

Chapter 5A

Cost cap for high-cost short-term credit

5A.6 Interpretation

5A.6.1

R

In this chapter:

- (1) "ancillary service" is a service in connection with the provision of *credit* under the agreement for *high-cost short-term credit* and includes, but not limited to, an insurance or payment protection policy;
- (2) "borrower" is an *individual* and includes:
 - (a) any person providing a guarantee or indemnity under the *regulated credit agreement*; and
 - (b) a person to whom the rights and duties of the borrower under the *regulated credit agreement* or of a person falling within (a) have passed by assignment or operation of law;
- (3) "charge" is a charge payable, by way of interest or otherwise, in connection with the provision of *credit* under the *regulated credit agreement*, whether or not the agreement itself makes provision for it and whether or not the *person* to whom it is payable is a party to the *regulated credit agreement* or an *authorised person*;
- (4) "connected agreement" is an agreement which provides for a charge within ■ CONC 5A.2.16 R, ■ CONC 5A.2.17 R, ■ CONC 5A.3.20 R, ■ CONC 5A.3.21 R, ■ CONC 5A.4.16 R and ■ CONC 5A.4.17 R;
- (5) "impose one or more charges on a borrower under an agreement for *high-cost short-term credit*" includes taking the following actions under the agreement:
 - (a) taking steps to perform duties, or exercise or enforce rights, on behalf of a *lender* in relation to a charge; or in relation to a *firm* with respect to *operating an electronic system in relation to lending*, exercise or enforce rights, on behalf of a *lender* in relation to one or more charges;
 - (b) taking steps to procure the payment of a debt due in relation to one or more charges;
 - (c) undertaking to receive payments in respect of interest due under an agreement for *high-cost short-term credit* and make payments in respect of interest due under the agreement to the *lender*;
 - (d) arranging for or instructing another *person* to take any of the steps described in (a), (b) or (c); or
 - (e) exercising the rights of the *lender* in a way that enables the imposition on the borrower of one or more charges.

5A.6.2

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The meaning of the expression “impose one or more charges on a borrower under an agreement for *high-cost short-term credit*” is set out in ■ CONC 5A.6.1 R (5). The meaning of “impose” in relation to a charge in this chapter is broad and includes, but is not limited to, situations including where a *firm*:

- (1) enters into an agreement containing a clause obliging the borrower to pay a charge;
- (2) varies or supplements an agreement and this has the result that there is:
 - (a) an increase in the amount of a charge; or
 - (b) where the amount of a charge is determined by reference to a period of time, an increase in the period of time to which a charge applies;
- (3) adds a charge to a borrower’s account;
- (4) communicates with a borrower demanding payment of a charge or indicating that the borrower is, will be or may be obliged to pay the charge; and
- (5) is *operating an electronic system in relation to lending*, and it does any of activities in (1) to (4) for a *lender*.