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The Parliament of the Commonwealth of Australia

# Home loan lending

**Inquiry into home loan lending practices and the processes used to deal with people in financial difficulty**

House of Representatives  
Standing Committee on Economics, Finance and Public Administration

September 2007  
Canberra

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## Chair's foreword

There have been significant changes to the practices in, and the structure of, the housing lending market over the past decade. A large number of new lenders have entered the market, generating intense competition with established lenders like banks and credit unions. At the same time, all lenders have made less use of traditional lending standards. Most lenders are now willing to lend to borrowers with little or no deposit. Lenders are also willing to permit debt servicing ratios well above the levels previously allowed.

The committee undertook this inquiry with a view to examining exactly how lending practices have changed, and what effect the changes have had. The committee also undertook to examine the mechanisms in place to ensure borrowers are treated appropriately, with a particular focus on borrowers facing financial hardship. The committee received 27 submissions and held a roundtable public hearing with 30 key industry stakeholders. This format allowed the committee to gather evidence within a short time frame.

The changes in the lending market have generally allowed more households to take on more debt. This has, of course, been supported by strong domestic and global economic conditions, which have markedly increased households' ability to service debt. Some people have argued that the new lending practices have resulted in widespread irresponsible lending. The data do not support this assertion. While loan arrears rates have increased in recent times, they remain low by international and historical standards. Data on housing repossessions have also shown an increase recently, but these data lack detail and are therefore an unreliable measure. In chapter 3 the committee recommends that the Australian Bureau of Statistics begin collecting data in this area.

There are a range of reasons why a borrower might face financial difficulty and be unable to pay their mortgage. Borrowers may be faced with an unfortunate life event such as job loss or marital break up, or may have overburdened themselves with debt due to a lack of financial literacy. Most often it is not the lenders fault, but there are certainly cases where it is. There are reportedly an increasing number

of cases where lenders and/or brokers are engaging in predatory behaviour aimed at taking advantage of vulnerable borrowers.

The regulatory framework for credit should offer consumers protection against inappropriate lending practices, and should also provide guidance on lenders' obligations to borrowers who are facing financial hardship. Evidence to the inquiry suggested that the current arrangements do not do either of these things as effectively as they could. As such, reform is needed.

The primary instrument for regulating credit is the Uniform Consumer Credit Code (UCCC). The uniformity it brings to credit regulation is certainly welcome, but the code itself has a number of inadequacies. It is not easy to resolve these inadequacies because the UCCC is a state-based code and is therefore difficult to amend. Another concern with the current regulatory framework is that there are very few controls on the conduct of mortgage brokers. Since around 2002 the states and territories have been trying to come up with a national licensing regime, but it is still not in place.

The regulation of financial products is generally a Commonwealth responsibility, except in relation to credit. This division of powers was described during the roundtable as 'illogical' and 'arbitrary'. The committee agrees with these sentiments, and therefore recommends that the Commonwealth assumes responsibility for credit regulation.

One aspect to Commonwealth regulation would be to define credit as a financial product for the purposes of the Corporations Act. This would require providers of credit products and advice to hold an Australian Financial Services licence. Licensees are subject to rules about quality of advice and disclosure, and are also required to belong to an external dispute resolution (EDR) scheme. EDR schemes appear to be an effective and low-cost mechanism for resolving consumer complaints, but the schemes' jurisdictional limits could be increased to enable more complaints to be dealt with. The committee recommends that the Banking and Financial Services Ombudsman increase the limit on cases it can consider to \$500,000 and that this amount be indexed annually. The committee also recommends that other schemes consider the appropriateness of their own limits.

The committee also examined the effects of the changed lending market from the perspective of the financial system and the macro-economy. By and large, the developments to date have caused minimal concern.

On behalf of the committee I would like to thank all of the groups that participated in this inquiry. I would also like to thank the committee members for their hardworking and bipartisan approach.

Hon Bruce Baird MP  
Chair



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## Membership of the committee

Chair	Hon Bruce Baird MP
Deputy Chair	Ms Sharon Bird MP
Members	Mr Steven Ciobo MP
	Dr Craig Emerson MP
	Ms Sharon Grierson MP
	Mr Michael Keenan MP
	Mr Stewart McArthur MP
	Mr Patrick Secker MP
	Hon Alex Somlyay MP
	Mr Lindsay Tanner MP

## Committee secretariat

Secretary	Mr Stephen Boyd
Inquiry Secretary	Mr Andrew McGowan
Adviser	Mr John Hawkins
Administrative Officers	Ms Frances Wilson
	Ms Natasha Petrovic





## Terms of reference

The committee, under its power to inquire into and report on the annual reports of government agencies, resolved to examine **home loan lending practices and the processes used to deal with people in financial difficulty**.

The annual reports used to initiate this inquiry were those of the Reserve Bank of Australia and the Australian Prudential Regulation Authority.





## List of abbreviations

ABA	Australian Bankers' Association
AFS Licence	Australian Financial Services Licence
APRA	Australian Prudential Regulation Authority
ASIC	Australian Securities and Investments Commission
ADI	Authorised Deposit-Taking Institutions
BIS	Bank of International Settlements
BFSO	Banking Financial Services Ombudsman
CCMC	Code Compliance Monitoring Committee
CBP	Code of Banking Practice
COSL	Credit Ombudsman Service Limited
EDR	External Dispute Resolution
FSU	Finance Sector Union
FSR	Financial Services Reform
GDP	Gross Domestic Product
HBOS	Halifax Bank of Scotland
LVR	Loan-to-Valuation Ratio

MFAA Mortgage and Finance Association of Australia

RBA Reserve Bank of Australia

UCCC Uniform Consumer Credit Code



# List of recommendations

## Mortgage defaults and repossessions

### Data on repossessions

A consistent theme in submissions and at the roundtable was the need to get better information on housing repossessions. The committee believes this should occur so that public debate on housing lending can be better informed. The most obvious agency to collect national data would be the Australian Bureau of Statistics. Sources of the data could include lenders and state and territory supreme courts.

### *Recommendation 1*

*The committee recommends that the Australian Bureau of Statistics begin collecting and publishing annual data on housing repossessions. The data should be disaggregated to include, as a minimum, breakdowns by loan type, lender type, primary cause, and location (local government area or postcode).*

## Credit regulation and consumer protection for borrowers

### Commonwealth regulation of credit

In summary, the committee is of the view that a new approach to credit regulation is needed. It will not only assist in reducing the number of predatory lenders and brokers, it will also harmonise regulation within the financial system, and make credit regulation more readily adaptable to future changes in the market.

### *Recommendation 2*

*The committee recommends that the Commonwealth Government regulate credit products and advice. This includes the regulation of mortgage brokers and non-bank lenders.*

### EDR scheme limits

EDR schemes appear to be an effective and low-cost mechanism for resolving consumer complaints. The schemes' jurisdictional limits could be increased to enable more complaints to be dealt with. This is particularly relevant for the Banking and Financial Services Ombudsman (BFSO) because it often deals with complaints where loans have been guaranteed by property. In this type of complaint the amount in dispute can be the entire value of the guaranteed property, which would invariably be higher than the BFSO limit of \$280,000.

### *Recommendation 3*

*The committee recommends that:*

- *The board of the Banking and Financial Services Ombudsman increase its jurisdictional limit to \$500,000. This limit should be indexed annually; and*
- *Other external dispute resolution schemes consider the appropriateness of their limits.*