



# ASIC's payday lending outcomes

## **Key points**

- Payday lending is a strong focus for ASIC as the key regulator for consumer credit.
- Since 2010, our enforcement action has resulted in payday lenders being required to refund more than \$14.2 million to consumers with insurers required to refund around \$2.4 million for related products.
- Payday lenders have been fined around \$21 million: \$1.5 million in ASIC infringement notices and \$19.7 million by the courts.
- The four key areas we have focused on are responsible lending, avoidance, advertising and the cap on costs.

## **1. Responsible lending**

### **Cash Converters**

- Following an investigation ASIC entered into an enforceable undertaking with Cash Converters on 4 November 2016. Cash Converters was required to refund eligible consumers \$10.8 million in fees and have Deloitte's review its consumer credit compliance and report to ASIC at 6 and 12 month intervals, completed by May 2018.
- Cash Converters also paid penalties for infringement notices totalling \$1.35 million.

### **Nimble Australia Pty Ltd (Nimble) (previously known as Cash Doctors)**

- In 2016 ASIC accepted an enforceable undertaking from Nimble following concerns about Nimble's responsible lending practices. Nimble was required to refund \$1.5 million and make a \$50,000 community benefit payment to Financial Counselling Australia.

### **The Cash Store/Assistive Finance Australia (The Cash Store)**

- Following civil penalty proceedings the Federal Court awarded nearly \$19 million in civil penalties against Cash Store in March 2015 for responsible lending failures and unconscionable conduct in selling consumer credit insurance.

### **Abaz Pty Ltd (Moneyplus)**

- In 2014 ASIC issued Moneyplus with a \$42,500 fine for failing to obtain bank statements for the past 90 days for consumers who had taken out a previous loan with Moneyplus.

## **2. Avoidance**

### **Fast Access Finance (FAF)**

- In March 2017 the Federal Court issued FAF a fine of \$730,000 for unlicensed credit activities. FAF's business model involved consumers seeking a payday loan entering into agreements to buy and sell diamonds. The Court previously ordered FAF pay 5 consumers approximately \$17,000.

### **Peter Elfyd Llewellyn (Australian Money Exchange (in liquidation) (AMX))**

- In August 2016 ASIC banned Mr Llewellyn from engaging in credit activities for 10 years. ASIC found that AMX engaged in unlicensed credit activities between 1 July 2011 and 23 September 2013 in which Mr Llewellyn was knowingly involved.

### **Fair Go Finance Pty Ltd**

- In 2016 Fair Go Finance paid \$34,000 in penalties and refunded approximately 550 consumers around \$34,500 for interest and fees collected in excess of that allowed.

### **Teleloans/Finance & Loans Direct Pty Ltd (FLD)**

- In 2015 ASIC was unsuccessful in its action against Teleloans. Teleloans' business model involved consumers entering into near simultaneous agreements with Teleloans

and FLD. Contracts between consumers and FLD included a charge of 5% of the loan amount, falling within the exemption in s6(1) of the National Credit Code (NCC). Contracts with Teleloans included further fees.

- ASIC argued the contracts together meant that fees and charges exceeded the amount permitted by s6(1). The Court did not accept that the contracts should be read together, but viewed the arrangement as separate contracts therefore falling outside the NCC.

#### ***Cash Loan Money Centres/Sunshine Loans***

- In 2014 Cash Loan Money Centres and Sunshine Loans agreed to stop offering 'leaseback' arrangements at high cost to consumers who wanted a payday loan.

#### ***Fast Easy Loans Pty Ltd (Fast Easy Loans)***

- In 2014 Fast Easy Loans agreed to refund more than 2,000 consumers \$477,900 following ASIC concerns that it charged a brokerage fee where it was prohibited.

### **3. Advertising**

#### ***Money3***

- In 2015 Money3 agreed to stop offering its two payments 'fixed fee' loan arrangement and to refund more than \$100,000 to approximately 400 consumers following ASIC's concerns that it breached consumer credit laws and engaged in misleading conduct.

#### ***PAID International Ltd (formerly known as First Stop Money Ltd)***

- In 2014 PAID International paid \$30,600 in penalties after ASIC issued three infringement notices for misleading representations in its online advertisements.

#### ***Ferratum Australia Pty Ltd (Ferratum)***

- In 2013 Ferratum, an online payday lender, paid a penalty of \$10,200 to ASIC for false or misleading advertising and refunded affected consumers all transaction fees.

#### ***Foresters Community Finance Ltd (trading as Fair Finance Australia)***

- In 2013 Fair Finance Australia paid a \$6,600 penalty for false or misleading advertising and removed the offending advertisement.

#### ***Nimble***

- In 2013 Nimble changed its advertising following ASIC concerns it was potentially misleading in relation to its continuing credit contract with an indefinite term.

### **4. Breaches of the cap on costs**

#### ***Cash Stop Financial Services Pty Ltd (Cash Stop)***

- In 2014 ASIC agreed to an enforceable undertaking from Cash Stop which required refunds of \$14,000 to more than 650 consumers for charging a subscription fee in contravention of the credit laws.

#### ***PAID International***

- In 2014 ASIC accepted an enforceable undertaking from PAID International requiring refunds of more than \$1.1 million to 6,650 customers (20,273 loans) who were charged an excessive fee after taking out loans, including small amount loans.
- PAID International went into administration in early 2015 and, as at the end of June 2015, \$239,308 had been refunded. In late 2015 ASIC suspended its Australian credit licence.

#### ***Fair Loans Foundation Pty Ltd (Fair Loans)***

- In 2013 Fair Loans entered into an enforceable undertaking with ASIC to refund approximately 864 consumers around \$157,000 in overcharged interest and appoint an independent consultant to ensure future compliance with the credit laws. Fair Loans also paid \$22,000 in penalties for related breaches.