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Inquiry	Oversight of ASIC, the Takeover Panel and the Corporations Legislation
Question No.	061
Topic	Credit
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Committee member	Senator Deborah O'Neill

Question

Ms Court: I'm not sure that we've engaged with banks specifically about these kinds of small amount loans. Unfortunately, the consumer groups are telling us that this is a segment of the population that is generally unable to access mainstream credit and are then forced into what are extremely dire situations.

CHAIR: Which we can see is having a material impact, probably on people who are very marginalised.

Ms Court: They're the people that are the least likely in the community to be able to afford the kinds of fees and charges.

CHAIR: Hence my question.

Mr Longo: We're talking about, very regrettably, fellow Australians who are desperate. Very often these loans are also to pay the rent and that sort of thing.

CHAIR: Yes, exactly. There's nothing wrong with the banks making a profit, Mr Longo. We need them to be successful institutions. That is in the national interest. But there is a social licence to operate as well. They shouldn't be driving people away from reputable, large companies into the hands of these small, potentially fly-by-night operators who may just take the money and run. I would be very interested to see if the \$6 million that ClearLoans was supposed to pay ever materialised or if they just disappeared off the face of the earth. If you can provide, on notice, a bit more detail about the sector, that would be helpful. Is there something you want to add immediately?

Ms Court: I want to very quickly add something. I think you asked me about Ferratum. One of the examples was that a customer borrowed \$1,900—so just under that \$2,000 cap—and was overcharged \$658, or effectively 34 per cent of the loan amount, when they paid out their contract three months early. They were also charged \$40 in prohibited fees. This was a particularly vulnerable consumer, who, at the time, was a single parent with dependents and had three other small-amount credit contracts. The significance of that overcharging for that consumer is self-evident, which is why we take these kinds of cases on.

Answer

Small Amount Credit Contract (SACC) sector

According to [industry funding data for 2022-23](#), there are just under 200 credit licensees who provided small or medium amount credit contracts in 2022-23, totalling approximately \$1.47B.

ASIC has maintained a strong focus on the SACC sector for some time. In particular, we have sought to identify and respond to misconduct causing harm to vulnerable consumers, such as irresponsible lending, charging excessive or prohibited fees, and inappropriate debt collection or hardship practices. We have also targeted firms operating without the required licence.

ASIC has issued three reports¹ about industry practices and achieved a significant number of outcomes including changing the conduct of individual licensees, obtaining consumer remediation, imposing licensing conditions, obtaining civil penalties and issuing infringement notices.

¹ [Report 264 Review of micro lenders' responsible lending conduct and disclosure obligations](#) (November 2011)
[Report 426 Payday lenders and the new small amount lending provisions](#) (March 2015)
[Report 754: Small amount credit target market determinations](#) (December 2022)

Legislative reforms relating to the SACC and consumer lease sectors passed Parliament on 2 December 2022 (via the *Financial Sector Reform Bill 2022*) and received Royal Assent on 12 December 2022, with the majority of reforms commencing in June 2023.

The reforms implement most of the recommendations in a 2016 Report from an independent review of laws applying to SACCs and consumer leases.

The reforms in relation to SACCs include:

- A new protected earnings regime limiting repayments for SACCs to no more than ten percent of consumers after tax income;
- A prohibition on making unsolicited offers of SACCs to current or previous SACC customers;
- A prohibition on SACC providers referring consumers to unlicensed credit providers (commenced on 20 December 2022); and
- Introduction of an anti-avoidance provision for SACCs/consumer leases (commenced on 13 December 2022).

ASIC is currently undertaking work to identify industry's response and any non-compliance with these reforms.

As the legislation is still relatively new, it remains to be seen what the full impact will be.

Both industry and consumer advocates have indicated that, following the reforms, some firms are moving from SACCs to other regulated credit products such as medium amount credit contracts (MACCs) and lines of credit.

We will continue to monitor industry's response and any non-compliance.