ASIC WEBSITE PREVIEW

Credit licensing: Responsible lending conduct

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This regulatory guide is for credit licensees

Credit licensees must comply with responsible lending obligations, which includes not entering into or assisting a consumer with a credit product that is unsuitable for them.

You must decide how to meet these responsible lending obligations. RG 209 sets out ASIC's views on what the obligations require and steps you can take to minimise the risk of non-compliance.

Download

- RG 209 (PDF 981)
- Navigation guide - Attachment to RG 209: Comparison of 2014 and 2019 versions (PDF 72 KB)
- Consultation Paper 309 *Update to RG 209: Credit licensing: Responsible lending conduct* (CP 309)
- Report 643 *Response to submissions on CP 309 Update to RG 209: Credit licensing: Responsible lending conduct* (REP 643)

Responsible lending obligations apply to consumer credit products

The responsible lending obligations apply to all credit licensees including credit providers (e.g. lenders), credit assistance providers (e.g. brokers) and lessors under consumer leases.

The responsible lending obligations apply to **'regulated conduct'** which includes:

- if you are a broker, helping a consumer to apply for a credit product, or an increased credit limit
- if you are a lender, offering credit to a consumer or increasing the credit limit of an existing product.

The obligations apply to consumer credit products which are products provided for personal, domestic and household purposes or for the purchase or improvement of residential property, whether for owner-occupation or investment. The obligations do not apply if a loan is for a business purpose.

Additional requirements apply to small amount credit contracts and reverse mortgages. See RG 209 for more information.

Credit products must not be unsuitable

Under the responsible lending obligations, credit licensees must not enter into or assist a consumer with a credit product that is unsuitable for them. 'Unsuitable' means it is likely that:

- the consumer will not be able to meet their financial obligations under the credit product, or
- the consumer will only meet the obligations under substantial hardship, or
- the product will not meet their requirements or objectives.

You must make reasonable inquiries and take steps to verify information

You must make reasonable inquiries about the consumer's requirements and objectives, and their financial situation. You must also verify information about their financial situation, to a reasonable standard.

What is 'reasonable' will depend on the individual circumstances. You will need to apply your own judgment to determine what is reasonable.

If information provided during initial inquiries indicates a higher risk of harm, you may need to make further inquiries or conduct a more robust verification about a consumer's financial situation. Some 'red flags' include:

- the consumer's estimated expenditure is at a level that leaves little or no available income for new financial obligations
- history showing an increasing net debt position
- a savings account is regularly overdrawn.

See Section B of RG 209 for more information.

You must assess whether a credit product is 'not unsuitable'

Before offering a credit product or credit limit increase, you must determine that it is 'not unsuitable' for the consumer you are dealing with. The information obtained through inquiries and verification will help:

- to inform you about the consumer's current financial situation, requirements and objectives
- identify foreseeable changes
- assess whether the credit product will meet what the consumer wants and the impact of the new financial obligations on them.

See Section C of RG 209 for more information.

Keep a written copy of the assessment

You must keep records of your assessment that a credit product is 'not unsuitable' and provide a free written copy if requested by the consumer. See Section D of RG 209 for more information.

Brokers and lenders have separate responsible lending obligations

Brokers and lenders provide different services at different stages of the credit application process and have separate responsible lending obligations.

A broker undertakes a 'preliminary' assessment and must be satisfied that the information obtained is enough to assess whether the credit product is not unsuitable.

The lender must form their own view as to whether the information provided by a broker or other third party is reliable, and undertake further inquiries and verification steps as necessary.

Where to find more information

- Regulatory Guide 203 *Do I need a credit licence?* (RG 203)
- Regulatory Guide 205 *Credit licensing: General conduct obligations* (RG 205)
- Regulatory Guide 281 *Low cost credit contracts* (RG 281)
- Information Sheet 100 *Margin lending: Getting or varying an AFS licence* (INFO 100)

- Information Sheet 146 *Responsible lending disclosure obligations: Overview for credit licensees and representatives* (INFO 146)
- Information Sheet 185 *Using ASIC's reverse mortgage calculator* (INFO 185)

Important notice

Please note that the above overview is intended to give you basic information about a particular topic. It does not cover the whole of the relevant law regarding that topic, and it is not a substitute for professional legal advice. We encourage you to seek your own professional advice to find out how the applicable laws apply to you, as it is your responsibility to determine your obligations.