

## ASIC Publishes Report on its Review of the 'Buy Now, Pay Later', Industry

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On 28 November 2018, Australian Securities and Investments Commission (ASIC) [published](#) Report 600: *Review of buy now pay later arrangements (Report)*. The Report is the product of ASIC's 10 month investigation into the industry. It examines the conduct, structure and arrangements of 6 buy now pay later providers including Afterpay and zipPay (**Providers**). The Report also notes that the responsible lending obligations of the National Consumer Credit Protection Act which require credit providers to, among other things, assess a consumer's financial position, do not apply to buy now pay later arrangements.

The Report looks at the exponential growth of the industry from over 50,000 transactions in April 2016 to 1.9 million transactions in June 2018. While the average value of transactions under these arrangements has decreased, the outstanding debt in this time has roughly doubled to over \$903 million.

ASIC identified the following issues which raise some cause for concern:

- growth in revenue generated from missed payment fees from 2% to 12% over a two year period; and
- 44% of consumers reported an annual income of less than \$40,000.

In addition, ASIC also found that each of the Providers included some terms in their contracts which are potentially unfair to consumers, such as terms that give Providers a broad unilateral discretion to vary a contract, and hold consumers liable for unauthorised transactions.

At this stage, ASIC has outlined two possible steps to take going forward. These are:

- to extend its proposed product intervention power to all credit facilities regulated under the ASIC Act in order to address potential problems causing consumer detriment; and
- further monitoring by ASIC to determine if by now pay later providers should be regulated under the National Consumer Credit Protection Act.

As previously [posted](#), a report by the Senate Economics Reference Committee into the industry is due by 22 February 2019.

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