electronically then when the borrower requests information it must be provided. This will encourage debt collectors to provide up to date information electronically.</p>
23	<p>Do you agree with our assessment of the costs and benefits of the options for addressing irresponsible debt collection? Are any costs or benefits missing? Do you have any information or data that would help us to assess the degree or estimate the size of these costs and benefits?</p>
	<p>We agree with the costs and benefits.</p> <p>Option C; should include reducing the cost for employers having to answer debt collector calls for borrowers they are chasing who work for them.</p>
24	<p>Do you have any suggestions for the design of options for addressing irresponsible debt</p>

	collection? In particular, what is an appropriate frequency of contact with debtors before (and then after) a payment arrangement is entered into? Please state the likely impact of your proposed options on borrowers, lenders and the credit market.
	Frequency of contact should be directly proportionate to the responsiveness of the borrower. The debt collector should be able to provide evidence via diary notes etc to substantiate actions if required. When an arrangement is broken the borrower should expect to be contacted.
25	Which options for changes to the regulation of debt collection would you support? Which would you not support? Please explain how you made your assessment.
	We support: <ul style="list-style-type: none"> <li>• Option A; subject to standard disclosure being defined and an emphasis on making it available to the borrower electronically when they want to access</li> <li>• Option B; this is reasonable</li> <li>• Option C; refer question 24</li> <li>• Option D; we believe debt collectors should be accountable</li> <li>• Option E; fees should be reasonable and justified.</li> </ul>

## Regarding other issues

26	Are you seeing harm from loans to small businesses, retail investors or family trusts as a result of them not being regulated under the CCCFA?
	They face higher fees. For mortgage lending in the non-regulated space lenders are typically charging a 2% fee and brokers a 1% fee. But they have no exit costs and generally get lower interest rates as a result of having fees. Given the short-term nature of these loans the fee/rate structure is not necessarily inappropriate.
27	Do you think small businesses, retail investors or family trusts should have the same or similar protections to consumers under the CCCFA? Please explain why/why not.
	Need to redefine the 'sophistication' borrower rules, so that unsophisticated borrowers who fall in to the categories outlined will receive appropriate protection.
28	Are there any other issues with the CCCFA or its impact on vulnerable people that are not addressed in this discussion paper? If so, what options should MBIE consider to address these issues?

## Any other comments

	We welcome any other comments that you may have.
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Refer to our attached letter.

