

Annexe C

OFT International case studies: Australia and Canada

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Contents

Chapter		Page
1	Australia	4
2	Canada	35

1 Australia

Introduction and context

- 1.1 The Commonwealth of Australia is a country of over 7.7 million square kilometres with a population of just over 21 million.¹ It has a federal system of government and is divided into six states and two territories: Australian Capital Territory, New South Wales, Northern Territory, Queensland, South Australia, Tasmania, Victoria, Western Australia.
- 1.2 Australia has a strong economy with a GDP at purchasing power parity (PPP) exchange rates of around \$US 800.5 billion² (£479.25 billion).³ The financial sector is one of the largest contributors to GDP. In 2002/03, finance and insurance accounted for some eight per cent of GDP, representing \$AU 52 billion (£26.92 billion), which was a 146 per cent increase since 1984/85.⁴
- 1.3 The use of consumer credit has grown rapidly in Australia over the past 20 years.⁵ A recent article from the Australian Bureau of Statistics stated that from 1990 to 2008, the total amount of debt owed by Australian households rose almost six-fold, from almost \$AU190 billion (£98.37

¹ CIA, [The World Factbook](#), (accessed 18 August 2009)

² 2008 estimate from CIA, Op.Cit. A nation's GDP at purchasing power parity (PPP) exchange rates is the sum value of all goods and services produced in the country valued at prices prevailing in - in this case - the United States.

³ Unless otherwise stated, currency converted via [Universal Currency Converter](#) exchange rates as at September 2009.

⁴ Australian Bankers' Association, Corporate Responsibility – Contributing to the Community, <http://www.bankers.asn.au/Default.aspx?ArticleID=594> (accessed 18 August 2009).

⁵ Senator Nick Sherry, citing Productivity Commission's draft December 2007 report, [Australia's Consumer Policy Framework](#) on 28 April 2008 (accessed 18 August 2009)

billion) to around \$AU 1.1 trillion (£469.4 billion) (including securitisations) in real terms, although most of this debt was incurred to buy houses.⁶ At the end of May 2009, total credit outstanding for personal lending (including securitisations) was \$AU 135 billion (£69.91 billion),⁷ although statistics suggest that the value of personal finance obtained has been in general decline since late 2007.⁸

1.4 The consumer credit sector in Australia has developed greatly since the Second World War, and much of this development has been shaped by the approach taken to regulating the banking sector. Tight controls on the banking system were continued after the War when the Banking Act 1945 was passed. Meanwhile, finance companies developed rapidly, expanding their activities on the back of the boom in sales of cars and household durables in the late 1940s and 1950s.⁹

1.5 These finance companies specialised in instalment credit, and hire-purchase in particular, and their development was greatly aided by the fact that the Banking Act did not apply to them and they were relatively lightly regulated.¹⁰ Building Societies also benefited from the competitive disadvantage placed on banks by the financial regulations, such that by 1970, finance companies and building societies together accounted for 14

⁶ Australian Bureau of Statistics (ABS), [Australian Social Trends](#), 4102.0, (accessed 18 August 2009), pp 30-31.

⁷ [Australian Bankers' Association, Credit – financial system](#), (accessed 19 August 2009)

⁸ Australian Bureau of Statistics (ABS), Op.Cit, p.37. Personal finance commitments are defined as loans given to people for personal use, such as to purchase a car, household goods or a holiday. Revolving credit (for example credit cards), is included.

⁹ Van der Eng, P., Consumer Credit in Australia during the 20th Century, [Working Paper No.489](#) (Canberra: ANU, 2008), (accessed 19 August 2009), p.10 and 12.

¹⁰ Van der Eng, P., Op.Cit, p.10. See [Financial System Inquiry: Final Report](#) (the Wallis Report) (Canberra: AGPS, 1997)

per cent of the assets of all financial institutions (compared to only two per cent in 1948).¹¹

- 1.6 The post-war period up to the start of the 1970s is best characterised as one of gradual evolution in financial services regulation. There were one or two important developments, such as that in 1963, when savings banks were allowed to offer personal loans, or 1974 when Bankcard, Australia's first bank issued credit card, was introduced.¹² However, the Wallis Report has described this as a period when 'financial services changed little and were delivered largely by institutions insulated from competition by regulations designed to promote stability, albeit at the cost of efficiency'.¹³ Yet pressures for change had been growing and reached a peak at the end of the 1970s.
- 1.7 Fundamental changes came in the early 1980s when, following the report of the Campbell Inquiry, the banking system was deregulated. By 1986, interest rate and capital controls had been removed, the currency was floated and foreign-owned banks were allowed to enter. Differences between different types lender began to fade and 'almost all financial institutions started to offer various forms of consumer credit'.¹⁴
- 1.8 A number of commentators have pointed to the effects of deregulation in terms of changing the attitudes of Australian households towards consumer spending and the acquisition of debt. In its December 2000 'Review of the Consumer Credit Code', KPMG said: 'Generally speaking, households have become more consumption orientated. This is illustrated by the rise in the level of household debt, which is now approaching 100

¹¹ Wallis Report, Op.Cit, p.580

¹² Bankcard, [Bankcard Milestones](#), (accessed 19 August 2009)

¹³ Wallis Report, Op.Cit, p.580

¹⁴ Van der Eng, P., Op.Cit, p.16

per cent of annual disposable income, up from a level of 50 per cent a decade ago'.¹⁵

- 1.9 One consumer credit expert from Australia told us: 'As in other modern western liberal democracies we have a consumer culture and struggle with problems of over-indebtedness, that said, there are those who are financially excluded from access to safe and affordable credit, and needed to acquire essential white goods or meet emergency bills.'¹⁶ It was also suggested to us that the drive to own one's own home, combined with a rapid increase in the price of real property and consumer confidence in the banking industry had: 'Created a push to obtain credit with a view that it is a safe and easy undertaking'.¹⁷

Regulatory Framework

- 1.10 At the time of writing (September 2009), regulation of the consumer credit sector in Australia is shared between the Australian Government and the State and Territory Governments, with the responsibility lying primarily with State and Territory Governments.¹⁸ The States and Territories regulate consumer credit through their respective Fair Trading Offices or Departments (such as the New South Wales Office of Fair Trading, Consumer Affairs Victoria and Queensland Office of Fair Trading/Department of Employment, Economic Development and Innovation). Consumers may also enforce their rights under the relevant legislation through court action.¹⁹

¹⁵ KPMG Consulting, [NCP Review of the Consumer Credit Code: Final Report](#) (December 2000), (accessed 25 August 2009), p.24-25.

¹⁶ Submission received as part of High Cost Consumer Credit Review.

¹⁷ Submission received as part of High Cost Consumer Credit Review.

¹⁸ Productivity Commission, [Review of Australia's Consumer Policy Framework](#), Vol. 2, No. 45 (Canberra, 2008), [http](#) (accessed 19 August 2009), p.446

¹⁹ Productivity Commission, *Op.Cit*, p.447

1.11 The Australian Prudential Regulation Authority (APRA) is the prudential regulator of the financial services industry. Established on 1 July 1998, it oversees banks, credit unions, building societies, general insurance and reinsurance companies, life insurance, friendly societies, and most members of the superannuation industry. APRA is largely funded by the industries that it supervises. As at 11 September 2009, it supervised institutions holding around \$AU3.4 trillion (£1.8 trillion) in assets for 21 million Australian depositors, policyholders and superannuation fund members.²⁰

1.12 Under the new National Consumer Credit Regime (see below), the Australian Securities Commission (ASIC) will become the national regulator for consumer credit and finance broking, taking over from the States and Territories. However, APRA will continue to oversee the actions of Authorised Deposit Taking Institutions (ADI).²¹

Current regime: uniformity agreement and uniform consumer credit code

1.13 The Uniform Consumer Credit Code (UCCC)²² is the primary piece of legislation in the regulatory framework for consumer credit.²³ It was developed in response to business and consumer concerns as a national initiative to standardise credit practice in Australia.²⁴ In 1993, the States

²⁰ [APRA Media Release](#), 11 September 2009, (accessed 17 September 2009)

²¹ Authorised Deposit-taking Institutions (ADIs) are corporations authorised under the Banking Act 1959. They include banks, building societies and credit unions. All ADIs are subject to the same Prudential Standards but the use of the names 'bank', 'building society' and 'credit union' is subject to corporations meeting certain criteria. Further information including a list of ADIs can be found on [APRA's website](#)

²² Consumer Credit Code 1994 (as amended)

²³ Productivity Commission, Op.Cit, p.446

²⁴ Australian Government, [Consumer Credit Code Website](#), 'What is the Consumer Credit Code?', (accessed 20 August 2009)

and Territories agreed that consumer credit laws should be consistent across all jurisdictions in Australia and signed up to an Agreement²⁵ under which the UCCC was developed. The 1993 Uniformity Agreement provided for the adoption of uniform credit laws based on template legislation to be enacted by the Queensland Parliament. This template legislation consists of the Consumer Credit (Queensland) Act 1994 (as amended) and the Consumer Credit Regulation (Queensland) 1995 (as amended). The UCCC is set out in an Appendix to the 1994 Act.

- 1.14 The UCCC commenced operation on 1 November 1996. It is based on the principle of truth in lending to allow borrowers to make informed choices when purchasing credit. It therefore contains a detailed set of disclosure requirements outlining the cost of credit. For example, sections 14 and 15 of the Code set out the requirement for a credit provider to give the debtor a pre-contractual statement detailing a number of matters such as: the amount of credit to be provided or the credit limit, the APR, changes affecting interest rates and credit fees and charges, and the disclosure of any commission for the introduction of credit business.²⁶
- 1.15 Other matters covered by the Code include: changes to contract terms on the grounds of hardship and unjust transactions,²⁷ including the Court's power to reopen unjust transactions,²⁸ mandatory comparison rates for fixed term loans,²⁹ the identification of property which is subject to a mortgage³⁰ and credit related insurance contracts.³¹

²⁵ Australian Uniform Credit Laws Agreement 1993 (the Uniformity Agreement)

²⁶ Consumer Credit Code 1994 (as amended), ss14 and 15

²⁷ Consumer Credit Code 1994, ss66-74

²⁸ Consumer Credit Code 1994, s70

²⁹ Consumer Credit Code 1994, s146A

³⁰ Consumer Credit Code 1994, s40

³¹ Consumer Credit Code 1994, ss132-139

1.16 Responsibility for enforcing the UCCC and separate credit regulation lies with States and Territories. The UCCC does not deal with all matters relating to consumer credit regulation and clause 12 of the Uniformity Agreement provides that some matters, including fixing of maximum interest rates payable under consumer credit contracts and the establishment of a scheme for the licensing or registration of credit providers may be dealt with by States and Territories on a separate (non-uniform) basis.

Adoption of interest rate caps

1.17 As part of the non-uniform regime, some States/Territories have adopted interest rate caps and others have not. The approach taken by NSW, ACT and Queensland to regulating interest rate caps is similar. They have all set the cap at 48 per cent APR and specify that other credit fees and charges under a credit contract as well as interest rate charges must be taken into account in calculating the APR (an inclusive interest rate cap). Victoria has taken a slightly different approach: it has set the cap at 30 per cent for loans secured by a mortgage and 48 per cent for all other credit contracts regulated under the UCCC. Moreover, the cap is on interest rates only and the legislation does not require fees and charges to be included when determining the interest rate.

1.18 The Australian States and Territories that have not adopted a cap (Northern Territory, South Australia, Tasmania, Western Australia) have left it to the market to determine the cost of consumer credit, but some of those jurisdictions were (at least until recently) considering regulating in this area.³² Thus, on 21 October 2007, South Australia's Minister for Consumer Affairs announced that the State Government intended to develop new laws: 'To provide a range of protection for vulnerable people seeking short term credit including ... a maximum interest rate cap that encompasses

³² Howell, N., Wilson, T., and Davidson, J., [Interest Rate Caps: protection or paternalism?](#) (Brisbane: Griffith University, 2008), pp.10, 13,14

fees and charges'.³³ Reports have also suggested that Western Australia intended to introduce an interest rate ceiling that included fees and charges.³⁴

- 1.19 However, On 27 April 2009, Senator Nick Sherry, the Australian Minister for Superannuation and Corporate Law, said that under the new national consumer credit legislation (see below), the States and Territories that had already adopted a 48 per cent interest rate cap would retain it but those that did not currently have a cap would be asked not to impose one. The outcomes for States and Territories that had adopted caps and those that had not but that had new responsible lending provisions in force would then be assessed and the Government would then determine whether it was appropriate to maintain such a cap.³⁵

New national regime: national consumer credit legislation

- 1.20 On 3 July 2008, the Australian Government reached agreement with the States and Territories at the Council of Australian Governments (COAG) for the Australian Government to assume responsibility for regulation of all consumer credit. This included personal loans, credit cards, payday lending and micro loans.³⁶
- 1.21 National regulation had been on the agenda for several years by that stage and the COAG agreement reflected the recommendations of an April 2008 Productivity Commission Report on Australia's consumer policy

³³ Government of South Australia News, ['Days are numbered for payday lending 'rogues''](#), 21 October 2007, (accessed 13 August 2009)

³⁴ Consumer Affairs Victoria, [The Report of the Consumer Credit Review](#) (Melbourne: CAV, 2006), (accessed 13 August 2009), at p.111

³⁵ Senator Nick Sherry, Minister for Superannuation and Corporate Law and Tony D'Aloisio, Chairman of ASIC, [Joint Press Conference](#), 27 April 2009, (accessed 15 July 2009)

³⁶ Australian Government: The Treasury, PN 42, ['COAG agree to transfer responsibility for all consumer credit to the Commonwealth'](#),

framework.³⁷ The Commission found a number of deficiencies in the current State based regulatory regime for consumer credit. These included: regulatory gaps, inconsistent regulation across States and Territories (notwithstanding the intention of the UCCC to standardise credit practice in Australia) and delays caused by the inter-jurisdictional processes for changing the UCCC.³⁸ As a result, the Commission reported 'widespread support from both consumer groups and financial service providers for transferring responsibility for regulating consumer credit and finance broking to the Australian Government'.³⁹

1.22 On 2 October 2008, the Australian Government agreed to implement national credit regulation in two phases, to make the transition as smooth as possible. It was originally anticipated that Phase One would be in place by mid-2009 and Phase Two by mid-2010, but the timetable was subsequently changed to allow the credit industry more time to make the necessary changes to move to the new regime.⁴⁰

1.23 A National Consumer Credit Reform Package was introduced into Parliament on 25 June 2009 to deliver on Phase One of the COAG Agreement. The Package comprises three Bills⁴¹ including the National Consumer Credit Protection Bill 2009 which replicates the UCCC as the

³⁷ Productivity Commission, [Review of Australia's Consumer Policy Framework](#), Vol. 2, No. 45 (Canberra, 2008), (accessed 19 August 2009), recommendation 5.2 at p.107

³⁸ Productivity Commission, *Op. Cit.*, pp.100-101 and 443

³⁹ Productivity Commission, *Op. Cit.*, pp.101

⁴⁰ On 17 September 2009, the Government announced that the commencement of the consumer credit reforms would be deferred six months to 1 July 2010. See [Media Release](#) from the Minister for Financial Services, Superannuation and Corporate Law, Chris Bowen MP, (accessed 18 September 2009)

⁴¹ The National Consumer Credit Protection Bill (Credit Bill), the National Consumer Credit Protection (Transitional and Consequential Provisions) Bill 2009 (Transitional Bill) and the National Consumer Credit Protection (Fees) Bill 2009 (Fees Bill).

National Credit Code.⁴² As part of Phase One, the Australian Securities Commission (ASIC) will become the sole, national regulator for consumer credit lending and finance broking.⁴³

1.24 Lenders and credit service providers (such as brokers) will be required to register with ASIC and apply for a licence in order to continue to engage in credit activities. Work on Phase Two will include, amongst other things, enhancements to specific conduct obligations to stem unfavourable lending practices, such as a review of credit card limit extension offers, an examination of State approaches to interest rate caps and other fringe lending issues as they arise.⁴⁴

1.25 Participants in the Australian consumer credit market will also need to consider the Trade Practices Amendment (Australian Consumer Law) Bill 2009 (the Bill), which was introduced to the Federal Parliament on 24 June 2009. The Bill amends the Trade Practices Act 1974 and the Australian Securities and Investments Commission Act 2001 to implement commitments made in 2008 by COAG to introduce a single, national consumer law to be called the Australian Consumer Law.⁴⁵ The Bill applies to most standard form contracts,⁴⁶ including credit contracts, and provides that unfair contract terms are void.

⁴² On 17 September 2009, the Government announced that the commencement of the National Consumer Credit Code would be deferred six months to 1 July 2010 (see fn 40 above).

⁴³ [National Consumer Credit Government Action Plan](#), (accessed 15 July 2009)

⁴⁴ National Consumer Credit Government Action Plan, Op. Cit.

⁴⁵ The Bill is the first of two which will introduce the Australian Consumer Law (ACL), the second will be introduced in 2010.

⁴⁶ Standard form contracts are contracts that are not individually negotiated. They have been likened to 'take it or leave it' contracts.

The market

- 1.26 The Uniform Consumer Credit Code (UCCC) defines consumer credit as credit 'provided or intended to be provided wholly or predominantly for personal, domestic or household purposes'.⁴⁷ Responses to a questionnaire sent out by the OFT in August 2009 suggested that the term sub-prime was less frequently used in Australia than in countries such as the United States and the UK. Where the term sub-prime was used, it tended to be used to describe that part of the market that was more frequently termed the fringe lending sector. One respondent said, 'We define consumer sub-prime products as those offered by entities that are not Authorised Deposit Taking Institutions (ADIs)... ADIs generally consist of banks, building societies and credit unions... Accordingly the sub-prime market in Australia is quite varied and is typically defined by exclusion rather than inclusion'.⁴⁸
- 1.27 Among those who responded to the OFT's questionnaire, there was a variety of perceptions about what the term high cost consumer credit meant. One respondent from the State of Victoria suggested that it meant small amount cash loans (less than \$AU 5,000 [£2640]) where the APR was less than 48 per cent and the loan was accompanied by high fees (such as \$AU 35 [£18] for every \$AU 100 [£53] lent).⁴⁹ Another suggested that in Australia it was common to think of high cost credit as credit with an APR ranging from around 240 per cent to 1300 per cent per annum.⁵⁰ A third response emphasised the importance of giving consideration to the entire life cost of the loan rather than focusing entirely on interest rates. In that context, it observed: 'A loan product where fees,

⁴⁷ Consumer Credit Code 1994 (as amended), s6

⁴⁸ Submission received as part of High Cost Consumer Credit Review.

⁴⁹ In Victoria, the APR does not take into account the regular fees and charges incurred as part of the loan. It only refers to the percentage of interest charged on the loan.

⁵⁰ Comment received as e-mail following main submission to the Review.

interest, and debt collection fees exceed two times the principle borrowed would be considered high cost'.⁵¹

Market size

- 1.28 A range of different estimates for the size of the Australian consumer credit market and its components has been produced. Data collected by the European Credit Research Institute (ECRI) on a range of countries both inside and outside Europe suggests that the size of the Australian consumer credit market in 2008 was €71.89 billion (£75.45 billion)⁵² (or in national currency \$AU 145.76 billion).⁵³ The Productivity Commission (citing figures from the Australian Bureau of Statistics) stated that in 2006-07, Australian consumers borrowed over \$AU 200 billion⁵⁴ (£103.55 billion) although home mortgages accounted for much of this lending (around 60 per cent of the total value of new consumer loans in 2006/07).
- 1.29 In April 2009, the Australian Minister for Superannuation and Corporate Law observed that: 'some 5.7 million [Australian] households... have some sort of debt, 2.9 million households have a home loan, some 750,000 householders have an investor loan, and some 2.3 million households have a credit card'.⁵⁵

⁵¹ Submission received as part of High Cost Consumer Credit Review.

⁵² Currency converted via Universal Currency Converter exchange rates as at September 2009.

⁵³ European Credit Research Institute (ECRI), *Consumer Credit in Europe (1995-2008)*, (Brussels: ECRI, 2009), Tables 2.1E and 2.1NC. Consumer credit corresponds to the outstanding amounts (stocks) of loans at the end of the year granted by institutions making up the national financial sector. In the case of Australia, this encompasses lending from authorised banks, credit unions, building societies and financial corporations. For Australia, the figure for consumer credit market size includes other lending and is not adjusted for securitization as such data are not available.

⁵⁴ Australian Bureau of Statistics (ABS) figures, cited by Productivity Commission, *Op. Cit.*, p.443

⁵⁵ Senator The Hon Nick Sherry, Minister for Superannuation and Corporate Law, [Joint Press Conference with Tony A'Aloisio](#), ASIC Chairman, 27 April 2009, (accessed 25 August 2009)

Market structure

1.30 It is common to divide the consumer credit sector in Australia into mainstream and fringe lending sector, although some commentators segment the market more finely. The table below shows a three-tier approach to segmentation:

Table c1 market structure: Example of three tier segmentation

Lenders	Examples	Typical Products
'First tier' lenders (banks or approved deposit-taking institutions)	Australia and New Zealand (ANZ) Banking Group, National Australia Bank (NAB) Westpac Banking Corporation	Personal loans, Continuous credit products, Overdrafts
Credit unions (brigaded with 'first tier')	Credit Union Australia Ltd, Queensland Teachers Credit Union Queensland Police Credit Union	Similar to above, but offered to members.
'Second tier' lenders (non bank institutions that compete with banks)	GE Capital Finance Pty Ltd GE Personal Finance Pty Ltd (GE Money) Virgin Money (Australia) Ptd Ltd (Virgin Money) Geneva Finance Ltd (G2 Finance)	Personal loans Continuous credit products Retail finance Bond loans ⁵⁶
'Third tier' lenders, fringe lenders or micro-lenders	Cash Converters Cash Doctors Fast Access Finance	Payday loans ⁵⁷ Longer duration small loans ⁵⁸ Longer duration large loans ⁵⁹

⁵⁶ This product is very similar to a regular personal loan but is marketed specifically for use in paying a rental bond. A rental bond is similar to the deposit or bond paid by tenants renting flats in the UK which provides landlords with protection in case tenants damage their property or abscond.

⁵⁷ Defined for the purposes of the CCCL paper as short term, high interest loans, of up to two months duration.

⁵⁸ Defined for the purposes of the CCCL paper as loans of \$AU 300 of more than two months duration

⁵⁹ Defined for the purposes of the CCCL paper as loans of \$AU 1,000 of more than two months duration

Source: Howell, N., Wilson, T., and Davidson, J., Interest Rate Caps: protection or paternalism? (Brisbane: Griffith University, 2008)

1.31 An August 2003 discussion paper from the Ministerial Council on Consumer Affairs (MCCA),⁶⁰ explained that providers serving the mainstream sector include banks, building societies, credit unions and national finance companies. Providers serving the fringe lending sector include payday lenders, micro lenders⁶¹ and other lenders who usually supply small personal loans to people excluded from access to mainstream credit. This paper focuses in particular on the fringe lending sector.

1.32 A February 2008 report by Infosys BPO stated that the fringe lending market is a thriving business in Australia and is growing rapidly. According to the report, the size of the fringe lending market in terms of annual turnover is approximately \$AU 800 million (£414.2 million) but due to the undefined nature of the industry, there is no concrete evidence on the market size.⁶² It was estimated that in 2000, there were 150 outlets with a total of around \$AU 200 million (£103.5 million) outstanding. In July 2008, the National Financial Services Federation (NFSF) stated that micro-

⁶⁰ Ministerial Council for Consumer Affairs (MCCA), [Fringe Credit Providers: Discussion Paper](#) (August 2003). See also Infosys, [Fringe Lending in Australia – An Overview](#), February 2008, (accessed 15 July 2009), p. 7

⁶¹ Micro-lenders are lenders who tend to specialise in small amount short term loans.

⁶² Infosys, [Fringe Lending in Australia – An Overview](#), February 2008, (accessed 15 July 2009), pp. 5 and 9

loans⁶³ and payday loans together accounted for \$AU 500 million (£258.83 million) in loans throughout Australia per annum.⁶⁴

Suppliers

1.33 There are a number of different associations representing firms that supply mainstream and/or fringe credit products. Some of the most important are listed below:

Table C2 Suppliers' associations

Association Name	Membership
Abacus - Australian Mutuals	Credit unions and mutual building societies.
Australian Bankers' Association (ABA)	24 banks authorised by the Australian Prudential Regulation Authority (APRA) to carry on banking business in Australia. Members make up overwhelming proportion of consumer credit lending in Australia
Australian Finance Conference (AFC)	AFC members are involved in consumer credit and housing finance, equipment leasing and finance, wholesale and receivables finance, deposit-taking and other fundraising activities.
Mortgage and Finance Association of Australia	Mortgage and finance professionals
National Financial Services Federation (NFSF)	Micro-lenders and payday lenders in Australia

Source: Submissions to OFT

⁶³ The NFSF describes a micro loan as 'a loan with a duration of two months to two years ... generally for amounts of \$500 or more, with an industry average principal of \$1,000'. It says, 'they are generally used to meet larger expenses such as replacing whitegoods ... dental expenses and unexpected travel [and] are operated in a similar way to personal loans ... with establishment fees and principal and interest repayments'. (NFSF, Submission to Financial Services and Credit Reform Green Paper, p.2)

⁶⁴ National Financial Services Federation, [Submission to Financial Services and Credit Reform Green Paper](#) (Redcliffe: NFSF, 2008), (accessed 25 August 2009), p.2

1.34 In February 2008, Infosys BPO identified the following as the major players in the Australian Fringe lending sector:⁶⁵

Cash Converters

Cash Converters was established in Perth, Western Australia, in 1984. One of the best known short-term lenders in Australia, it has around 140 outlets throughout Australia, and provides approximately \$AU 230 million (£119.09 million) in small dollar, short term loans each year.⁶⁶ The company's first store in the UK was opened in 1991 and it now has over 450 outlets worldwide. It is listed on both the Australian and London Stock Exchanges.

Amazing Loans

Formed in February 2005 and now operating across three Australian States, Amazing Loans was listed on the Australian Stock Exchange in April 2006 and acquired by Investment Evolution Global in 2009.

Fast Access Finance

Fast Access Finance, based in Queensland, has been operating since 1996. It provides personal loans (generally from \$AU 300 to 3,000) for periods of one to 32 weeks to people seeking alternatives to mainstream lenders.

Money Plus

Based in Victoria, Money Plus provides loans and cheque cashing services. It offers unsecured loans from AU\$100/6,000 for repayment terms between one and six months. Its stated objective is to assess applications, approve and provide cash within 60 minutes.

⁶⁵ Infosys, Op. Cit, p.20

⁶⁶ [Cash Converters, Response to the Federal Government's Green Paper on Financial Services and Credit Reform](#) (July 2008), p.3

Cash Doctors

An online payday loan company founded November 2005 and based at Southport on Australia's Gold Coast. It states that borrowers can apply for a loan in three to four minutes and that successful applicants, can receive loans within 60 minutes. Its average loan is AU \$400 for 21 days.

Cash Stop

Primarily a money transfer service, Cash Stop also offers a number of additional services. These include brokering payday loans for members and cashing cheques.

City Finance

A franchise network with over 100 outlets across Australia. It offers small loans (AU\$ 300 to AU\$ 5,000), auto finance (from \$AU 5,000 upwards), personal loans (AU\$ 5,000 to AU\$ 40,000) and home loans (AU\$ 50,000 upwards).

Cash Plus and Q Loans

Cash Plus and Q Loans were also mentioned in the Infosys BPO report, but further information was not readily available on either of them. Q Loans appeared to be linked to a site entitled borrowonline, which advertised the possibility of cash approvals of up to \$AU 2,500 in 24 hours.

Borrowers

1.35 Submissions to the OFT Consumer Credit Review suggested that the following organisations were amongst the most important in representing consumers or borrowers:⁶⁷

- Brotherhood of St Laurence. A not-for-profit organisation delivering services to disadvantaged individuals and emerging communities.

⁶⁷ Submission received as part of High Cost Consumer Credit Review.

- CHOICE. Australia's largest consumer organisation, it tackles consumer issues, providing consumers with information and lobbies for consumers' rights.
- Consumer Action Law Centre (CALC). A community legal centre and the largest specialist consumer legal practice in Australia.
- Consumer Credit Legal Centre (NSW). A community legal centre specialising in financial services.
- Consumers Federation of Australia. The national peak body for consumer groups in Australia.
- Good Shepherd Youth and Family Service. A community services agency supporting young women and families in Melbourne.
- Legal Aid Queensland. An independent statutory authority that provides legal help to financially and socially disadvantaged Queenslanders.

1.36 In the past, borrowers who used fringe credit products have tended to be the working poor or those from low and fixed income groups. According to Infosys BPO, they 'are typically from low socio-economic groups or financially excluded, with an urgent need for funds, and do not meet the credit standards of banks'.⁶⁸ A July 2002 report commissioned by the Consumer Law Centre Victoria (CLCV) found that the typical payday loan customer was:

- equally likely to be a man or woman
- in their late twenties or early thirties
- earning around \$AU 24,500 (£12,687.27), although many earned less than \$AU 401 (£207.66) a week, and

⁶⁸ Infosys, Op. Cit, p.12

- renting or quite possibly living in public housing.⁶⁹

1.37 There is some evidence that the profile of the typical small amount borrower has been changing recently, at least in some respects. A 2008 survey of payday borrowers conducted for Consumer Action Law Centre (CALC) updated the findings of the CLCV survey. It found that a typical payday borrower, amongst other things:

- has a university or other post-secondary standard education
- is in a couple with children
- has a personal income of below \$AU 60,000 (£31,080.81)
- has limited knowledge of small amount lenders
- has obtained a payday loan to meet essential living expenses
- has borrowed less than \$AU 500 (£259.02), and
- has used a credit card in the previous twelve months.⁷⁰

1.38 Borrowers may take out fringe lending products for a number of reasons. One is that they only want a small loan and cannot find a mainstream lender to provide this.⁷¹ However, many consumers overestimate their ability to repay the loan within the required timeframe, and fall into a debt trap when they seek to roll over the loan.⁷² Borrowers may seek fringe lending products if they have insufficient income to cover emergency

⁶⁹ Wilson, D., [Payday Lending in Victoria: A Research Report](#) (Melbourne: Consumer Law Centre Victoria: 2002), (accessed 26 August 2009), p.9

⁷⁰ [Consumer Affairs Victoria, Small Amount Lending Inquiry 2008](#), (Melbourne: CAV, 2009) (accessed 8 September 2009), p.12 and Appendix 1

⁷¹ Howell, N., Wilson, T., and Davidson, J., Op.Cit, p.51

⁷² Howell, N., Wilson, T., and Davidson, J., Op.Cit, p.55

expenses or day-to-day essentials⁷³ and have been refused credit from mainstream lenders on the basis of their previous credit record or income level. Finally, borrowers may value the fact that fringe lenders allow them to obtain a loan with relative speed and convenience. This may be important if the loan is intended to cover emergency expenses, but may also be relevant if a customer has a gambling addiction.⁷⁴

Fringe lending products

1.39 The fringe lending market in Australia is made up of a number of different products but such products tend to display common features. These include the following:⁷⁵

- borrowers are able to use the loan for a wide variety of purposes
- the loans may be targeted at consumers on loan incomes
- money can be obtained with relative ease and speed
- loans are typically short-term (one week to two months)
- money is lent for a fixed fee rather than an annual interest rate
- repayment is often via a direct debit authority
- loans may be secured on a diverse range of personal property including vehicles and household items.

1.40 The table below provides information on a typical payday loan and a typical small personal loan as defined by Infosys BPO:

⁷³ owell, N., Wilson, T., and Davidson, J., Op.Cit, p.52

⁷⁴ Howell, N., Wilson, T., and Davidson, J., Op.Cit, p.52

⁷⁵ Ministerial Council for Consumer Affairs (MCCA), [Fringe Credit Providers: Decision-Making Regulatory Impact Statement and Final Public Benefit Test](#) (March 2006) (accessed 25 August 2009), p.13

Table C3 Fringe Lending Products

Feature	Pay Day Loan	Small Personal Loan
Loan purpose	Immediate personal needs	Immediate problems/purchases
Loan amount	Below \$AU 1,000 (£517.90)	\$AU 1,000 – 5,000 (£517.90 - £2589.12)
Loan term	Less than 62 days	1 to 2 years
Fees/Interest Rates	High fees Fees convert to very high interest rates (to 1000 per cent plus)	High fees Interest rates: 24 to 48 per cent

Source: Infosys, Fringe Lending in Australia – An Overview, February 2008, pp5 and 8

1.41 In late 2006, information from a sample of microloan products provided by 40 fringe lenders in Queensland was obtained by researchers at the Griffith University Centre for Credit and Consumer Law. A summary of the results is displayed in the table below. The researchers suggest that, although the sample was not representative and cannot therefore be directly extrapolated to the microloan market in Queensland, the information nevertheless provides a useful snapshot of the types of product available in 2006:⁷⁶

Table C4 Fringe Lending Products in Queensland in 2006

Product Type	Principal (AU\$)	Available Duration (weeks)	Fees (\$AU)	APR (all inclusive per centpa)	Total payments as a per cent of principal
Payday loan	300 (£157)	1	Nil - \$170 (£89)	390-3380	110-165
Payday loan	300 (£157)	2-8	Nil - \$50 (£26)	300-700	120-138
Payday loan	1,000 (£523)	1-8	Nil - \$170 (£89)	300-1100	107-133
Small loan	300 (£157)	12-52	Nil - \$175 (£92)	120-580	134-295
Large loan	1,000 (£523)	26-52	Nil - \$375 (£196)	107-420	133-307

Source: Howell, N., Wilson, T., and Davidson, J., Interest Rate Caps: protection or paternalism? (Brisbane: Griffith University, 2008), p.48

⁷⁶ Howell, N., Wilson, T., and Davidson, J., [Interest Rate Caps: protection or paternalism?](#) (Brisbane: Griffith University, 2008), (accessed 13 August 2009), p.49

