

Fintech Lenders to Face Senate Inquiry

Wednesday, October 24, 2018

On 17 October 2018, the Senate resolved to refer certain credit service providers, including payday lenders, fintech “buy now, pay later” providers and credit repair agencies to the Senate Economics References Committee for inquiry. Under the proposed terms of reference, the inquiry will look at:

- the impact of the service providers on individuals, communities and the broader financial system;
- whether current regulation of the service providers meets community standards and expectations;
- whether reform is needed to address harm being caused to consumers; and
- the present capacity and capability of the financial counselling sector to provide financial counselling services to financially stressed and distressed members of the community.

The Australian Government said that it “*recognises that small-amount credit lenders ... play an important role in the economy by providing credit to consumers who in many instances are unable to access mainstream forms of finance*”, and welcomed further scrutiny of the industry.

Many “buy now, pay later” lenders and short-term credit providers are unregulated and operate outside the scope of consumer credit regulations, including the *National Consumer Credit Protection Act 2009* which imposes responsible lending conduct obligations on credit providers. For example, credit provided by Afterpay is not regulated because no charges including interest are imposed by Afterpay for providing the credit.

If credit providers that are currently exempt are brought under responsible lending conduct laws, they must take reasonable steps to inquire and verify a customer’s financial situation and then assess if a proposed credit contract will be unsuitable for the customer. This could significantly reduce the number of customers that are able to obtain credit through the provider.

The Senate Economics Reference Committee is currently accepting submissions until 9 November 2018. A report is due by 22 February 2019.

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