

SENATE STANDING COMMITTEE ON ECONOMICS QUESTION
(Supplementary Budget Estimates 20 October – 21 October)

Question: SBT 67

Topic: Consultation Paper Re Mortgage Exit Fee

Senator Bushby asked:

I understand ASIC has a consultation paper related to mortgage exit fees. Does ASIC plan to apply the law to other types of fees? For example, do these new powers give ASIC any power over bank penalty fees, such as those relating to overdrawn accounts or bounced cheques?

Answer:

The unfair contract terms (UCT) provisions of the ASIC Act apply to 'standard form consumer contracts' that are financial products or contracts for the supply of financial services, including contracts for banking services.

The UCT provisions enable a consumer or ASIC to challenge specific terms of a contract, including those setting contingent fees or charges, on the basis that they are unfair.

Fees or charges such as bank default fees are subject to the UCT provisions of the ASIC Act.

Relevantly, over the last 12 months, there has been a significant downward movement in default fees charged by banks in Australia. For example, NAB has abolished its default fees for overdrawn or dishonored transaction accounts, and the Commonwealth Bank has reduced overdraft fees on personal and transaction accounts from \$30 to \$10. Westpac has reduced its default fees for transaction and credit card accounts which ranged from \$35-40 to \$9 across the board.

ASIC continues to monitor and assess complaints received from consumers that relate to bank penalty fees, and where appropriate, will take compliance or enforcement action.

ENDS