Joint Submission from the Financial Counselling Sector

re ASIC Consultation Paper 330

Using the product intervention power: Continuing credit contracts

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Senior Manager, Financial Services Group
Australian Securities and Investments Commission
By email: product.regulation@asic.gov.au

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financialcounsellingaustralia.org.au
Level 6, 179 Queen Street
Melbourne
VIC 3000
mobile: 0402 426 835

www.financialcounsellingaustralia.org.au
Contact person for this submission
Fiona Guthrie
phone: 03 8554 6979

About Financial Counselling and the Financial Counselling Sector

Financial counsellors provide advice to people with money and debt issues. Working in community organisations, their services are free, confidential and independent.

This is a joint submission from the peak bodies in the financial counselling sector.

- Financial Counselling Australia
- Financial Counsellors ACT
- Financial Counsellors Association of NSW
- Financial Counsellors Association of Queensland
- Financial Counsellors Association of Tasmania
- Financial Counsellors Association of Western Australia
- Financial Counselling Victoria
- South Australian Financial Counsellors Association (also covering the NT)

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1 Introduction

The financial counselling sector welcomes the opportunity to respond to ASIC Consultation Paper 330 (CP 330). This paper supports the exercise by ASIC of its product intervention power in relation to harmful continuing credit contracts.

Financial counsellors have been dismayed to see clients in similar situations to those that led to ASIC's Product Intervention Order (PIO) in September 2019 in relation to the lending model previously used by Cigno.[1] Disappointingly, these situations, and the harms caused are the same as those identified in the consultation leading to that earlier PIO.

This submission:

- commences with preliminary comments about the support from the financial counselling sector for ASIC's proposed product intervention order;
- provides our response to the specific questions raised in the consultation paper;
- includes an Appendix with case studies collected by financial counsellors that demonstrate the continuing harm being caused Cigno with contracts issued after 14 September 2019. The case studies have been anonymised and names changed.

When referring to Cigno in this submission we are referring to the model used by both Cigno and its associated entity BHF Solutions Pty Ltd (BHSF).

2 Summary

The financial counselling sector supports ASIC using its product intervention power to impose a total cost cap in relation to the Cigno continuing credit model.

This will ensure fees and charges by credit providers **and** their associated entities cannot exceed the maximum under the continuing credit exemption as set out in the National Consumer Credit Protection Act regulations.

The proposed industry-wide PIO would prevent Cigno, or any entity using a similar business model, from charging exorbitant fees through a mix of loan and service agreement charges (the Cigno model).

The current model being used by Cigno causes significant harm to people and we urge ASIC to intervene as quickly as possible.

[1] ASIC Corporations (Product Intervention Order—Short Term Credit) Instrument 2019/917 (PIO 2019/917).

3 General comments

Our submission is informed by the casework experiences of financial counsellors. Appendix 1 includes 17 case studies.

3.1 Experience of financial counsellors with Cigno

Many financial counsellors expressed surprise at Cigno arrangements which they thought breached PIO 2019/917 however, it would seem that Cigno is now relying upon the continuing credit exemption provisions.

Financial counsellors have spent significant time acting for people who have obtained loans from Cigno that are, upon review, completely unsuitable.

Engagements with Cigno take substantial time and effort with variable and unpredictable outcomes when trying to achieve a resolution. For example, in some cases Cigno will waive outstanding fees where these are well in excess of the original loan but will not refund similar excess fees in other cases or, refuse to refund what financial counsellors argue were unconscionable loans from the outset.

Based on some of the case studies, if a financial counsellor references the PIO 2019/917 and/or unconscionable conduct, Cigno may waive outstanding balances comprising penalty charges but it is very difficult to obtain a full refund. Cigno seems to use a template response which cites their entitlement to the charges but, will reduce some of what is outstanding 'in the interest of avoiding an extended dispute'. See for example Case Study 9 – Ben and Case Study 10 - Leigh.

Financial counsellors report that it is frequently difficult to contact and engage with Cigno when there are complaints. Anecdotal evidence suggests it can regularly take more than five attempts to make and then get an acceptable response to a complaint. A phone call is suggested as the preferred contact method, but we are advised this is less likely to elicit a timely response. For example, see Case Study 1 - Alison, and Case Study 13 – Bobby.

Cigno's lending model takes advantage of a loophole in the National Consumer Credit Protection Act (National Credit Act). As a consequence, people who obtain a loan from Cigno cannot access critical consumer protections in that law. The loss of those protections means exposure to high cost and unsuitable loans with no access to justice through the Australian Financial Complaints Authority (AFCA). Not having access to external complaints handling options through AFCA exacerbates the variability in outcomes even where financial counsellors are engaged and intervene with Cigno.

In line with the analysis by ASIC in CP 330, financial counsellors are very concerned about the continuation of harmful business models and this will be exacerbated by the COVID-19 pandemic. Without urgent control, this will lead to mounting financial distress for the people affected, with flow on effects for mental and physical health, housing security and relationships.

For many people, the Cigno model is a debt trap involving multiple or sequential loans that can never be repaid. See for example, Case Study 3 – Mary and Case Study 14 - Stacey.

It appears that Cigno established its current business model, using the continuing credit contract exemption, or became more reliant upon it, after ASIC's PIO 2019/917. It is a dangerous and exploitative approach disadvantaging lower income people and those experiencing financial stress or distress. ASIC's product intervention power is a regulatory tool that can and should now be used to stop this type of harmful lending.

3.2 Uncapped default fees

We address the exorbitant costs of default fees and related charges in our responses to the specific questions raised in CP 330 below but include commentary here given this is such a critical issue.

Default fees cause significant harm to low-income and financially stressed people accessing loans through the Cigno model. The default fees are usually $79 per default and can also be accompanied by myriad other service and account charges, or, if a repayment plan is made, a fee to change the payment schedule. These fees mean the outstanding loan balances escalate rapidly.

Cigno account statements seen by financial counsellors are filled with default and associated fees. The success of the business model appears to be predicated upon people being unable to pay in full, so that Cigno can then collect significant default and associated fees. Case study 2 – Kelly and Case study 12 - Tom are examples of this and highlight how costs can quickly escalate.

3.3 Failure to assess capacity to pay

As Cigno operates using what we believe is a loophole in the law, it has no obligation to ensure the overall costs of the loan and the loan itself are "not unsuitable", as required by responsible lending provisions. This leads to significant financial harm for people on low incomes or experiencing some form of financial and personal vulnerability.

Some people go without food to try and repay a loan they could never afford. Other people are caught in a debt spiral that contributes to mental and physical ill-health and may eventually force them to consider bankruptcy. The case studies in the Appendix reflect these outcomes. See for example Case Study 11 – John and Case Study 14- Bobby

Many financial counselling clients have multiple loans and other creditors. One or more, or all, may be in default. This should clearly indicate further credit is unaffordable. But yet, credit is forthcoming because appropriately robust checks do not seem to be in place at the time of application (see our further responses to the consultation questions below).

3.4. Targeting people who are vulnerable

Financial counsellors have made a number of complaints to ASIC about clients with loans organised by Cigno. Most clients have Centrelink as their sole source of income, there are many single parents (for example, women escaping domestic violence) and they can be desperate for a cash loan to meet an urgent expense.

It is not unusual for many clients to default quickly. Their life situations suggest they would not have been able to repay the loan in a reasonable timeframe from the time of loan initiation, and this is seriously exacerbated as soon as the default occurs, and charges ratchet up.

People who are vulnerable or financially distressed often do not understand the full extent of the costs involved with these arrangements. Indeed, the ease of access and the speed with which credit is granted ('fast-tracked') means that scrutiny or consideration of costs and charges is perfunctory or missing entirely.

On entering Cigno's website, people are greeted with images and text designed to appeal to people on low incomes, or in financially distressed circumstances, needing money to tide them over. They can apply for a loan easily and remain anonymous as it is all online. We could not see any up-front warnings, or referral to "No Interest Loans" or Centrelink Advances although there is a reference to financial counsellors buried on a page about "responsible borrowing".

4 The ASIC proposal – Responses to feedback questions

The financial counselling sector supports the proposal by ASIC to make a product intervention order by legislative instrument under s1023D(3) of the Corporations Act as drafted and attached to the consultation paper. We urge ASIC to act as soon as it is possible to limit the harm already occurring.

4.1 D1Q1 – are the described credit contracts detrimental to retail clients?

Do you consider that continuing credit contracts, when issued to retail clients in the way described in paragraphs 16–22, have resulted in, or will or are likely to result in, significant detriment to retail clients? If so, please provide any relevant evidence which supports your views.

The current model being used by Cigno for continuing credit contracts causes significant detriment.

High costs of the loans

We agree with the analysis by ASIC about the high upfront costs of a loan with Cigno, and subsequent costs incurred with any default or late payment.

The existing caps on account charges for continuing credit regulated under the National Credit Act allows for quite high fees relative to the small loan values offered by Cigno. These provisions permit account charges up to $200 in the first 12 months and then up to $125 for subsequent 12-month periods.

The case studies in Appendix 1, all of which relate to financial counselling clients with loans since 14 September 2019 (post PIO 2019/917), illustrate the high costs of these loans relative to the incomes of the borrowers.

Loans with high penalty charges are inherently difficult to repay because these are amounts on top of the principal loan, which is often unsuitable from the outset particularly given the circumstances of financial counsellor clients. The higher the costs, the more likely the person will experience financial hardship and distress, in attempting to repay the loan.

The overall cost to clients can be exorbitant particularly for many of the low income and financially vulnerable people who acquire them. The rate of increase in charges is alarming. The table below summarises the potential for the rapid growth in charges relative to loan principal for each of the case studies in this submission (see Appendix 1). This growth occurs within just a few months (sometimes weeks) from the time the loan is issued.

Figures in the table below are rounded (and does not include annualised interest rate).

Case Number and Name	Initial loan value	Fees and charges identified	Rough timeframe	Account charges as ~% of initial loan[#]	~Excess charges to date over maximum $200*
1. **Alison**	$150	$356	3 months	237%	$156
2. **Kelly**	$300	$789	Unknown	263%	$589
3. **Mary**	$350	$721	3 months	206%	$521
4. **May**	$200	$230	1 month	115%	$30
5. **Sarah**	$250	$330	3 months	132%	$130
6. **Maeve**	$250	$700**	< 2 months	< 280%	< $500
7. **Jo**	$175	$715	4 months	408%	$515
8. **Amy**	$330	$209	2 weeks	63%	$9
9. **Ben**	$210	$420	2 months	200%	$220
10. **Leigh**	$220	$367	1 month	167%	$167
11. **John**	$175	$640	4 months	366%	$440
12. **Tom**	$200	$335	< 4 months	168%	$135
13. **Bobby**	$180	$540	2 months	300%	$340
14. **Stacey (1)**	$200	$424	3 months	212%	$224

Case Number and Name	Initial loan value	Fees and charges identified	Rough timeframe	Account charges as ~% of initial loan#	~Excess charges to date over maximum $200*
15. Stacey (2)	$120	$229	1 month	191%	$29
16. Lisa	$250	$634	< 6 months	254%	$434
17. Alice	$350	$800	< 6 months	~230%	$600
18. Katie	$200	$740	<4 months	370%	$540

This does not include interest. Note that some clients have made payments so the total charges may have been greater than what is shown. Other clients may also have had their debt reduced due to intervention by the financial counsellor i.e. not all of these amounts have been paid for these clients.

* National Credit Regulation 51 limits account charges to $200 in the first 12 months (in subsequent years the limit is $125). All loans are within the first 12 months. These charges would have continued to mount without action or intervention. Charges will only have been reduced through negotiation

** This amount is the total owed as the documents were not available for breakdown.

The case studies in the Appendix show that the amounts owed by people far exceed the initial borrowing, are frequently well in excess of 30-40% of fortnightly income and, if not settled very quickly, grow exponentially (relative to loan principal). Most of the case studies with defaults reflect costs that are a substantial proportion of income, mostly Centrelink-based.

Approval of further credit exacerbates harm

We are also concerned that as soon as one loan contract is repaid or finalised, potentially through a hardship arrangement or intervention, subsequent loans are still approved by Cigno. This occurs even for people who have defaulted previously. See for example, Case study 14 – Stacey.

Significant personal impact on people

The personal circumstances of many of the clients meant that it is almost inevitable that they will be able to pay the full amount of the fees and charges and will record some type of default. See for example, Case Study 9 – Ben, Case Study 13 – Bobby, Case Study 14 – Stacey.

The table below summarises the impact that the Cigno loan had on each of the 17 people whose stories are included in the case study appendix. The large majority of clients were in receipt of various forms of Centrelink benefits. Examples of the detriment caused include being unable to pay other household bills (utilities, rent), pawning goods, accessing emergency relief for food, stress and borrowing money from family.

CASE SUMMARY: Main income source and loan impacts

Case Number and Name	Main income source	Early signifiers of payment constraints	Impacts/harm
1. Alison	Centrelink Carer's Payment	Previously defaulted on a Cigno loan. Is a carer for another person. Has her own serious medical issues.	Ceased paying other debts, borrowed money. Depressed.
2. Kelly	Centrelink Carer's Payment	Older in age and caring for family member. Reliant on social security.	Struggling to pay a range of debts. At times did not have money for food and medication. Has accessed emergency relief and borrowed from friends/family.
3. Mary	Centrelink Disability Support Pension	Has young children and qualifies for NDIS support. Budget likely in deficit at the outset. Loan was unsolicited through texts.	Hasn't paid anything as finances were already in deficit. Deficit made worse.
4. May	Centrelink Single Parenting Payment	May is a victim-survivor of domestic violence. May was already suffering anxiety, depression, and PTSD.	She was unable to make any payment.
5. Sarah	Centrelink Disability Support Pension	More than one person in family living with disability and at least one participating in NDIS.	To keep up with payments on debts including Cigno, pawned TV, accessed utility relief scheme, attended food banks for emergency relief.
6. Maeve	Unknown. Was self-employed. Unable to work since COVID.	This may not have been clear. Family violence with financial abuse involved.	In trying to pay this and other debts, Maeve sought emergency relief, was unable to pay her Telstra bill and suffered additional stress.
7. Jo	Centrelink Disability Support Pension	Mental health issues. Already in utility payment arrangements.	The pressure of the outstanding debt to CIGNO (and Cash Converters) and resulting text messages meant Jo withdrew from making all payments. She also defaulted on a payment arrangement with AGL for gas and electricity. The renewed payment arrangement with AGL would have increased (due to further arrears) if the client was not put onto their hardship program.

Case Number and Name	Main income source	Early signifiers of payment constraints	Impacts/harm
8. Amy	Centrelink Single Parenting Payment	Family violence involved. It is unclear re timing, but Amy became homeless. It would have been proximate to loan issue.	Other issues are Amy's priority – her situation is dire. She is homeless and trying to find stable accommodation. She is unable to pay.
9. Ben	Centrelink Carer's Payment	Made numerous applications for credit. Only Cigno approved the loan.	First payment defaulted as the debit was made before his Centrelink payment was due. Ben has no spare resources.
10. Leigh	Austudy. Previously had casual work but since lost due to COVID.	Apparently homeless when loan approved.	Leigh is struggling to pay for crisis accommodation, has taken Centrelink advance, deferred another loan, reduced food consumption and relied on food vouchers.
11. John	Centrelink JobSeeker	Has mental health care plan. Otherwise unknown.	Unknown.
12. Tom	Centrelink JobSeeker	Struggling with mental health.	Frustrated with the way Cigno is taking payments from his account. Does not seem to understand.
13. Bobby	Centrelink Disability Support Pension	Has an intellectual disability and been financially vulnerable for some time. Habitually accesses payday loans and rent-to-buy schemes. Bobby recently applied for Bankruptcy. Bobby Wanted loan for, amongst other things, to retrieve an item in 'hock' and utilities.	Defaulted almost immediately. Added to financial distress.
14. Stacey	Centrelink Disability Support Pension	Has an intellectual disability. Previously defaulted on a Cigno loan. Received multiple contacts from Cigno and approved for another loan.	Partner had to help her out financially and referred her to financial counsellor for the second time in a period of months.
15. Lisa	Centrelink Parenting Payment (FTB and recently Coronavirus supplement)	A number of debts acquired over time. Single mother with 3 young children.	Increased financial hardship.

Case Number and Name	Main income source	Early signifiers of payment constraints	Impacts/harm
16. Alice	Centrelink Parenting Payment	Was in rent arrears at the time of application for Cigno loan.	Alice failed to make her rent at times.
17. Katie	Centrelink Parenting Payment	No savings buffer. Bank account never had sufficient funds.	Without a fee-free bank account Katie would have been subject to more costs. She did not have a clear understanding of the costs associated with defaults or late payments.

Other comments about detriment

In reality, the continuing credit contracts offered through the Cigno model are more akin to high cost payday loans. Had they been payday loans regulated by the National Credit Act as a Small Amount Credit Contract, the maximum amount a person in receipt of Centrelink would have been able to pay could not exceed 20% of their income: *see ss 133(3A), ss133CC and regulation 28S.*

While Cigno's previous short-term credit model circumvented this overall cap prior to ASIC's PIO last year, the fact this protection does not apply to Cigno's continuing credit contracts means ASIC's proposed use of its product intervention powers is even more crucial.

We add the following further comments:

1. The experience of financial counsellors is that Cigno's target market are people who are often in desperate need of money quickly and unable to readily access credit through regulated lenders. People often get a small loan to start with and this is often for an urgent living expense or to pay off other debt. See for example Case Study 13 – Bobby (with an item in hock that she wanted to reclaim).

2. The total payable under the Cigno lending model is significantly higher than would have been the case if the entirety of the continuing credit contract, including related service agreements, had been regulated under the National Credit Act.

3. There does not appear to be an adequate assessment of affordability of the loan and service contract charges. Over time, the experience of financial counsellors is that most of their clients could simply not afford the arrangement provided by Cigno.

4. There also seemed to be no appropriate consideration by Cigno of the requirements and objectives of the person seeking the loan (as would be required under the National Credit Act). Frequently, the reason or purpose for the loan is farcical or concocted.

One experienced financial counsellor with clients who have had numerous exposures to payday lenders and Cigno over some years noted:

a) Often the loan purpose is not asked about, or is made up by the lender, or even suggested to the consumer. For example, one client advised the counsellor they (would tell her what to say, "say you need it for utilities, you said car repairs last time".
b) They needed a loan to pay for a children's birthday party.
c) One borrower said they needed the loan to pay for adult entertainment.

5. Financial counsellors have seen many people fall into a debt spiral when using Cigno loans. In our experience, this is often because the person getting the loan could never afford to repay the original loan along with the associated service charges and certainly not late payment or default fees which are almost inevitable for the predominant users of these 'fast-tracked' loans. This means repeat borrowing or the commencement of a new credit contract (allowing new charges) potentially accompanied by the rolling over of the original debt with spiralling costs and default charges.

6. The Cigno model means that borrowers cannot access other protections under the National Credit Act including the right to a default notice, access to the financial hardship provisions, and adequate disclosure. The loss of a right to access a financial hardship provision is significant as it often means further borrowing through Cigno instead of reasonable, and consistent, financial hardship arrangements.

7. Borrowers have limited access to justice. Cigno is not a member of AFCA. This means when a dispute arises, including about accessing a reasonable financial hardship arrangement, the only available option is court. In reality of course, going to court is not a genuine possibility for people who have taken out Cigno loans. People who are desperate for $50 cannot afford a lawyer or the costs of going to court. The lack of access to free dispute resolution (AFCA) is devastating.

Some financial counsellors have also expressed further concerns about the apparent sharing of consumer data between payday lenders - see section D1Q3 - are there other entities using the Cigno model?

4.2 D1Q2 – are there other or greater detriments to retail clients other than as described in CP330?

Do you consider that continuing credit contracts, when issued to retail clients in the way described in paragraphs 16–22, have resulted in, or will or are likely to result in, significant detriment other than, or to a greater or lesser extent than, that identified by ASIC? If other or greater detriment, how should the proposed product intervention order be expanded to address this detriment? Please provide any evidence which supports your views.

4.2.1 Stress and anxiety for people

The consultation paper identifies the main harm being caused by the structure Cigno has adopted with continuing credit contracts. We would add that people suffer significant stress and anxiety (non-financial harm) because of the model. It is frequently the case that people struggling with mental health issues, or those in stressful carer roles, access these loans when feeling overwhelmed or anxious. Inevitably, the outcome is ever-spiralling costs which exacerbates the issues.

4.2.2 Time spent by financial counsellors

Financial counsellors also expend precious time and energy attempting to untangle what has occurred and endeavouring to engage with Cigno to achieve appropriate restitution. Frequently, multiple attempts have to be made to negotiate acceptable, if not truly just, outcomes for clients. See for example Case Study 9 - Ben. Given the battle, clients are often willing to take whatever can be negotiated.

This diverts the financial counsellors from building financial capability and resilience with the affected client and also limits their capacity to engage with others who wish to access financial counselling services.

4.2.3 Direct debits

The existence of direct debits as the payment mechanism for Cigno loans can lead to financial hardship for some people. Cigno seems to time the direct debit to coincide with receipt of a borrower's income, which in our experience, is usually Centrelink. When the loan, and related charges, are unaffordable, the direct debited repayment can mean the person affected doesn't have enough money left to pay for essentials such as rent or food. In some cases, the timing of the direct debit may lead to automatic default and additional fees. For example, see case study 9 - Ben.

Financial counsellors often have to act urgently to cancel direct debits for unaffordable Cigno loans so their client can pay for basic living expenses.

Anecdotal evidence suggests other inappropriate practices may be at play with direct debit arrangements. Some financial counsellors have found that ongoing payments are made after an initial block or cancellation of the direct debit through different arrangements. It is unclear how this occurs.

4.3 D1Q3 – are there other entities using the Cigno model?

Are you aware of entities other than Cigno and BHFS that are issuing, or likely to issue, continuing credit contracts in the way described in paragraphs 16–22?

We do not have reports of other entities explicitly using the “Cigno model”.

We are concerned however by reports from financial counsellors that payday lenders and entities such as Cigno may be sharing the contact details of potential borrowers between them. Case study 3 – Mary is an example of this.

It seems that if a person is rejected by one lender, their contact details may be passed to another. The consumer then receives a text from another payday lender offering a loan. ‘Money in your account by noon today’ or a similar message.

We understand that some financial counselling agencies have made complaints about this practice to ASIC and we assume that it is being investigated. This kind of practice is unacceptable and law reform may be needed.

4.4 D1Q4 – do we support the proposed intervention order as described in CP330?

Do you agree with our proposal to make an intervention order by legislative instrument prohibiting credit providers and their associates (including directors of such entities) from issuing continuing credit contracts in circumstances where total fees exceed the maximum permitted under the continuing credit exemption and reg 51 of the National Credit Regulations? Please provide details of why, or why not.

We support ASIC’s arguments in Sections C and D of CP 330 regarding the proposed use of the product intervention power to prohibit the continuing credit model currently being used by Cigno.

We agree with the intent of the intervention order to capture any entities that may rely on such a structure. The order would have the effect of making a credit provider (and its associate) comply with the s6(5) of the National Credit Code and regulation 51.

4.5 D1Q5 – what alternative approaches could prevent detriment to retail clients?

What alternative approaches could ASIC take that would achieve our objectives of preventing the detriment to retail clients identified in this paper?

We do not believe any other alternative approach by ASIC would achieve the objectives of preventing the consumer detriment.

As a general comment however, the broader consumer credit legislation would benefit from effective anti-avoidance mechanisms.

Appendix 1 – Case Studies

Case studies are for Cigno loans issues post 14 September 2019. Names have been changed and the case studies anonymised. Figures are rounded including timeframes related to loan periods.

Case study 1 – Alison

Alison is in her 20s and cares for a parent with ill-health. Alison has diagnosed mental health conditions.

Alison's main source of income is Centrelink benefits of about $900 per fortnight.

Alison took out a Cigno loan in 2019 but defaulted almost immediately as she had insufficient funds. That balance owing almost tripled when she did start payments.

Alison subsequently took out another loan in late 2019 for $150. Alison had paid $85 on this subsequent loan and had an outstanding balance of over $350 upon presentation to the financial counsellor. Alison had been charged the following fees (so far):

• Lender fee	$ 15
• Financial supply fee	$125
• Account keeping fees	$ 35
• Default fee	$159
• Change of payment schedule fee	$ 22
	$356

To try to keep up with payments, Alison stopped paying other debts and borrowed money from her family. This is making her depressed.

Alison was financially struggling with the earlier loan, yet Cigno arranged a further loan with significant additional charges increasing her debt exposure.

The financial counsellor engaged with Cigno and managed to have the earlier Cigno loan waived but, while Cigno agreed to reduce the current debt for the subsequent loan, they would not waive it. The financial counsellor had to make repeated attempts to contact Cigno. The client was getting messages from Cigno that they had not heard from her, yet the counsellor had left messages including account details, client name and her credentials including authority to act for the client.

The counsellor believes it took well over five attempts and finally emails to get in contact with Cigno and reach an outcome.

Case study 2 - Kelly

Kelly and her husband are in retirement, but their adult son who is dependent upon them lives with them in their home.

All have ongoing medical needs and expenses. They presented with numerous other debts that they have been paying. They have four advances from Centrelink and are in severe financial hardship. The money plans show a large deficit each fortnight.

At the time the Cigno loan was approved, the client's fortnightly income was $1,041 from a Centrelink Carer's pension.

The loan was for $300 via an online application but the client has already paid $720 and had an outstanding amount of $368 upon presentation to the financial counsellor.

The amounts charged in default or other fees totalled about $780. The following is a summary of what was charged:

• Lender fee	$ 15
• Financial supply fee	$148
• Default fees	$316
• Change of payment schedule fee	$ 52
• Dishonour fees	$ 50
• Account keeping fees	$208
	$789

Kelly told the financial counsellor she was trying to pay Cigno and her other debts however this meant she did not have the money for food or medication.

Kelly said she went to their local neighbourhood centre for food and has had to borrow money from family and friends to live.

This loan has made her feel depressed and embarrassed and she feels like she will never get it paid off. They are caught in a debt trap, borrowing from one creditor to make the payment to another.

Kelly said that the constant text messages from Cigno for the four days leading up to the day her payment was due felt like constant harassment.

Case Study 3 - Mary

Mary is aged in her 40s and is the mother of two young children. She receives a Disability Support Pension and receives services through the NDIS for a psychiatric condition. Her fortnightly income is $1,700.

Mary initially borrowed $350 earlier in 2020 but has not made any repayments as her budget was in deficit. She uploaded bank statements to Cigno.

She has been ratcheting up default fees and charges since taking the loan. When Mary saw the financial counsellor, she owed more than $1,000.

Mary has been charged:

• Lender fee	$ 15
• Financial supply fee	$171
• Default fees	$316
• Change of payment schedule	$154
• Account keeping fees	$ 65
	$721

When Mary took out the first Cigno loan, she applied though another credit provider but ended up with a Cigno Loan. Cigno contacted her once or twice per week by text. Texts recommenced during COVID-19. This loan emanated from one of those texts.

Case study 4 - May

May is a single mother to a young child and is a victim/survivor of family violence. She escaped the family violence situation and has since struggled with anxiety, depression and PTSD. May was involved in a subsequent relationship and suffered extreme physical violence. She developed a drug addiction.

May was left with many debts and was in arrears on all her bills. She was unable to continue her full-time employment due to mental illness.

At the time of taking the Cigno loan, May's main source of income was the Centrelink Parenting Payment Single at $1,316 a fortnight.

May borrowed $200 but has not been able to make payments. She uploaded 90 days of bank statements when applying.

When she presented to the financial counsellor about a month after taking the loan, May owed $430 comprising:

•	Lender fee	$ 15
•	Financial supply fee	$153
•	Account keeping fees	$ 18
•	Change of schedule fees	$ 44
		$230

Given May's circumstances, at the time of the loan and currently, the financial counsellor requested a full waiver. Cigno offered a settlement of the principal amount and lender fee - total $215.

Case study 5 - Sarah

Sarah is in her 30s and living in a de-facto relationship and with four young children. Both Sarah and her partner are on the Disability Support Pension and her oldest child is participating in the NDIS scheme. They have several payday loans including one to Cigno.

At the time of the initial Cigno loan, Sarah was reliant upon the Disability Support Pension of $1,647 a fortnight.

She initially borrowed $250.00 and has so far repaid $387. When Sarah saw the financial counsellor, she owed 193.90.

Sarah has been charged over $330 in account keeping fees, change of schedule fees, a lender fee and a Financial Supply Fee.

To keep up with the debt repayments she has pawned their television, sought Centrelink advances, accessed State government energy relief schemes to cover electricity bills, as well as attended food banks.

The financial counsellor sent a letter to Cigno asking for a refund. While Cigno refused to refund the overpayment (through excess charges) they did cancel the contract and confirmed no further payments would be required.

Case study 6 – Maeve

Maeve is in her 20s. She is self-employed but has been unable to work since COVID-19 due to her own low immunity that puts her at a higher risk of contracting this virus.

Due to this she was not receiving any income at all when she contacted the financial counsellor. Her ex-boyfriend persuaded her to take out her Cigno loan (in 2020) and Zip Pay credit. He took most of the money but will not repay it.

A further discussion revealed family violence and she was referred to a relevant agency.

Maeve has been living in a women's shelter, then staying with other family members, but they too are unemployed. It is stressful but she does not want to return to the shelter. She was referred to a Centrelink social worker to review her entitlements due to the situation.

The initial Cigno loan was for $250, but after one-month Maeve owed about $700. Cigno have told the client they have 'capped' her loan due to her circumstances.

In trying to service the debt, Mary sought emergency relief, suffered additional stress and was unable to pay her Telstra bill.

Case study 7 - Jo

Jo is single, with poor mental health. Her main income is from the Disability Support Pension.

At the time of taking out the Cigno loan, Jo’s fortnightly income was $629.00.

Jo initially borrowed $175 and has already paid $282 so far. At the time Jo came to see her financial counsellor about four months after taking the loan, the debt had grown to $608.

Jo had been charged:

• Lender fee	$ 15
• Financial supply fee	$144
• Default fees	$395
• Change of payment schedule fee	$ 66
• Account keeping fees	$ 95
	$715

Case study 8 - Amy

Amy is a single parent. She very recently became homeless, so her mother has taken over the care of her children.

There is drug addiction involved and she has recently left a very violent relationship. Her main goal at the moment is to access a women’s refuge to gain stable accommodation.

At the time of getting the Cigno loan, Amy was reliant on the Centrelink parenting payment and receiving $877 a fortnight.

Amy initially borrowed $330 but due to her situation defaulted almost immediately. When Amy came to see the financial counsellor, just a few weeks later, she owed Cigno $540.40.

In a matter of weeks, Cigno had charged Amy:

• Lender fee	$ 15
• Financial supply fee	$162
• Change payment schedule	$ 22
	$199

The total owing in about two weeks was about $530. At the time of seeing the counsellor a week or so later this had increased to $540. The charges are over 60% of the loan principal and at the rate of increase will soon exceed the amount borrowed.

The financial counsellor wrote to Cigno in mid-July 2020 and asked for a waiver due to domestic violence, homelessness and incapacity to pay. Cigno declined and offered a one-month moratorium.

Case study 9 - Ben

Ben is a young man and his mother's full-time-carer. He is in receipt of the Centrelink Carer's Pension at $860 a fortnight.

In late April 2020, shortly after his last pension he found himself short of money and he contacted a number of credit institutions to borrow money. All but Cigno rejected him.

The application was done online and the first and only payment was set up for the following week **before** his next Centrelink payment was due. Ben had supplied the required documents such as bank statements for the past 90 days so it would be fair to assume that if his paperwork had been reviewed, if would have been evident that he would most likely default on his first payment. By agreeing to a payment start date that would take place before his next pension payment, Ben was set up to fail from the beginning.

Ben borrowed $210 and his first and only payment was set to be $339 including a $15 lenders fee, $107.50 financial supply fee and $5.95 account keeping fee. Ben defaulted on his first payment therefore by the time the first payment of $339 was debited the balance on the account was not cleared. When Ben came to see the financial counsellor in mid-June, the outstanding amount on the account was $288 in arrears.

Ben had been charged:

• Lenders fee	$ 15
• Financial supply fee	$108
• Default fees	$237
• Account keeping fees	$ 35
• Change payment fee	$ 22
	$417

The financial counsellor managed to prevent the client from falling into further hardship after multiple attempts to contact and engage productively with Cigno.

Following a further complaint and reference to the previous PIO, Cigno responded by waiving the outstanding amount and closing the account. See extract below:

Nevertheless, in the interest of avoiding an extended dispute and achieve a resolution to this matter in a timely manner, Cigno Loans hereby has made the commercial decision to offer the following settlement:

- *will not refund any amounts but will do waive outstanding balance of $XXX then finalise the loan.*
- *will release the client from any further liability under this agreement.*
- *No negative listing has been or will be placed on the client's credit file.*
- *The above points are without prejudice and are not an indication that Cigno Loans agrees with the points made by the client in the dispute.*

Case study 10 - Leigh

Leigh is a full-time student, in the final year of a degree. Leigh lost casual work due to COVID-19 and has been experiencing homelessness since May 2020.

Leigh's sole income is Austudy at about $470 per fortnight.

Leigh has a personal loan with a major bank and took out a loan for $220 with Cigno in early May 2020 (after becoming homeless). He supplied 90 days of bank statements.

Leigh has repaid the principal loan value but on presenting to the financial counsellor about a month later owed $322. At this stage the financial counsellor is aiming to manage potential additional charges comprising a default and change of payment fees.

Leigh has been charged:

• Lender fee	$ 15
• Financial supply fee	$290
• Change of schedule payment fee	$ 44
• Account keeping fees	$ 18
	$367

Leigh has been staying in crisis accommodation however could not afford the co-contribution required for an overnight stay.

Leigh has taken a Centrelink advance, deferred payment on another loan, reduced food consumption/meals, and relied on food vouchers.

Upon application for release Cigno provided the following:

> *Please try to understand that Cigno as a corporation is also entitled for a justifiable payment given that [XYZ] accepted the loan's terms and conditions. Nevertheless, in the interest of avoiding an extended dispute and achieve a resolution to this matter in a timely manner, Cigno Loans hereby has made the commercial decision to offer a personalised settlement amount to finalise the existing loan. The settlement offer is for XXXX which is the original contracted amount. To date Cigno received successful payments of YYYY leaving XXX to be paid. This doesn't necessarily have to be paid in full as [it] can be arranged into the most suitable payment plan. We trust that this is an acceptable resolution. As soon as Cigno is advised of the acceptance, Cigno Loans will take immediate action to ensure the above resolution is put into place.*

The financial counsellor continues to advocate for a waiver of the debt as Leigh was and is homeless, has no realisable assets and cannot afford a repayment plan.

Case study 11 - John

John is aged 27 and lives with depression. He has a mental health plan in place and is not working. John came to see the financial counsellor wanting to declare bankruptcy.

His total debt was $16,369.04. The financial counsellor negotiated and asked for waivers given his circumstances.

At the time John took the Cigno loan in March 2020 for $175, his income was from JobSeeker and he was receiving $1,100 a fortnight.

He has paid $60 but when he came to see the financial counsellor John owed $744.05. The account was closed on 02/07/2020. He had been charged:

• Lender fee	$ 15
• Financial supply fee	$ 92
• Default fees	$395
• Account keeping fees	$ 95
• Change of payment schedule fee	$ 44
	$641

The financial counsellor negotiated a settlement of $195 which Cigno accepted. The account is now closed.

Case study 12 - Tom

Tom is a single male living with a parent in an outer metro area. He has had mental health issues for the last few years.

In March 2020 he obtained a loan of $200 from Cigno. Tom does not recall providing any financial information in order to get the loan. His main income source was Centrelink Jobseeker ($1100 per fortnight) at this time.

Tom had already paid $642 by the time he came to see the financial counsellor and had a further $96 outstanding. He had been charged $237 in default fees alone.

Mental health issues and inability to engage face-to-face, have meant communication with the client has been very difficult.

Tom has been very frustrated with the way Cigno have taken money from his account to make repayments. He engaged with the financial counsellor very late in the loan's life. The financial counsellor is trying to obtain a refund of the excessive amounts paid, and after several attempts Cigno have agreed to refund $214.

Case Study 13 – Bobby

Bobby is in her early 60s and has an intellectual disability. She has accessed many services for the vulnerable over time e.g. rent assistance. Bobby is a habitual borrower of payday loans and rent-to-buy. Bobby lodged for bankruptcy earlier this year but wanted to exclude the rental contracts then on foot as she had pawned items, so kept paying but can no longer afford to pay.

With help from a relative, as she did not have the ability to apply online herself and had no email address, Bobby took out a $180 Cigno loan. Her relative uploaded bank statements. Bobby was originally contacted via text offering money.

At the time of taking the Cigno loan, Bobby's main source of income was Centrelink payments of $970 per fortnight. She defaulted almost straight away given her financial situation. In just under two months, Bobby owed ~$540 mainly in account keeping fees and default fees.

The financial counsellor attempted to contact Cigno, but the phone went to voicemail. So, they sent in an authority to act for the client and requested relief. Cigno emailed back with a statement of what was owing, the terms of the original agreement, and current payment requirement (now at ~$250 a fortnight) as well as a referral to their website for an explanation of fees.

Cigno ceased Bobby's direct debit but required manual payment in accordance with a new requirement ($250 per fortnight). Contact details were provided but the financial counsellor was still unable to get through to anyone at Cigno to discuss the situation.

Case study 14 - Stacey (2 loans)

Stacey is an indigenous woman with an intellectual disability in her 30s.

In early 2020, the financial counsellor helped her to finalise a Cigno loan that she received in late 2019 for $200. At the time, Stacey was on a Disability Support Pension of about $900 a fortnight.

Stacey had paid $215 but when she came to see the financial counsellor, she owed $515.

Stacey had been charged over 3 months:

• Lender fee	$ 15
• Financial supply fee	$163
• Default fees	$ 79
• Change of payment schedule fee	$ 66
• Payment reschedule fee	$ 30
• Account keeping fees	$ 71
	$424

Since settling this arrangement after seeing the financial counsellor, Stacey received numerous text messages and emails from Cigno. Some of the emails are titled "Approval in Minutes. Funds within Hours. Reapply & Finalise with Cigno". As an example, Stacey received one such text and three days later "Reapply with Cigno for Emergency Cash Today".

In late June 2020, Stacey obtained another $120 loan. At the time Stacey was still on a disability pension of $900 per fortnight. Stacey had paid $170 but when she presented to the financial counsellor, she had an outstanding balance of $299. In one month, Stacey had been charged:

• Lender fee	$ 15
• Financial supply fee	$ 67
• Default fees	$ 79
• Change of payment schedule fee	$ 44
• Account keeping fees	$ 24
	$229

Due to her intellectual disability Stacey's partner had to help her out financially and he encouraged her to come and see the financial counsellor to get this sorted once again.

Case study 15 – Lisa

Lisa is an Aboriginal and Torres Strait Islander single mother of three children in her 30s. She is facing financial difficulty and has seen the financial counsellor for her debts including with Cigno.

Lisa obtain a loan for $250 with Cigno early in 2020. Lisa has recently engaged with the financial counsellor and owed $883. Lisa is on Centrelink parenting payment of $2,273 (including family tax benefit and, more recently, the Coronavirus supplement – this latter would not have applied at the time of the loan).

Lisa defaulted almost immediately. In just over five months, Lisa has been charged:

• Lender fee	$ 15
• Financial supply fee	$201
• Default fees	$316
• Change of payment schedule fee	$ 66
• Account keeping fees	$ 36
	$634

Case study 16 – Alice

Alice is an indigenous woman and mother. At the time of the Cigno loan, Alice was on the Centrelink Parenting payment and receiving an income of $1,723 a fortnight. She was in rental arrears at the time of her loan application to Cigno.

Alice borrowed $350 and had made repayments of just over $410.

When Alice saw the financial counsellor, she owed over $730.

Over the 5-6 months since she obtained the loan Alice was charged:

• Lender fee	$ 15
• Financial supply fee	$276
• Default fees	$316
• Change of payment schedule fee	$ 44
• Account keeping fees	$149
	$800

In attempting to make her payments Alice failed to also pay her rent at times.

Case Study 17 – Katie

Katie is a young Indigenous single parent. Earlier this year Katie obtained a Cigno loan for $200. At the time of obtaining this loan, Katie was receiving the Single Parenting Payment. Her income was about $1,000 a fortnight.

For this loan Katie has been charged over a period of slightly less than 4 months:

• Lender fee	$ 15
• Financial supply fee	$163
• Default fees	$395
• Change of payment schedule fee	$ 66
• Account keeping fees	$101
	$740

Katie never had enough money in the bank at the time repayments were due, but luckily, she had a fee free bank account. Also, she did not understand the charges she would receive due to repayments not being met.

Katie had a previous loan and told her financial counsellor Cigno kept taking money which she did not understand. She also received emails asking if she would like another loan, so she took another one out.

It was only through the intervention of the financial counsellor that Katie's balance was reduced from over $750 to $35 and the account closed.