

Responsible Lending

Where do we stand?

Elise Ivory, Partner

18 September 2019

01

RG209

02

Royal
Commission

03

CP309

04

ASIC vs
Westpac

05

RL public
hearings

Where do we
stand?

What was intended by the responsible lending laws?

Explanatory memorandum
*3.146...must make such efforts to verify the information provided by the client **as would normally be undertaken by a reasonable and prudent lender in those circumstances***

Have we gone too far?

Royal Commission

Upheld that the
appropriate measure is
'not unsuitable' and
not 'suitable'



'Scalable' does
not mean that
nothing can be
done



CP309 and ASIC public hearings

01

Generally, industry would like more guidance so long as it does not stifle competition and is still a principles based approach

02

What are ASIC's expectations around technology?

03

Tension between the volume of information that we have vs how that information is used.

ASIC vs Westpac

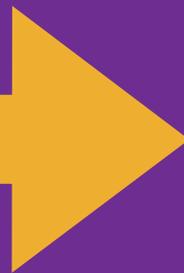
- This decision is significant for what it didn't answer as well as what it did answer.
- It settled that a loan cannot be unsuitable due to the process alone. So long as reasonable inquiries are made and reasonable verification is undertaken, there cannot be a breach in the absence of an unsuitable loan.
- Useful commentary around discretionary living expenses.

BUT

Would the outcome have been different if a borrower has been in hardship?



It did not address whether HEM is an appropriate benchmark



What amounts to substantial hardship?



Doing nothing is not an option

Fixed expenses and liabilities
should be verified

Living expenses, particularly discretionary vs
non-discretionary living expenses, remain uncertain

The extent that bank statements should
be obtained and analysed is uncertain

Product design, transparency of process, and
good treatment of customers remain vital

Where do we stand?

Thank you

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