



BANKRUPTCY | Issue No. 10 | BMW Finance – What goes around comes around

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Trustees should be aware of and consider whether any estate administered by them has a potential claim against what is reported as Australia's largest consumer credit remediation program to compensate consumers for responsible lending failures.

As a result of an Enforceable Undertaking which ASIC has accepted from BMW Australia Finance Limited, a program has been agreed which will provide at least \$72 million in compensation for consumers. That compensation consists of:

- \$50 million in loan write offs;
- \$7.6 million in interest rate reductions on current contracts; and
- \$14.6 million in remediation payments.

On a more general note, BMW Finance has agreed to pay an additional \$5 million into a community benefit fund to contribute to "consumer advocacy and financial literacy initiatives".

ASIC reports that at least 15,000 customers of BMW Finance can potentially claim the benefits of the remediation program if they suffered hardship consequent upon BMW Finance's compliance failures between January 2011 and August 2016. Apart from the above monetary contributions, consumers may also benefit from the removal of default listings, while BMW Finance will also buy back debt to ensure that no recovery actions will take place in relation to debts assigned to third parties.

ASIC says the program is designed to provide consumer compensation where hardship was likely to be caused as a result of BMW Finance's failure to comply with responsible lending obligations. Hardship may be evident apart from what may have occurred in the consumer's loan with BMW Finance; for example, in a consumer's other liabilities.

It is not uncommon to see luxury cars, such as BMWs, in asset listings of bankrupts. It might well be worth trustees reviewing the circumstances under which any BMWs were acquired by a bankrupt and assessing whether the remediation program could potentially be of benefit, irrespective of whether the vehicle has been disclaimed.



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