PART 13

CHANGES IN PRACTICES AND MANAGEMENT

In addition to the action that HFC has taken, and has committed itself to taking, to compensate individual borrowers, HFC has made many changes to its practices and management.

Changes in practices

After making such changes as it initially considered necessary in 1985 to comply with the Credit Act, HFC made few further changes of significance to its practices until the receipt of the Objections in August, 1987. It introduced credit scoring guides in February, 1987. In June, 1987 it ceased signing up co-borrowers to provide security. It also ceased using the Rule of 78 method to calculate the accrued credit charge on loans being discharged prematurely.

Shortly after it received the Objections, HFC took further action -

(i) it put an end to the charging of unauthorised or excessive stamp duty, close-out fees, valuation and search fees, and vehicle security registration fees;

(ii) it put into place a procedure for ensuring that borrowers received properly certified copies of contracts; and

(iii) it required staff to quote monthly loan repayment instalments both with and without credit insurance.

In June 1988, when the AC2 proposal was introduced into the proceedings, HFC provided details of further changes in its practices of which some had already been introduced, some were about to be introduced and the remainder were to be introduced with effect from 1 September, 1988.

The nature of many of the changes in practices outlined in the AC2 proposal has already been explained. A number of those changes, such as those related to insurance, have been examined in some detail earlier in these reasons and it is not necessary to re-state them here. Other changes in practices announced at that time included -

(i) a separate form of borrower's budget to be required to be completed and to be signed by the borrower whenever a new loan is sought;

(ii) the full budgeting process to be gone through whenever an existing loan is sought to be refinanced;

(iii) any future guaranteed loan offers to contain a condition that the offer is subject to the offeree's income being sufficient to meet repayment obligations;

(iv) the form of solicitation termed the "money management plan" discontinued with effect from 19 April, 1988;

(v) as a result of a review of loan sign-up procedures -

- borrowers to be allowed adequate time to read documents before signing
- staff not to complete documents prior to interviewing prospective borrowers
- critical parts of loan documentation, including the borrower's "warning box" to be read aloud to borrowers
- each completed item in the loan contract schedule to be pointed out and explained separately to the borrowers
- staff to ensure that documents are accurately completed and dated
- staff to complete and sign a check list of steps required to be taken in completing a loan sign-up

(vi) on refinancing, section 69 statements to be given and the calculation of accrued credit charge to be in accordance with the Regulation 8 and actuarial method;

(vii) vehicle security registrations to be removed immediately on discharge of the relevant loans; and

(viii) the LA100 automated rebate verification system to be used on all loan terminations to check for any entitlements to credit charge and insurance rebates, and to calculate the same as necessary.

HFC has also reviewed all of the documents used in connection with regulated loan contracts. In so doing it has taken into account criticisms made by the objectors or otherwise arising in these proceedings. It formally submitted the documents to the Authority with a view to obtaining the approval of the Authority in terms of section 153 of the Credit Act, but the Authority declined to consider the documents formally until these proceedings have been concluded. The Applicant has accordingly put the revised documents into use and has indicated its willingness to make any further revision which the Authority might ultimately consider warranted.

Changes in management

By the term "management" the Authority intends to include management structure and personnel, training, systems and organisation of business.

HFC has, principally since the arrival of Mr. Miller and Mr. Shafferman in the latter part of 1988, made many important changes to its management. These include:

1. Changes in management structure and personnel -

   (i) The appointment of a new Board of Directors with four of the seven Directors being "outside" Directors with appropriate experience and knowledge.

   (ii) The creation of an Audit Committee of the Board of Directors comprised of the Managing Director (who will continue to be the Chief Executive) and two of the outside Directors.

(iii) The creation of a new office of Compliance Officer who will report to the Audit Committee of the Board of Directors quarterly and to the Corporate Attorney. The Compliance Officer will receive those sections of all HFC reports made by internal auditors, district and area managers and training officers, that are relevant to Credit Act requirements and will make visits to branches. Area, district and branch managers will be required to complete compliance certificates certifying as to their compliance with policy and procedures, as to whether or not they are aware of breaches of the Credit Act or other law and, where breaches have been detected, giving particulars of the breaches.

(iv) HFC has created a new position of Vice President, Human Resources, has increased the number of lawyers in the Corporate Attorney's office and has appointed a third internal auditor. It is proposed to increase the personnel in the systems and technology department.

(v) An additional district manager has been appointed for Victoria. This, together with the progressive reduction in the number of branches, will enable district managers to supervise and assist branch managers more effectively.

(vi) Mr. Wilson's resignation as Managing Director was obtained on 15 March, 1989 and Mr. Miller was appointed Acting Managing Director in Mr. Wilson's place pending the selection and appointment of a permanent Managing Director. The Authority was assured that even after the appointment of a new Managing Director, Mr. Miller would remain full time in Australia for such period as was necessary for the new Managing Director to become familiar with all aspects of the company's operations. It is understood that since the hearing concluded, a permanent Managing Director has been selected. There is no reason to assume that there has been any change in Household's proposals to continue to assign Mr. Miller to HFC for some time after the new Managing Director takes up office.

(vii) Mr. Swinbourn and Mr. Doig were summarily dismissed by Mr. Miller in the circumstances described in Part 10.

2. Systems and organisation of business

(i) A Business Control Department of sorts was established in 1987. Responsibility for its management was assigned to a succession of Vice Presidents, including the Corporate Attorney, and its role and authority were somewhat limited until the appointment of Mr. Shafferman from Household in America in November, 1988. After Mr. Shafferman's arrival the role and responsibilities of the Business Control Department were substantially expanded and its staff increased. It now has full responsibility for the development and production of all of HFC's manuals and operating instructions and is responsible for ensuring that HFC's training programmes are appropriate. It is responsible for the management of processes of change in HFC and for ensuring that the procedures and practices of the company are fair and in compliance with law as in force from time to time. It has a crucial role in policy making in that no proposed change in company policy will proceed to implementation unless the proposed change has been examined and found satisfactory by Business Control. It sets standards for HFC personnel to follow but it does not police or enforce those standards.

Business Control is not responsible for handling enquiries or routine complaints but is responsible for complaints which are made directly to it or which allege violation of the company's policies or the law. It also handles all enquiries and requests from the various regulatory authorities.

(ii) HFC has substantially restructured its training system, both by the appointment of specialists to train other training personnel and by devoting more resources to that task. More details of the changes concerning training that have been undertaken by HFC are set out in Part 6 and it is unnecessary to restate them here.

(iii) HFC has undertaken to make improvements to its accounting systems, one of which has been explained in

Part 6. It also proposes to improve the crediting and recording of payments made by borrowers.

(iv) HFC has made substantial capital outlays and commitments on computerisation and other equipment and on upgrading and relocation of premises. These are all aimed at improving efficiencies and containing costs.

3. Revolving lending

HFC proposes to introduce revolving lending in Victoria once it has satisfied itself through trials in New South Wales that the systems designed for that form of lending are satisfactory. HFC considers it essential to increase the amount of its receivables, both in gross terms and per account, and sees revolving lending as a solution. Thus it is said to be highly likely, once revolving lending is introduced in Victoria, that HFC will phase out its fixed term lending but there still remains an element of doubt about that - see para. 13 of Mr. Miller's second statement, April 1989 (A324).

HFC has put it to the Authority that many of its current problems are caused or aggravated by inefficiencies and difficulties of the manual system by which its fixed term lending is conducted. The Authority would certainly agree that the manual recording of payment details and particularly of instructions given, action taken and agreements reached in collections, is inefficient and error prone. Indeed the Authority found great difficulty in reading many of the entries on the reverse of HFC's ledger cards as did HFC witnesses themselves where they had not been the makers of the entries.

If HFC does ultimately abandon fixed term lending, it will retain its decentralised branch structure but those branches will thereafter be engaged principally in the selling of revolving credit, the making of credit assessment decisions and the selling of Heritage insurances.

The revolving lending business will be highly computerised and centralised. There will be a central payments system and a central collections office. Any payments actually made to branches will merely be transmitted to the central payments office.

However, even assuming that HFC successfully establishes revolving lending in Victoria and further that it ceases to engage in fixed term lending in Victoria, the branches will continue for some time to be responsible for the administration of the existing portfolio of fixed term loans in very much the same way as they are now, until those loans have declined sufficiently in number, as a consequence of repayments and refinancings, to permit the transfer of the residue to a central collections office.

4. Household's greater interest and the influence of Mr. Miller.

While all of the changes so far examined in this part are regarded as important, it is clear that the Applicant places greatest reliance on the changes which have flowed from

Household's decision in or about August 1988 to take a much closer interest in the state of affairs within HFC.

The Authority was informed that because of concern in Household of America about a decline in profits of HFC Australia and also because of reports received about certain of the evidence given in the earlier stages of this hearing, a very senior executive of Household, a Mr. Sanders, accompanied by Mr. Miller, visited Australia in August, 1988. As a result of what they observed, Household appointed Mr. Miller to the office within Household which is responsible for the operations of HFC in Australia and Canada. As such Mr. Miller replaced a Mr. Kerkow.

Household's decision extended beyond merely appointing Mr. Miller to Mr. Kerkow's former position. It assigned him to Australia for an indefinite period and gave him a brief to bring HFC's standard of business and conduct back into a satisfactory state. Household further supported Mr. Miller by making available an experienced American executive, Mr. Shafferman, to re-establish and head up a proper business control department.

The Authority has no reason to doubt the integrity, the ability or the honesty of Mr. Miller. As indicated most, if not all, of the significant changes within HFC made after 1 September, 1988 have been those for which Mr. Miller has been responsible. Further it is very plain that Mr. Miller's assessments of HFC's needs in areas such as training, discipline and business control, are fundamentally different from those existing prior to his arrival. It was Mr. Miller who obtained the resignation of Mr. Wilson after Mr. Miller had determined that HFC was unlikely to change sufficiently under Mr. Wilson's management. It was Mr. Miller who effected the peremptory dismissal of Messrs. Swinbourn and Doig.

It is understood that Mr. Miller will remain full time in Australia until the replacement Managing Director has settled in and thereafter Mr. Miller will come to HFC four times a year for periods of approximately ten days each to attend Board meetings and review HFC's performance. In addition to that Mr. Miller will, when in the United States, maintain frequent contact with the Australian executives.

Thus it is evident that substantial improvements have been achieved as a result of Household's recent interest in the affairs of HFC and Mr. Miller's role since the latter part of 1988 as the Household executive responsible for HFC in Australia.

It has to be said, however, that Household's current degree of interest in ensuring a satisfactory standard of conduct on the part of HFC is new-found and in marked contrast to its previous level of interest. In Part 6 there is set out a section of Mr. Miller's evidence in which he described his view of the state of affairs in HFC in August, 1988. He said that he was struck by the lack of discipline and organisation in the company, that morale was low, that he was disappointed by the untidiness of many of the offices and even of the personnel themselves. He summed up his views in this statement "Generally I did not have a good feeling about the company. We had let our standards drop." (A208, para 5)

For some considerable time prior to August, 1988 Household had been more or less continuously represented in Australia through its own appointees, Mr. Carter and then Mr. Vona. Furthermore, Mr. Kerkow, Mr. Miller's predecessor as the Household executive responsible for HFC in Australia and Canada, had regularly visited Australia. Mr. Wilson had visited the United States at least annually and reported by telephone to Household at weekly or similar intervals.

It is scarcely credible that Household was ignorant of the general state of affairs of HFC in Australia during the three years that preceded Mr. Miller's first visit to Australia in August, 1988. In the unlikely event that Household did not have a very good idea about that state of affairs, that can only have come about from conscious disregard, which in matters of this nature is tantamount to tolerance and perhaps even endorsement.

The Applicant has urged on the Authority that it should have confidence in a continued high level of interest being taken by Household in the affairs of HFC in Australia. We would agree that it is essential that Household continue to maintain that level of interest because the state of affairs that existed prior to Mr. Miller's appointment was grossly unsatisfactory.

It is of interest to note that the only representative of Household to give evidence to the Authority about the genuineness of Household's long term intentions was Mr. Miller. Mr. Miller made it plain that he had no real knowledge of why Household had failed, prior to August 1988, to oversee properly its Australian subsidiary. Mr. Miller told the Authority that he had not engaged in any serious discussion with Mr. Kerkow about the history of Household's previous oversight of HFC.

As we see it the Authority has to take Household's professions of good intentions, as relayed to the Authority through Mr. Miller, very much on trust. This is particularly so as Household has not advanced any explanation of the reasons why it had permitted the state of affairs in HFC described so vividly by Mr. Miller to develop. In essence all that the Applicant has suggested in its final submission on this point is that Mr. Wilson's "misperceptions" must have helped to shape Household's perceptions of the state of affairs in Australia. (paras 58.9. 58.10).

The Authority does not dispute that Mr. Wilson's perceptions of the requirements of fair, honest and efficient dealing may have been less than adequate, but that does not explain the fact that Household was represented by Mr. Kerkow, Mr. Carter and Mr. Vona, all of whom were its own appointees. The Authority rejects the notion that Household can be excused for its failings because of the shortcomings of Mr. Wilson.