

Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates

2017 - 2018

Division/Agency: Australian Securities and Investment Commission

Question No: 114

Topic: Responsible Lending Media Releases

Reference: Written

Senator: Ketter, Chris

Question:

1. On 3 April 2017, ASIC issued Media Release 17-095MR, "ASIC announces further measures to promote responsible lending in the home loan sector." This media release raises concerns about the practice of 8 lenders in relation to interest only loans. How long have these practices been going on for?
2. When did ASIC first become aware of the practices referred to in the media release?
3. Does ASIC have an approximate number of customers affected or at least the scope of the matter? Please provide a breakdown in relation to each lender.
4. According to MR 17-095, "[i]n addition to typical hardship processes, lenders will individually review cases where consumers suffer financial difficulty in repaying their home loans, and determine whether they have been impacted by shortcomings in past lending practices. Where appropriate, consumers will be provided with tailored remediation, which may include refunds of fees or interest." How many customers does ASIC expect will be remediated? Please provide a breakdown in relation to each lender.
5. What further action is ASIC undertaking in relation to the issues identified?
6. According to 17-095 MR on 3 April 2017, "ASIC is also announcing that eight major lenders will provide remediation to consumers who suffer financial difficulty as a result of shortcomings in past lending practices." For each of the eight lenders, please identify whether or not any of these shortcomings relate to loans issued after 20 August 2015.
7. In 17-095 MR, ASIC states that "[a]s part of today's announcement, eight lenders examined by ASIC have improved their practices for enquiring about expenses to determine the consumer's financial situation and capacity to make repayments. Rather than obtaining a single monthly living expense figure and then relying on a benchmark figure to assess suitability, borrowers' actual figures for different categories of living expenses (e.g. food, transport, insurance, entertainment) will now be obtained. This will provide lenders with a better understanding of consumers' expenses."
8. In 15-220 MR dated 20 August 2015, ASIC states that "Following ASIC's review, all 11 lenders have changed their practices in line with ASIC's recommendations or have committed to implementing necessary changes in the coming months. The recommendations include ensuring:
 - loans align with consumers' requirements and objectives
 - lenders use a consumers' actual expenses rather than relying on a benchmark; and
 - affordability assessments include buffers for future interest rate rises.In ASIC's view, did the 11 lenders meet these commitments in full? Please identify which lenders met the commitments in full, and which did not.
9. 15-220 MR refers to 11 lenders. 17-095 MR refers to 8 lenders. Please identify which lenders are referred to in both 15-220 MR and 17-095 MR.

10. In Report 445, Review of Interest Only Loans, August 2015, Action 5 was that “Lenders must make reasonable inquiries into a consumer’s actual expenses, including both fixed expenses (such as rent, repayment of existing debts and child support, and recurring expenses such as insurance) and living expenses (such as food and utilities). Lenders must also take reasonable steps to verify the information obtained. To demonstrate that they have met their responsible lending obligations, lenders must document the inquiries and verification undertaken.”
- In ASIC’s media release, in August 2015 releasing the report, ASIC stated “Following ASIC’s review, all 11 lenders have changed their practices in line with ASIC’s recommendations or have committed to implementing necessary changes in the coming months.” In the light of the findings in 17-095 MR, to what extent does ASIC consider that the lenders have honoured those commitments?

Answer:

1. ASIC’s 2016-17 living expenses review related to the lenders’ practices for both interest only and principal and interest home loans. ASIC’s review looked at home loans for some lenders going back as far as 2012 and, in those cases, the practices referred to in Media Release 17-095MR were occurring in 2012.
2. ASIC became aware of the prevalence of these practices in 2015. We were aware of some individual lenders’ practices before this, and took action to correct these practices (for example with Bank of Queensland in ASIC Media Release 15-125MR).
3. ASIC cannot provide figures on the number of consumers affected. Each of the eight lenders have, or are undertaking, separate reviews with a focus on consumers who experienced financial difficulty and determining whether this was impacted by shortcomings in lenders’ past lending practices.

We do not expect that remediation figures, either by number of consumers or refund amounts, will be significant. In particular, interest rates are currently at historically low levels, and were falling in the lead up to 2015 and during 2016. Nevertheless, these additional actions will ensure that consumers are not disadvantaged.

4. ASIC expects that only a small number of consumers will receive remediation. As explained in our response to question 3 above, this is in line with ASIC’s expectations as interest rates are currently at historically low levels.

However, as interest rates may change over time, lenders will continue to review, and provide remediation where appropriate, to consumers who experience financial difficulty in the future to determine whether they have been impacted by the shortcomings in the lenders’ past practices reviewed by ASIC.

5. ASIC is undertaking targeted reviews of other home loan providers not included in the 2016-17 living expenses review. These reviews will include a focus on how these lenders make inquiries of consumers’ expenses, in addition to their processes and systems to comply with their other responsible lending obligations.

As mentioned above, ASIC has also commenced civil penalty proceedings against Westpac in the Federal Court in relation to the use of benchmark figures when assessing a consumer’s financial situation.

6. As most of the lenders were still in the process of implementing the changes that were agreed to as part of the release of Report 445 *Review of inter-only home loans* (REP 445) on 20 August 2015, there will be loans entered into after 20 August 2015 which may be subject to remediation.

7. Not response required, as no questions was put.
8. Based on the information we have, including through our engagement with the Australian Prudential Regulatory Authority, our view is that the 11 lenders have implemented the recommendations made in REP 445. We will further consider some of these issues as part of current review of interest-only lending (per ASIC Media Release 17-095MR)
9. Bendigo and Adelaide Bank Limited was the only lender included in the 2016-17 living expenses review that was not part of REP 445. Lenders included in both reviews were:
 - Australia and New Zealand Banking Group Limited
 - Commonwealth Bank of Australia
 - Firstmac Limited
 - ING Bank (Australia) Limited
 - Macquarie Bank Limited
 - National Australia Bank Limited
 - Pepper Group Limited

Westpac was part of REP 445, but was not part of the 2017-17 living expenses review. As noted above, ASIC has commenced civil penalty proceedings against Westpac.

10. The lenders reviewed as part of REP 445 agreed to comply with Action 5. Following ASIC's 2016-17 living expenses review we are satisfied that seven of the lenders included in REP 445 have or are moving to make itemised inquiries of consumers' living expenses.

The 2016-17 living expenses review did not look specifically at verification. However, ASIC did identify some issues with documentation / record keeping which have now either been fixed or should be in the process of being solved via an IT system enhancement.