

SIV Capital Limited & GoGetta Equipment Funding Pty Ltd

Independent Remediation Consultant – Final Report

25 October 2021

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Background Information & Disclaimer

This report is prepared by Compliance One Pty Ltd as the independent remediation consultant engaged by SIV Capital Ltd & GoGetta Equipment Funding Pty Ltd pursuant to an Enforceable Undertaking entered into with ASIC on 7 August 2020.

This report and the work performed in relation to it has been undertaken for SIV Capital Ltd & GoGetta Equipment Funding Pty Ltd and ASIC. The consultant acknowledges that ASIC is relying on the assessment and findings of the consultant and on the content of this report.

This report deals only with the issues set out in the Enforceable Undertaking and Remediation Program and in accordance with the Terms of Engagement under which Compliance One Pty Ltd is appointed. Information contained in this report is current as at the date of the report, and may not reflect any event or circumstances which occur after the date of the report.

Statement as to Independence

Compliance One Pty Ltd and any officers or employees are independent of SIV Capital Ltd & GoGetta Equipment Funding Pty Ltd and have remained so throughout the duration of the review.

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Background

1. SIV Capital Ltd (SIV) is a business equipment finance company that primarily finances commercial catering equipment.
2. GoGetta Equipment Funding Pty Ltd (GG) is a wholly owned subsidiary of SIV. Neither SIV nor GG held an Australian Credit Licence during the relevant period.
3. Between 01 July 2014 and October 2017, GG offered motor vehicle leases as part of its business activities.
4. ASIC identified concerns that GG did not make adequate inquiries to ensure that all customers were business customers and as a consequence, some of the motor vehicle leases offered by GG may have been consumer leases which GG was not licensed to offer.
5. SIVGG entered into an Enforceable Undertaking with ASIC on 07th August 2020 agreeing to carry out a remediation program (RMP) for customers that were identified as likely to be consumers (Customers). Remediation payments were to be calculated in accordance with the formulas prescribed in the RMP.
6. The Enforceable Undertaking required SIVGG to appoint an Independent Remediation Consultant (IRC) to oversee the execution of the RMP and to produce regular reports to ASIC.
7. Compliance One Pty Ltd was appointed as the IRC on 03rd September 2020.
8. The RMP ran until 04th October 2021 being the date on which ASIC provided its consent to the closure of the RMP in accordance with paragraph 9.1.4 of the RMP.
9. Six periodic reports were submitted to ASIC over the course of the RMP.
10. This is the final IRC report and is provided pursuant to paragraph 3.19.2 of the Enforceable Undertaking.

Scope of the IRC

11. The IRC was appointed to:
 - a) monitor and revise the population of High Risk Customers, Medium Risk Customers and Other Customers throughout the life of the RMP;
 - b) make recommendations to ASIC regarding any necessary amendments to the number and identity of High Risk Brokers;
 - c) monitor and assess whether Customers were correctly categorised as being High Risk Customers, Medium Risk Customers or Other Customers and change the classification of a Customer or Customers where appropriate;
 - d) monitor and assess whether Customers were correctly assessed as being Affected Customers and whether Customers were being remediated in accordance with the RMP;
 - e) ensure compliance with the RMP;
 - f) review all proposed template communication with Customers, making amendments where necessary;

- g) adjudicate all disputed remediation offers in accordance with the RMP by considering any evidence presented by SIVGG and requesting further information from any parties where such is required;
- h) review all settlements or proposed settlements of a dispute or claim between SIVGG and Customers outside of the Remediation Program and ensure the settlement produced an outcome at least as good as the Customer's compensation calculated under the RMP; and
- i) advise ASIC in writing of any changes to the RMP.

EU Periodic Reporting Requirements

12. Pursuant to paragraph 3.19 of the EU, each periodic report and the final report of the IRC is required to include the following information:
 - 3.19.3 the total number of Customers identified (by High Risk Customer, Medium Risk Customer and Other Customer);
 - 3.19.4 the total number of Affected Customers who have accepted a remediation offer (by High Risk Customer, Medium Risk Customer and Other Customer);
 - 3.19.5 the total number and value of Remediation Payments sent to Affected Customers (by High Risk Customer, Medium Risk Customer and Other Customer);
 - 3.19.6 the total value of Arrears and Remaining Payments waived by GoGetta and/or SIV Capital with respect to Affected Customer (by High Risk Customer, Medium Risk Customer and Other Customer);
 - 3.19.7 the total number of Customers (by High Risk Customer, Medium Risk Customer and Other Customer) who have been unable to be contacted or who have not responded to Customer Communications, and the number of attempts made and nature of attempts made to contact those Customers;
 - 3.19.8 the total number of Customers who have rejected a remediation offer and if known, the reason why;
 - 3.19.9 the total number of Customers in relation to whom GoGetta and/or SIV Capital have provided Documentary Evidence to the Independent Remediation Consultant and the status of each of those matters;
 - 3.19.10 the total number of Customer Disputes and the status of each Customer Dispute; and
 - 3.19.11 a summary of each Customer whose individual circumstances have been settled or resolved, or are otherwise being dealt with outside of the Remediation Program, including the name of the Customer, the forum in which the matter was (or is) being dealt with, and a summary of the outcome, including any compensation paid to the Customer.
13. This report provides final data against each of the requirements of paragraph 3.19 of the EU.

Total number of Customers identified by risk cohort 3.19.3

14. At the commencement of the RMP the IRC reviewed the classifications of all Customers. The review resulted in a reclassification of 140 Customers moving from the Other Customer classification up to High Risk or Medium Risk. Further minor additional changes were made

on a case-by-case basis in the first months of the program. Thereafter the number of Affected Customers in each Risk cohort remained stable. The total number of Affected Customers was 5,537. The number in each risk cohort was:

Total contract numbers by risk cohort

Affected Customer numbers	
High Risk Customer	478
Medium Risk Customer	823
Other Customer	4,236
Total	5,537

Acceptances, payments and waivers 3.19.4 – 3.19.6

15. The total value of remediation to Customers under this RMP including payments and waivers of arrears and future contractual payments was \$10,529,520.92. This amount when presented per cohort is as follows:

	Acceptances/ Remittances	Remediation Payments	Waivers	Total
High Risk	185	\$1,499,992.27	\$994,123.53	\$2,494,115.80
Medium Risk	193	\$1,632,929.58	\$591,629.12	\$2,224,558.70
Other Customer	548	\$4,957,612.87	\$853,233.55	\$5,810,846.42
Total	926	\$8,090,534.72	\$2,438,986.20	\$10,529,520.92

Customers who could not be contacted / who did not respond and contact attempts 3.19.7

16. The RMP required SIVGG to make multiple contact attempts with each Customer using methods including registered post, email, SMS and telephone. Where SIVGG was unsuccessful establishing contact with an Affected Customer via the first contact method they were required to make subsequent attempts using methods prescribed in the RMP.
17. SIVGG completed all of its mandatory communication obligations with all Customer classifications in March 2021 (during the fourth reporting period). SIVGG generated just over 28,900 contact attempts comprising letters, emails, telephone calls and SMS with Affected Customers over the course of the RMP.
18. The total number of Customers who did not respond or establish contact with SIVGG was 4,427.

Customers who rejected a remediation offer 3.19.8

19. A total of 364 Customers “rejected a remediation offer or invitation to participate in the RMP” by informing SIVGG that they knowingly obtained a Motor Vehicle Lease for a business purpose and did not consider themselves eligible for remediation under the conditions of the RMP (i.e. that there was a considerable risk they obtained a motor vehicle lease for Consumer purposes).

Documentary evidence provided to the IRC and disputes 3.19.9 – 3.19.10

20. Over the course of the RMP, 369 contracts were referred to the IRC for adjudication. This figure comprises 303 contracts for Customers where SIVGG held documentary evidence of a commercial purpose and 41 disputed remediation offers involving 64 contracts (many referred customers had more than one contract with SIVGG). Two other contracts were referred to the IRC for information only, bringing the total to 369.
21. All IRC determinations were documented and the outcome advised to SIVGG, Customers and ASIC. Customers were notified via email and registered mail.

Customer settlements outside of the remediation program 3.19.11

22. A total of 26 matters were referred to the IRC that had been the subject of settlements outside of the RMP. Each of these settlements occurred prior to the commencement of the RMP, dating back as early as 2016.
23. The IRC determined that eight of the settlements would have produced superior outcomes for Customers had their disputes been assessed against the criteria of the RMP. These eight Customers were offered additional remediation to bring their settlement amounts into balance with an offer that would have been made under the conditions of the RMP.

Conclusion

24. The Independent Remediation Consultant is satisfied that SIVGG has fully complied with its obligations arising under the Enforceable Undertaking and Remediation Program.

Compliance One

David Carson
Compliance One Pty Ltd