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RE: National Finance Broking Scheme

The Finance Sector Union of Australia (FSU) welcomes the opportunity to contribute to the consultation process for a national finance broking scheme.

The FSU represents approximately 50,000 members employed in the finance sector across Australia. The FSU and its members support the need for a regulatory environment that promotes professionalism and transparency in the broking sector which in turn protects consumers and promotes their participation in fair and competitive markets. The FSU and its members have a vested interest in the financial services marketplace being professional and ethical, and having appropriate mechanisms for consumer redress on the occasions when it is not.

The FSU strongly supports the thrust of the proposed legislation to ensure that all financial brokers are suitably qualified, licensed and members of an ASIC approved external dispute resolution scheme.

We note that a nationally consistent broker licensing and regulation scheme has been a long time coming and urge all parties to move quickly to implement the proposed legislation.

The FSU believes such regulation is imperative to:

- ensure high professional standards and market confidence for the broking sector and the wider finance sector;
- abolish the unscrupulous practices of some unregulated brokers that has undermined confidence in the sector;
- ensure sales are primarily based on consumer need, not achieving sales volumes; and
- protect consumers and guarantee avenues for redress when things go wrong.

Such a scheme obviously needs to be nationally consistent to maximise its effectiveness. In due course the FSU supports broker licensing and regulation being handled at the Commonwealth level and we note that the case for this transfer has been made and accepted in various forums over many years.¹ While we believe that Federal regulation should be the ultimate goal we do not suggest that the NSW led

¹ Productivity Commission 2007, *Review of Australia's Consumer Policy Framework*, Draft Report, Canberra; and
Standing Committee on Economics Finance and Public Administration 2007, *Home Loan Lending: Inquiry into home loan lending practices and the processes used to deal with people in financial difficulty*, House of Representatives, Canberra, September.

process should be abandoned or postponed – full regulatory coverage of brokers has been a long time coming and should not be delayed, even if the current proposals may be overtaken in time.

Mandatory educational requirements

The FSU supports the requirement for all brokers to be appropriately qualified and experienced. The proposal to have an educational requirement that is not below a Certificate IV level (with possible additional competencies) is appropriate for all new brokers. Certificate IV is increasingly coming to be seen as a standard minimum qualification for those working in the finance industry. The procedures and requirements regarding educational requirements for experienced brokers is an area where the FSU would like to see more detail before final implementation.

Any educational requirements set for brokers should be aligned to the National Training System and the Australian Qualifications Training Framework. This would allow for the portability of qualifications across Australia and will allow the industry and customers to know that their brokers have attained the prescribed educational standards, no matter where they were trained.

Clause 33 Consumer's credit requirements and capacity to pay

The FSU supports the proposed capacity to pay requirements. The sale of credit, especially mortgages, can have serious long term consequences for consumers if not based on genuine need and capacity to pay. The FSU also supports lenders being subject to similar obligations – loans should be based on the capacity to repay, not on the level of security available or the value of the asset mortgaged.

Fees, charges and commission

The FSU supports the various provisions regarding fees and commissions foreshadowed in the Part 3, Division 1. Disclosure and transparency are vital to the proper workings of any financial services transaction and to ensure that consumers can make informed choices.

Wages for finance brokers

We recognise that wages for Finance Brokers is not directly within the scope of this consultation process, however we believe it is an important issue where the NSW Government can help facilitate and support processes at the Federal Government level.

The FSU believes that performance or sales based pay for finance sector staff should be in addition to a living wage negotiated by the union.² Remuneration drives behaviour and arrangements that are totally linked to finance sales are likely to drive up consumer debt faster than income and productivity. This obviously presents difficulties in relation to the broking sector where wages are primarily made up of sales based fees and commissions.

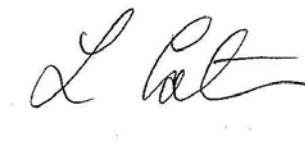
² FSU Policy - *Regulation of Performance Based Pay*, 2007 – www.fsunion.org.au

The FSU supports the establishment of a new Federal Award to underpin base wages in the Finance Broker industry. This should be done as part of the Federal government's Award modernisation plans that will take place in 2009.

In addition, given that the broker industry is often conducted by franchised operators or independent contractors the FSU supports the repeal of provisions of the *Trade Practices Act* that prevent franchisees from being represented by unions in collective bargaining with franchisors.

If you have any questions in relation to this submission please contact James Bennett, Senior Policy & Research Officer on (02) 6247 7172.

Yours sincerely

A handwritten signature in black ink, appearing to read 'L Carter', written in a cursive style.

Leon Carter
National Secretary

29 February 2008