

Financial and Consumer Rights Council Inc

Submission to the House Standing Committee
on Economics, Finance and Public
Administration

Inquiry into Home Loan Lending Practices and
Processes

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The Financial and Consumer Rights Council (FCRC) is the peak body for agencies, individuals and interested stakeholders whose work is focused on protecting the rights of low income and vulnerable consumers, primarily through the provision of financial counselling services. Services provided by FCRC to members and the public include:

- Research, policy development and advocacy;
- Membership support, co-ordination, information and education;
- Community development;
- Program development;
- Professional development for counsellors.

Financial counselling is a free, specialist paralegal service to low income and disadvantaged members of the community and to people who are experiencing debt crisis.

In recent years financial counsellors have seen an increase in the incidence of mortgage default coupled with the incidence of lending maladministration and unconscionable and questionable lending practices from Banks and Financial Institutions. This is reflected in the following figures:

- 2720 claims for repossession lodged with the Supreme Court for the 12 months up to April 2007.
- Banks report a 14.2% increase in sub prime loans in arrears for more than 30 days. However the figure is much worse as non bank lenders are not required to report mortgage defaults and it is suspected that default rates are much higher in this sector (35% of the market).
- There is no national register of mortgage defaults.
- Ratio of \$160 debt to every \$100 disposable income (The Age June 2 2007).
- 12% of household disposable income spent on interest payments (Reserve Bank).
- 32% increase in debt agreements (under the Bankruptcy Act which allows debtors to "save" their home) of which we are seeing a failure rate of 30% (ITSA).
- 50% increase in bankruptcies in NSW and 35% in Victoria (overall) over the last 2 years (ITSA). It should be noted however that in high growth areas such as the southeast corridor in Melbourne, ITSA reports a 70.8% increase in bankruptcies in the Casey-Cardinia area over the past 6 years.

- 40% of Bankruptcies involve a property many with little or no equity (ITSA).
- Currently 30,000 bankruptcies per year.

FCRC and member Financial Counsellors are concerned about a number of issues relating to mortgage lending:

- Inadequate protection, regulation and enforcement in the Uniform Consumer Credit Code (UCCC). This applies to assessment, lending and hardship.
- Failure of lenders to adequately assess borrower's capacity to pay. This is poorly set out in the UCCC. What we are seeing are lenders performing risk assessment not capacity assessment.
- The deregulation of Mortgage Brokers and the subsequent 1000% increase in their numbers, springing up in shopping strips everywhere. This has seen an increase in unscrupulous and fraudulent practices.
- A large increase in negative equity mortgages which are targeted at low to middle income earners, sometimes sole income Centrelink beneficiaries.
- Negative equity mortgages result in little or no hardship assistance available to borrowers.
- The selling of mortgages without a deposit and the first home buyers grant being gobbled up in fees and charges.
- Fees and charges which are excessive and onerous.
- The deceptive nomination of conveyancing solicitors by lenders where the solicitor has a conflict of interest between their ties to the lender and their duty to their clients.
- Low or negative equity mortgages where monthly installments exceed \$2000 per month reflecting over 50% of household income.
- Unsustainable mortgage payments coupled with large credit card debt often provided by the same lender and once again due to the weakness already outlined in the UCCC.
- Mortgage Brokers deceptively representing themselves as independent and acting in the borrowers best interest.
- Lenders distancing themselves from responsibility by using 3rd parties (Brokers) and low doc loans.
- Many lenders are not providing adequate hardship citing mortgage insurers as refusing to allow assistance.

- Welfare agencies such as Broadmeadows Uniting Care providing emergency food and relief to increasing numbers of mortgagees. (Now at same level as aid to public housing clients 18%)

FCRC and its member Financial Counsellors believe that the existing regulation and enforcement of the UCCC and other relevant legislation is not providing adequate protection for borrowers and that lenders both mainstream and fringe are exploiting this deficiency for their own benefit. We call for a review and amendment of the UCCC.

Mortgage lending cannot be viewed in isolation from other lending forms and practices. Mortgages that are barely sustainable become impossible when coupled with credit card debt, store card debt, no interest for X months' deals, the rise of consumer leasing companies and their onerous contracts, payday lenders and pawn brokers (up to 480% interest per annum).

We believe that there needs to be greater Regulation and Enforcement in the Mortgage Broker sector. We also call for legislation to be brought in that makes it mandatory for Mortgage Brokers to be licensed, with minimum practice standards in place.

We also believe that the Government First Home Owners Grant has benefited developers at the expense eager first home buyers, and has led to a rise in house and land package deals that fail.

The current level of household debt and the rise in insolvencies is quite alarming and is leading to a crisis which is bearing frightening social costs such as suicide, family breakdown, mental and physical illness, not to mention declining confidence in our financial institutions.

We believe that current lending practices have planted a time bomb in the Australian economy, which, when it materializes, will cause significant pain and suffering in many Australian households. The reality is that irresponsible lending is setting borrowers up for failure and there is inadequate financial hardship available to them when that occurs.

The Australian dream is turning into the Australian nightmare for many.