

Banking and finance update

April 2016



Small amount credit contract report finally released (including recommendations about consumer leases)

The eagerly awaited final report of the independent review of the small amount credit contract (SACC) laws and consumer leases was released on Tuesday 19 April 2016 by the Minister for Small Business and Assistant Treasurer, Kelly O'Dwyer.

The full report is available on the Australian Government Consumer Credit [website](#).

The review was established to fulfill a statutory requirement under the *National Consumer Credit Act 2009* (Commonwealth) to examine and report on the effectiveness of the law relating to SACCs. Its terms of reference were expanded to also examine consumer leases as well.

The Minister, in her media release, states:

The final report has made a number of recommendations designed to increase financial inclusion and reduce the risk that consumers may be unable to meet their basic needs or may default on other necessary commitments.

And

... the current regulatory framework for consumer leases of household goods is not effective in promoting financial inclusion.

In all there are 24 recommendations – 10 specifically relating to SACCs, 8 specifically relating to consumer leases and 6 combined recommendations. The media release states that some of the key recommendations in relation to SACCs and consumer leases include:

- retaining the existing price caps on SACCs
- extending the SACC protected earnings amount requirement to all consumers and lowering it to 10 per cent of the consumer's net income. Currently a protected earnings amount only applies to those consumers who receive 50 per cent or more income through payments from Centrelink – repayments are currently capped at 20 per cent of a consumer's gross income
- introducing a cap on the cost of consumer leases on household goods
- introducing a protected earnings amount requirement for consumer lease providers of 10 per cent of all consumer's net income.

We specifically note certain recommendations in the report:

RECOMMENDATION 11 – CAP ON COST TO CONSUMER

A cap on the total amount of the payments to be made under a consumer lease of household goods should be introduced. The cap should be a multiple of the base price of the goods, determined by adding 4% of the base price for each whole month of the lease term to the amount of the base price. For a lease with a term of greater than 48 months, the term should be deemed to be 48 months for the purposes of the calculation of the cap.

Another recommendation in relation to SACCs is that direct debit default fees should be included in the cap – which in effect means that the lenders will bear those fees. See recommendation 4.

RECOMMENDATION 4 – DIRECT DEBIT FEES

Direct debit fees should be incorporated into the existing SACC fee cap.

RECOMMENDATION 1 – AFFORDABILITY (SEE ALSO RECOMMENDATION 15 IN RELATION TO CONSUMER LEASES)

Extend the protected earnings amount regulation to cover SACCs provided to all consumers. Reduce the cap on the total amount of all SACC repayments (including under the proposed SACC) from 20 % of the consumer's gross income to 10 % of the consumer's net (that is, after tax) income. Subject to these changes being accepted, retain the existing 20 per cent establishment fee and 4 per cent monthly fee maximums.

The scope of the review of consumer leases may be widened. Minister O'Dwyer states she has asked Treasury to consult on some further issues raised including whether the consumer lease recommendations should apply to all consumer leases (including motor vehicles) rather than only leases of household goods; and the best way to treat second hand goods.

At first blush it strikes us that neither SACC providers nor providers of consumer leases will be happy with the recommendations made. We say this principally for the following reasons:

- The returns on consumer leasing business will be severely diminished;(Recommendation 11)
- Expense items which can now be charged for in addition to relevant cost caps will be included in the monetary caps (Recommendations 4,5,10 and 13)
- Limiting repayments to 10% of a consumer's net income – down from the current 20%, will exclude many consumers from the ability to obtain finance or lease goods (Recommendations 1 and 15).

A consultation process will now take place. Submissions can be made at

<http://www.treasury.gov.au/ConsultationsandReviews/Consultations/2016/SACC-Final-Report>

Closing date for submissions: Monday, 16 May 2016

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