



ASIC

Australian Securities & Investments Commission

REGULATORY GUIDE 165

Licensing: Internal and external dispute resolution

May 2018

About this guide

This guide explains what AFS licensees, unlicensed product issuers, unlicensed secondary sellers, credit licensees, credit representatives, unlicensed carried over instrument lenders (unlicensed COI lenders) and securitisation bodies must do to have a dispute resolution system in place that meets ASIC's requirements.

This guide should be read in conjunction with Regulatory Guide 139 *Approval and oversight of external dispute resolution schemes* (RG 139).

About ASIC regulatory documents

In administering legislation ASIC issues the following types of regulatory documents.

Consultation papers: seek feedback from stakeholders on matters ASIC is considering, such as proposed relief or proposed regulatory guidance.

Regulatory guides: give guidance to regulated entities by:

- explaining when and how ASIC will exercise specific powers under legislation
- explaining how ASIC interprets the law
- describing the principles underlying ASIC's approach
- giving practical guidance (e.g. describing the steps of a process such as applying for a licence or giving practical examples of how regulated entities may decide to meet their obligations).

Information sheets: provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

Reports: describe ASIC compliance or relief activity or the results of a research project.

Document history

This version was issued in May 2018 and is based on legislation and regulations as at the date of issue. It now includes, in the box below RG 165.88, transitional arrangements for:

- trustees of regulated superannuation funds, trustees of approved deposit funds and providers of retirement savings accounts; and
- disclosure of AFCA contact details in final response letters and 'delay letters'.

Previous versions:

- Superseded Regulatory Guide 165, issued 18 May 2009, reissued 7 May 2010, 6 July 2010, 16 February 2011, 20 April 2011, 13 June 2013, 2 July 2015 and 14 February 2018
- Superseded Policy Statement 165, issued 28 November 2001 and rebadged as a regulatory guide 5 July 2007

Disclaimer

This guide does not constitute legal advice. We encourage you to seek your own professional advice to find out how the Corporations Act, credit legislation and other applicable laws apply to you, as it is your responsibility to determine your obligations.

Examples in this guide are purely for illustration, they are not exhaustive and are not intended to impose or imply particular rules or requirements.

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A Overview: Dispute resolution requirements

Key points

Australian financial services (AFS) licensees, unlicensed product issuers, unlicensed secondary sellers, Australian credit licensees (credit licensees) and credit representatives are required to have in place a dispute resolution system that consists of:

- internal dispute resolution (IDR) procedures that meet the standards or requirements made or approved by ASIC; and
- membership of one or more ASIC-approved external dispute resolution (EDR) schemes.

Unlicensed carried over instrument lenders (unlicensed COI lenders) must have IDR procedures that meet ASIC's standards or requirements and *may* choose to be members of an ASIC-approved EDR scheme.

This regulatory guide sets out the obligations for AFS licensees, unlicensed product issuers, unlicensed secondary sellers, credit licensees, credit representatives, unlicensed COI lenders and securitisation bodies in relation to IDR and membership of an ASIC-approved EDR scheme.

Dispute resolution in the Australian financial system

Dispute resolution under the Corporations Act

RG 165.1 Under the *Corporations Act 2001* (Corporations Act), if you are:

- (a) an AFS licensee (s912A(1)(g) and 912A(2)); or
- (b) an unlicensed product issuer or an unlicensed secondary seller (s1017G),

you must have a dispute resolution system available for your retail clients that meets certain requirements.

RG 165.2 This dispute resolution system must consist of:

- (a) IDR procedures that:
 - (i) comply with the standards and requirements made or approved by ASIC;
 - (ii) cover complaints made by retail clients in relation to the financial services provided; and
- (b) membership of one or more ASIC-approved EDR schemes that covers—or together cover—complaints made by retail clients in relation to the financial services provided (other than complaints that may be dealt with by the Superannuation Complaints Tribunal (SCT)).

Note: See Regulatory Guide 139 *Approval and oversight of external dispute resolution schemes* (RG 139) for further guidance on EDR schemes.

RG 165.3 If you are a margin lender or give advice on margin lending financial services, you must also have a dispute resolution system available for your retail clients.

Trustee companies providing traditional services

RG 165.4 If you are a trustee company providing traditional trustee company services (traditional services), you must have a dispute resolution system available for your retail clients.

Note: You will be providing traditional services if you are a trustee company listed in the Corporations Regulations 2001 (Corporations Regulations) and you perform a range of services (including preparing wills, trust instruments, powers of attorney or agency arrangements), perform estate management functions (including as agent, attorney, executor, administrator or nominee) or operate a common fund: see s601RAC of the Corporations Act.

RG 165.5 Some complaints relating to traditional services you provide to individuals who cannot make their own decisions about financial matters because of mental incapacity will continue to be addressed under existing state and territory guardianship law complaint mechanisms (i.e. state or territory courts, tribunals and guardianship boards).

Note: See reg 7.6.02(6) and Sch 8AC of the Corporations Regulations, and item [4] of the Explanatory Statement to the Corporations Amendment Regulations 2010 (No. 3).

Superannuation Complaints Tribunal

RG 165.6 As the SCT is a statutory tribunal, established under the *Superannuation (Resolution of Complaints) Act 1993*, it operates differently to ASIC-approved EDR schemes in that:

- (a) the SCT is not subject to ASIC's approval and thus RG 139 does not apply to it; and
- (b) AFS licensees, unlicensed product issuers and unlicensed secondary sellers are not required to be members of the SCT in the same way as an ASIC-approved EDR scheme because the SCT has jurisdiction to handle certain types of superannuation-related complaints by virtue of the relevant provisions of the legislation.

RG 165.7 The requirement to be a member of an ASIC-approved EDR scheme does not apply in relation to complaints made by retail clients that may be dealt with by the SCT: see s912A(2)(b)(ii) and 1017G(2)(b)(ii), Corporations Act.

RG 165.8 So, where the SCT can deal with *all* retail client complaints about the financial products and services you provide, you will not need to join an ASIC-approved EDR scheme.

RG 165.9 However, if the SCT cannot deal with complaints about *all* the financial products and services you provide, you must belong to an ASIC-approved

EDR scheme that can deal with those complaints that fall outside the SCT's jurisdiction.

- RG 165.10 As the SCT does not have jurisdiction to deal with complaints about other (non-superannuation) products or services that do not relate to a decision of a trustee in relation to the fund, where you are a trustee who gives advice about products that are available outside your superannuation fund (i.e. banking products or post-retirement products), membership of an ASIC-approved EDR scheme will be required.

It should be noted that, in handling a complaint, the SCT may refer the whole or part of a complaint to an ASIC-approved EDR scheme: s22A, *Superannuation (Resolution of Complaints) Act 1993*.

Dispute resolution under the National Credit Act

Credit licensees and credit representatives

- RG 165.11 Under s47 of the *National Consumer Credit Protection Act 2009* (National Credit Act), if you are a credit licensee, you must have a dispute resolution system that consists of:
- (a) IDR procedures that comply with the standards and requirements made or approved by ASIC, and that cover disputes in relation to the credit activities engaged in by you or your credit representatives; and
 - (b) membership of one or more EDR schemes approved by ASIC.

Note: See Regulatory Guide 203 *Do I need a credit licence?* (RG 203), Regulatory Guide 204 *Applying for and varying a credit licence* (RG 204) and Regulatory Guide 205 *Credit licensing: General conduct obligations* (RG 205).

- RG 165.12 If you are a credit representative, you must also be a separate member of an ASIC-approved EDR scheme, in addition to the membership of the credit licensee you represent: s64 and 65, National Credit Act. However, you will not need to be a separate member of an ASIC-approved EDR scheme if you have been sub-authorised under s65(1) of the National Credit Act and you are an employee or director of the body corporate that gave you the sub-authorisation: reg 16, National Consumer Credit Protection Regulations 2010 (National Credit Regulations).
- RG 165.13 Credit representatives do not need to provide their own IDR procedures that meet ASIC's requirements and approved standards. This is because a credit licensee's IDR procedures must cover disputes relating to its credit representatives.

Note: A credit representative is a person authorised to engage in specified credit activities on behalf of a credit licensee under s64(2) or 65(2) of the National Credit Act. The employees and directors of a credit licensee do not need to be formally authorised—they can act as representatives of the credit licensee without a specific

authorisation. A person can also be authorised as a credit representative by more than one credit licensee.

- RG 165.14 If you are a credit licensee who acts on behalf of a securitisation body, additional obligations may apply to you under the National Credit Act: see RG 165.23–RG 165.31.

Unlicensed COI lenders

- RG 165.15 The National Credit Act applies differently to you if you ceased to offer new credit contracts or consumer leases before 1 July 2010 but continue to be a credit provider or lessor in relation to credit contracts or consumer leases entered into by you before 1 July 2010. If you are in this category, you are a carried over instrument lender (COI lender) and specific rules apply to you.

Note: A 'carried over instrument' is a contract or other instrument that was made and in force, and to which an old Credit Code applied, immediately before 1 July 2010: see s4(1) of the *National Consumer Credit Protection (Transitional and Consequential Provisions) Act 2009* (Transitional Act).

- RG 165.16 If you are a COI lender, you may either elect to:
- (a) be regulated as a credit licensee; or
 - (b) not be licensed under the National Credit Act and instead be regulated as an unlicensed COI lender, in which case you will be subject to a modified statutory regime.

Note: The modified statutory regime, as set out in Ch 2 of the National Credit Act (as modified by Sch 2 of the National Credit Regulations) applies to unlicensed COI lenders from 1 July 2010. Schedule 2 of the National Credit Regulations was inserted by item 32 of Sch 1 of the National Consumer Credit Protection Amendment Regulations 2010 (No. 2).

- RG 165.17 If you are an unlicensed COI lender, you must have IDR procedures that:
- (a) meet our requirements and approved standards; and
 - (b) cover disputes in relation to the credit activities you engage in with respect to your carried over instruments.

Note 1: Details of the obligations of unlicensed COI lenders are set out in Information Sheet 110 *Lenders with carried over instruments* (INFO 110), Regulatory Guide 202 *Credit registration and transition* (RG 202), RG 205, Regulatory Guide 206 *Credit licensing: Competence and training* (RG 206) and Regulatory Guide 207 *Credit licensing: Financial requirements* (RG 207).

Note 2: The credit activities you may engage in with respect to your carried over instruments may include collecting debts owed under those carried over instruments: see RG 202.

- RG 165.18 The obligation in RG 165.17 also applies to prescribed unlicensed COI lenders.

Note: A prescribed unlicensed COI lender is an unlicensed COI lender who fails to meet certain probity requirements and who has restrictions placed on their conduct in relation

to their carried over instruments. A prescribed unlicensed COI lender must not engage in credit activities with respect to their carried over instruments. They must instead appoint a credit licensee as a 'representative' to engage in credit activities on their behalf with respect to their carried over instruments: see RG 202.148–RG 202.151.

RG 165.19 If, as a prescribed unlicensed COI lender, you appoint a credit licensee as your representative as required, and notify us of this appointment, you may arrange for this representative's dispute resolution system to cover disputes with respect to your carried over instruments. However, you remain responsible for ensuring that the requirements and standards in this regulatory guide for IDR procedures are met: see RG 165.76 and RG 165.77.

RG 165.20 If you are an unlicensed COI lender, you may choose to become a member of an ASIC-approved EDR scheme.

Note: Unless otherwise mentioned, references to unlicensed COI lenders also include reference to prescribed unlicensed COI lenders.

RG 165.21 If you are an unlicensed COI lender and you choose not to join an EDR scheme, under Sch 2 the National Credit Regulations, you must keep a register of each of the following:

- (a) disputes relating to your carried over instruments;
- (b) hardship notices made under s72 of the National Credit Code; and
- (c) requests for postponement of enforcement proceedings under s94 of the National Credit Code.

Note: See Sch 2 of the National Credit Regulations as inserted by item 32 of Sch 1 of the National Consumer Credit Protection Amendment Regulations 2010 (No. 2) for the detailed information the registers must include.

RG 165.22 If you make arrangements for a third party provider or your representative's dispute resolution system to cover disputes relating to your carried over instruments under RG 165.19 and you are not a member of an EDR scheme, you are still required to meet the register requirements in RG 165.21.

Credit licensees and securitisation bodies

RG 165.23 If you make (or buy) loans or leases and repackage them as investment products to sell to investors, you are a securitisation body and a modified regulatory regime applies to you under the National Credit Act.

Note: See s10(1)(a) of the National Credit Act and RG 203.51–RG 203.55.

RG 165.24 Under this modified regulatory regime, you may elect to be:

- (a) regulated as a credit licensee; or
- (b) exempt from having to be licensed, as long as you:
 - (i) enter into a servicing agreement with a credit licensee under which that licensee acts on your behalf; and

- (ii) are a member of an ASIC-approved EDR scheme from 1 April 2011.

Note: See regs 23B and 23C of the National Credit Regulations.

RG 165.25 If you are a credit licensee who acts on behalf of a securitisation body—sometimes known as a ‘mortgage manager’—you must notify us:

- (a) when you enter into the servicing agreement, including details of the securitisation body you act for and the name of the EDR scheme that body belongs to; and
- (b) when you cease to be a party to the servicing agreement.

Note: See s45(7) of the National Credit Act, reg 9A of the National Credit Regulations and Form CL13 *Notice in relation to special purpose funding entity*.

RG 165.26 The tailored regime for securitisation bodies is based on the credit licensee engaging in credit activities on behalf of the securitisation body. As IDR is generally a necessary first step in the dispute resolution process before going to EDR, credit licensees should take reasonable steps to ensure their IDR procedures cover both their own and the securitisation body’s activities.

RG 165.27 The IDR procedures of the credit licensee should cover:

- (a) disputes that relate to the credit activities they engage in when they act on behalf of the securitisation body; and
- (b) disputes about the conduct of the securitisation body (including disputes seeking to change the credit contract, for example, on hardship grounds or because the contract was unjust or ‘unsuitable’).

RG 165.28 We expect that the servicing agreement between the credit licensee and the securitisation body will facilitate the licensee being able to change credit contracts or consumer leases where appropriate for the resolution of disputes in IDR (e.g. by setting out how the licensee can arrange for the credit contract or consumer lease to be changed, including varied or set aside when necessary).

RG 165.29 Where the credit licensee is unable to resolve a dispute relating to a change in the credit contract or consumer lease between the consumer and the securitisation body, we expect the licensee to either:

- (a) inform the consumer of the right to complain to the EDR scheme of the securitisation body and provide them with the relevant details for contacting that scheme; or
- (b) directly refer the dispute to the EDR scheme of the securitisation body (whether this is the same or a different scheme to that of the credit licensee).

Note: RG 139.203–RG 139.207 set out a process for how disputes at EDR should be handled between a credit licensee’s scheme and a securitisation body’s scheme (if different).

- RG 165.30 So consumers are able to access a credit licensee's IDR procedures, a securitisation body must, if it is asked by a consumer who their credit licensee is, respond with the name and contact details of their credit licensee.
- RG 165.31 To ensure that IDR procedures are effective and the consumer has an opportunity to complain to EDR, credit licensees and securitisation bodies should refrain from commencing or continuing any legal action, or other enforcement action (e.g. debt collection activity), while a dispute is being handled by the IDR procedures of the credit licensee and for a reasonable time thereafter.

IDR procedures

- RG 165.32 Under regs 7.6.02(1) and 7.9.77(1) of the Corporations Regulations, ASIC must take into account:
- (a) Australian Standard AS ISO 10002–2006 *Customer satisfaction—Guidelines for complaints handling in organizations* (ISO 10002:2004 MOD), published by SAI Global Limited on 5 April 2006 (AS ISO 10002–2006); and
 - (b) any other matter we consider relevant,
- when considering whether to make or approve standards or requirements relating to IDR.
- RG 165.33 We may also:
- (a) vary or revoke a standard or requirement that we have made in relation to an IDR procedure; and
 - (b) vary or revoke the operation of a standard or requirement that we have approved in its application to an IDR procedure (see regs 7.6.02(2) and 7.9.77(2), Corporations Regulations).
- RG 165.34 Under reg 10 and Sch 2 of the National Credit Regulations, we must take into account:
- (a) AS ISO 10002–2006; and
 - (b) any other matter we consider relevant,
- when considering whether to make or approve standards or requirements relating to IDR.
- RG 165.35 We may also:
- (a) vary or revoke a standard or requirement that we have made in relation to an IDR procedure; and

- (b) vary or revoke the operation of a standard or requirement that we have approved in its application to an IDR procedure (see regs 10(a) and 10(b) and Sch 2, National Credit Regulations).

- RG 165.36 This regulatory guide addresses our requirements for IDR, having regard to AS ISO 10002–2006 and any other matter we consider relevant.
- RG 165.37 Our guidelines for compliant IDR procedures are set out at Section B.

External dispute resolution

- RG 165.38 Our guidelines about membership of ASIC-approved EDR schemes are set out at Section C.
- RG 165.39 See RG 139 for information on how we approve and oversee EDR schemes.

ASIC's role

- RG 165.40 The objectives of Ch 7 of the Corporations Act are to promote:
- (a) the confident and informed participation of consumers and investors in the Australian financial system (also an objective of ASIC under s1 of the *Australian Securities and Investments Commission Act 2001* (ASIC Act));
 - (b) fairness, honesty and professionalism by those who provide financial services;
 - (c) fair, orderly and transparent markets; and
 - (d) the reduction of systemic risks.

Note: See s760A, Corporations Act.

- RG 165.41 One of the reasons the Australian Government decided to extend the dispute resolution framework to cover credit and margin lending financial services was to ensure access to timely, independent and cost-effective dispute resolution when things go wrong for consumers of these types of products and services.

Note: See Press Release No. 051 of the Minister for Superannuation and Corporate Law, the Hon Nick Sherry, *Details of major overhaul of margin lending announced* (7 May 2009); and Revised Explanatory Memorandum to the National Consumer Credit Protection Bill 2009, page 5.

- RG 165.42 Within this framework, ASIC is responsible for:
- (a) setting or approving standards for IDR procedures; and
 - (b) approving and overseeing the effective operation of EDR schemes.

RG 165.43 In respect of complaints resolution, we are mindful of the need to ensure that consumers and investors are treated fairly and consistently by the relevant complaints or disputes handling procedures. We also need to ensure that financial service providers, credit providers, credit service providers and unlicensed COI lenders, regardless of their size or business, are able to handle complaints or disputes internally in an efficient, timely and effective manner.

RG 165.44 We consider IDR to be an important and necessary first step in the complaints/disputes handling process because it gives the financial service provider, credit provider, credit service provider and unlicensed COI lender the opportunity to hear client concerns and expressions of dissatisfaction and address them genuinely, efficiently and effectively. Addressing complaints or disputes at IDR in this way can also assist in improving business systems and products/services, which is integral to growing a successful business.

RG 165.45 Independent research commissioned by ASIC also indicates that the timely resolution of complaints or disputes, particularly at IDR, can be instrumental in consumers and investors being satisfied with the complaints handling process.

Note: See paragraphs 15–21 of Consultation Paper 102 *Dispute resolution—Review of RG 139 and RG 165* (CP 102).

RG 165.46 We also consider it important that IDR systems of financial service providers, credit providers, credit service providers and unlicensed COI lenders (where they voluntarily join an ASIC-approved EDR scheme) interface smoothly with the EDR scheme processes and those of the SCT to ensure that the overall dispute resolution system is working effectively.

RG 165.47 We believe that industry-supported EDR schemes play a vital role in the broader financial services regulatory system. The existence of these schemes provides:

- (a) a forum for consumers and investors to resolve complaints or disputes that is quicker and cheaper than the formal legal system; and
- (b) an opportunity to improve industry standards of conduct and to improve relations between industry participants and consumers.

RG 165.48 As a result of continuing law reform, an increasing number of industry participants will be, or are likely to be, required to have IDR processes that meet the requirements of this regulatory guide and be required to join an ASIC-approved EDR scheme as a condition of carrying on their business.

RG 165.49 In light of this, we consider it necessary that financial service providers, credit providers and credit service providers have reference to a common set of guidelines for IDR and EDR requirements.

Note: RG 139 contains further information about our common set of guidelines for the approval and oversight of ASIC-approved EDR schemes.

RG 165.50 These guidelines and RG 139 set out our dispute resolution requirements.

AFS licensees

- RG 165.51 If you wish to become, or already are, an AFS licensee, you must ensure that you have a dispute resolution system that meets the requirements of this regulatory guide. The steps you can take to ensure this include:
- (a) reviewing your IDR procedures against the requirements discussed at Section B; and
 - (b) assessing whether you meet the EDR scheme membership requirements discussed at Section C.

Unlicensed secondary sellers and unlicensed product issuers

- RG 165.52 If you are an unlicensed secondary seller or unlicensed product issuer, you must ensure that you have a dispute resolution system that meets the requirements of this regulatory guide. The steps you can take to ensure this include:
- (a) reviewing your IDR procedures against the requirements discussed at Section B;
 - (b) assessing whether you meet the EDR scheme membership requirements discussed at Section C; and
 - (c) ensuring that you self-certify when you first lodge a Product Disclosure Statement (PDS) or give notice that a PDS is in use with ASIC.

Credit licensees and credit representatives

- RG 165.53 If you are a credit licensee or credit representative, you must ensure that you have a dispute resolution system that meets the requirements in this regulatory guide. The steps you can take to ensure this include:
- (a) for credit licensees—reviewing your IDR procedures against the requirements discussed at Section B; and
 - (b) for credit licensees and credit representatives—assessing whether you meet the EDR scheme membership requirements discussed at Section C.

Unlicensed COI lenders

- RG 165.54 If you elect to be an unlicensed COI lender, you must ensure that you have a dispute resolution system that meets the requirements in this regulatory guide. The steps you can take to ensure this include:
- (a) for unlicensed COI lenders who choose to join an ASIC-approved EDR scheme—reviewing your IDR procedures against the requirements

discussed at Section B and informing us of the EDR scheme you belong to as discussed at Section C; and

- (b) for unlicensed COI lenders who choose not to join an ASIC-approved EDR scheme—reviewing your IDR procedures against the requirements discussed at Section B and ensuring you keep a register of complaints, hardship notices and requests for postponement of enforcement proceedings as discussed at Section C.

Note: For more information about who may elect to be an unlicensed COI lender and the relevant matters to consider in making this decision, see INFO 110.

Securitisation bodies

- RG 165.55 If you elect to be an unlicensed securitisation body, you must ensure that you have a dispute resolution system that meets the requirements in this regulatory guide. The steps you can take to ensure this include meeting the EDR scheme membership requirements discussed at Section C.

B Guidelines for IDR procedures

Key points

ASIC is required to take into account AS ISO 10002–2006, and any other matter we consider relevant, when considering whether to make or approve standards or requirements relating to IDR.

This section outlines our requirements for IDR procedures, including requirements for unlicensed COI lenders and those engaging in credit activities or providing traditional services.

Interpreting these guidelines

RG 165.56 Table 1 summarises the principles and requirements discussed in this regulatory guide and highlights whether financial service providers, credit licensees, credit representatives or unlicensed COI lenders are responsible for meeting a particular requirement or aspect of a requirement.

Note: Unless otherwise mentioned, references to unlicensed COI lenders also include reference to prescribed unlicensed COI lenders.

Table 1: IDR requirements in this guide

IDR requirements	Reference in this regulatory guide	Persons responsible for meeting the requirements
Tailoring IDR procedures	RG 165.68	Financial service providers, credit licensees and unlicensed COI lenders
Coverage and benefit of IDR procedures	RG 165.69–RG 165.75	Financial service providers, credit licensees and unlicensed COI lenders
Outsourcing	RG 165.76–RG 165.77	Financial service providers, credit licensees and unlicensed COI lenders
AS ISO 10002–2006	RG 165.78–RG 165.85	Financial service providers, credit licensees and unlicensed COI lenders
IDR timeframes		
• Maximum timeframes at IDR	RG 165.86–RG 165.101	Financial service providers, credit licensees and unlicensed COI lenders
• Timeframes for certain types of credit disputes	RG 165.102–RG 165.120	Credit licensees and unlicensed COI lenders
Multi-tiered IDR procedures	RG 165.121–RG 165.123	Financial service providers, credit licensees and unlicensed COI lenders
Other matters—Documenting IDR procedures	RG 165.126–RG 165.129	Financial service providers, credit licensees and unlicensed COI lenders

IDR requirements	Reference in this regulatory guide	Persons responsible for meeting the requirements
Other matters—Links between IDR procedures and EDR schemes	RG 165.130–RG 165.132	Financial service providers, credit licensees and unlicensed COI lenders who have joined an EDR scheme
Compliant IDR procedures—Self-certification	RG 165.133–RG 165.137	Financial service providers, credit licensees and unlicensed COI lenders

Our requirements for IDR procedures

RG 165.57 Under the dispute resolution provisions:

- (a) financial service providers subject to the dispute resolution requirements must have IDR procedures that comply with our requirements. These requirements are made by us in accordance with the Corporations Regulations and are set out in this regulatory guide: see RG 165.1–RG 165.5, RG 165.32–RG 165.33 and Section B;
- (b) credit providers (i.e. lenders, lessors and those who take credit contracts on assignment) and credit service providers (i.e. non-lenders such as brokers and other intermediaries) must have IDR procedures that comply with our requirements and cover disputes relating to the credit activities engaged in by the credit licensee or its credit representatives. These requirements are made by us in accordance with the National Credit Regulations and are set out in this regulatory guide: see RG 165.11–RG 165.14, RG 165.23–RG 165.31, RG 165.34–RG 165.35 and Section B; and

Note: See RG 203 (at RG 203.51–RG 203.55) for more information on licensing for debt collectors.

- (c) unlicensed COI lenders must have IDR procedures that comply with our requirements and cover disputes in relation to the credit activities the lender engages in with respect to their carried over instruments. These requirements are made by us in accordance with the National Credit Regulations and are set out in this regulatory guide: see RG 165.15–RG 165.22, RG 165.34–RG 165.35 and Section B.

RG 165.58 Both the Corporations Regulations and National Credit Regulations provide that, when making or approving standards or requirements for IDR procedures, we must take into account AS ISO 10002–2006, as well as any other matter we consider relevant: see regs 7.6.02(1) and 7.9.77(1), Corporations Regulations, and regs 10(a) and 10(b) and Sch 2, National Credit Regulations.

RG 165.59 Under both the Corporations Regulations and National Credit Regulations, we also have the power, in relation to IDR procedures, to:

- (a) vary or revoke a standard or requirement that we have made; and

- (b) vary or revoke the operation of a standard or requirement that we have approved.

Note: See regs 7.6.02(2) and 7.9.77(2), Corporations Regulations, and regs 10(2)(a) and 10(2)(b) and Sch 2, National Credit Regulations.

- RG 165.60 We note that AS ISO 10002–2006 does not apply exclusively to financial services or credit and has been drafted broadly so that it can:
- (a) apply to any industry in which consumers participate; and
 - (b) be implemented by a business of any size.
- RG 165.61 This guide provides guidance on the application of AS ISO 10002–2006 to the financial services and credit industries, as well as outlining other matters we consider necessary for IDR procedures to be compliant.
- RG 165.62 Our key requirements for IDR procedures are that you:
- (a) adopt the definition of ‘complaint’ in AS ISO 10002–2006 (see RG 165.78);
 - (b) satisfy the Guiding Principles at Section 4 of AS ISO 10002–2006, and follow Section 5.1—Commitment, Section 6.4—Resources, Section 8.1—Collection of Information, and Section 8.2—Analysis and evaluation of complaints in AS ISO 10002–2006 (see RG 165.82–RG 165.85); and
 - (c) have a system for informing complainants or disputants about the availability and accessibility of the relevant EDR scheme (see RG 165.130), unless you are an unlicensed COI lender and have not joined an EDR scheme.
- RG 165.63 In adopting the definition of ‘complaint’ in AS ISO 10002–2006, we clarify that for credit licensees, where the National Credit Act and National Credit Regulations refer to a ‘dispute’, we consider this to have the same meaning as ‘complaint’ under the Corporations Act and Corporations Regulations.
- RG 165.64 Given the difference in terminology, throughout this regulatory guide we generally refer to a ‘complaint’ and ‘complainant’ where our IDR requirements apply to a financial service provider and ‘dispute’ and ‘disputant’ where our IDR requirements apply to a credit licensee.
- RG 165.65 Our requirements for IDR procedures are also reflected in:
- (a) Class Order [CO 09/339] *Internal dispute resolution procedures*;
 - (b) Class Order [CO 10/250] *Internal dispute resolution procedures (credit)*; and
 - (c) Class Order [CO 10/517] *Internal dispute resolution procedures (credit—unlicensed COI lenders)*.

- RG 165.66 We will review our requirements, having regard to AS ISO 10002–2006, in this section of the regulatory guide in consultation with industry, consumer representatives and other interested stakeholders.
- RG 165.67 We will update this regulatory guide to reflect any further changes to the National Credit Act or National Credit Regulations.

Tailoring IDR procedures

- RG 165.68 Whether you are reviewing your existing IDR procedures, or establishing new IDR procedures, it is appropriate to take into account:
- (a) the size of your business (including the number of representatives or credit representatives you have authorised, or for unlicensed COI lenders, the number of carried over instruments you or your appointed representative will administer);
 - (b) the range of financial products or services or credit activities you offer;
 - (c) the nature of your customer base; and
 - (d) the likely number and complexity of complaints or disputes.

Coverage and benefits of IDR procedures

- RG 165.69 The majority of complaints or disputes that your clients make about you will be dealt with under your IDR procedures. We believe that it is essential for you to have effective IDR procedures in place so that complaints or disputes are dealt with genuinely, promptly, fairly and consistently.
- RG 165.70 IDR procedures can be used to deal effectively with, and monitor, all forms of consumer inquiry, complaint or dispute. The benefits of effective IDR procedures with broad coverage include:
- (a) the opportunity to resolve complaints or disputes quickly and directly;
 - (b) the ability to identify and address recurring or systemic problems (which can then lead to product or service improvements);
 - (c) the capacity to provide solutions to problems rather than have remedies imposed by an external body; and
 - (d) the chance to improve levels of customer and investor confidence and satisfaction.
- RG 165.71 Wherever possible, you should seek to resolve complaints or disputes directly with your clients through your IDR procedures. It is better for all parties if a complaint or dispute is dealt with at the earliest possible stage because it:
- (a) prevents complaints or disputes from becoming entrenched;

- (b) preserves customer relationships;
- (c) is often the most efficient and cost-effective way for an organisation to deal with complaints or disputes; and
- (d) may improve customer satisfaction.

RG 165.72 As a minimum, any IDR procedure for financial service providers must be able to deal with complaints made by ‘retail clients’, as defined in s761G of the Corporations Act and its related regulations, and this includes small businesses. A ‘small business’ is defined in s761G as a business employing fewer than:

- (a) 100 people (if the business manufactures goods or includes the manufacture of goods); or
- (b) 20 people (otherwise).

RG 165.73 IDR procedures for trustee companies providing traditional services must be able to deal with complaints made by retail clients. For traditional services, these specifically include:

- (a) individuals and small businesses who *directly* engage a trustee company to provide traditional services (e.g. to prepare a will, trust instrument, power of attorney or agency arrangement); and
- (b) individuals and small businesses who do not directly engage the services of a trustee company, but who may request an information return. These persons include:
 - (i) beneficiaries (including under a deceased’s will; where a person has an interest in a deceased’s estate and the deceased has died without a will; or where a person has commenced legal proceedings to be included as a beneficiary of a deceased’s estate); and
 - (ii) certain other persons relating to charitable and other trusts (e.g. a settlor of a trust, or a person who has power to appoint or remove a trustee or vary any of the terms of the trust).

Note 1: See s601RAB(3) and 761G of the Corporations Act, and regs 7.1.28A and 5D.2.01 of the Corporations Regulations.

Note 2: An ‘information return’ must include certain information about the trust, including information about income earned on the trust’s assets, expenses and the net value of the trust’s assets: see s601RAC(1)(e) of the Corporations Act and regs 5D.2.01, 5D.2.02 and 7.1.28A of the Corporations Regulations.

RG 165.74 As a minimum, any IDR procedure for credit must be able to handle disputes made in relation to the credit activities engaged in by the credit licensee or its credit representatives, or an unlicensed COI lender: s47(1)(h), National Credit Act and Sch 2, National Credit Regulations. This will involve covering disputes made by consumers of credit, lessees and guarantors under the National Credit Act.

- RG 165.75 We encourage you to develop IDR procedures that have broader coverage than outlined at RG 165.72–RG 165.74, and that are consistent with the nature of your business and your dealings with consumers and investors.

Outsourcing

- RG 165.76 A financial service provider, credit provider, credit service provider or unlicensed COI lender that outsources its IDR procedures to a third party service provider remains responsible for ensuring that its IDR procedures comply with the requirements in this regulatory guide.
- RG 165.77 This includes where a prescribed unlicensed COI lender arranges for its appointed credit licensee’s IDR procedures to cover disputes with respect to its carried over instruments.

AS ISO 10002–2006

Definition of ‘complaint’ and ‘dispute’

- RG 165.78 As part of our IDR requirements, you will be required to adopt the following definition of ‘complaint’ in AS ISO 10002–2006 when handling ‘complaints’ under the Corporations Act or ‘disputes’ under the Transitional Act and National Credit Act:

An expression of dissatisfaction made to an organisation, related to its products or services, or the complaints handling process itself, where a response or resolution is explicitly or implicitly expected.

Note: See RG 165.63–RG 165.64 for further information on why the definition of complaint is adopted for ‘disputes’ for credit.

- RG 165.79 This definition of complaint will promote consistent treatment of complaints and disputes. It will also help in the identification of complaints and disputes earlier in the complaints/disputes handling process.
- RG 165.80 We recognise that applying this definition may result in increased administrative burdens and compliance costs in relation to capturing and maintaining records of minor expressions of dissatisfaction. Therefore, where a complaint or dispute (except for a complaint or dispute relating to hardship, a declined insurance claim, or the value of an insurance claim) is resolved to the customer’s complete satisfaction *by the end of the fifth business day* after the complaint or dispute was received, you will not be required to apply the full IDR process—that is, to capture and record the complaint or dispute, as set out at Appendix 1 under ‘Section 8.1—Collection of information’.

Note 1: A declined insurance claim includes where an insured person (the retail client) makes a claim on an insurance policy and:

- the insurer declines or does not accept the claim; or
- the insurer does not determine the claim within 10 business days of receiving all the information necessary to do so.

Note 2: The value of an insurance claim means the monetary amount or value to be paid out to an insured person (the retail client) under an insurance policy, once the insured person has made a claim on the policy.

Note 3: If you are an unlicensed COI lender and have chosen not to join an EDR scheme, you must record all disputes: see RG 165.143(a).

RG 165.81 Where possible, we encourage the adoption of the full IDR process, because having accurate and complete complaints and disputes data can be invaluable to improving products, services and business systems.

Guiding Principles and Sections 5.1, 6.4, 8.1 and 8.2

RG 165.82 Section 4 of AS ISO 10002–2006 sets out the Guiding Principles that your IDR procedures must satisfy. We also require that your IDR procedures comply with the following sections in AS ISO 10002–2006:

- Section 5.1—Commitment;
- Section 6.4—Resources;
- Section 8.1—Collection of information; and
- Section 8.2—Analysis and evaluation of complaints.

RG 165.83 To give context to our IDR requirements, please refer to AS ISO 10002–2006.

RG 165.84 At Appendix 1, we provide guidance on how we consider the Guiding Principles and Sections 5.1, 6.4, 8.1 and 8.2 of AS ISO 10002–2006 apply. Our guidance at Appendix 1 also gives scaled guidance, where possible, so that micro to small businesses, compared with medium to large sized businesses, can better understand how the Guiding Principles and Sections 5.1, 6.4, 8.1 and 8.2 of AS ISO 10002–2006 apply.

RG 165.85 At Appendix 2, we also set out some questions for you to consider when establishing or updating your dispute resolution system to ensure it meets the requirements in this regulatory guide for credit, margin lending financial services and traditional services.

IDR timeframes

Maximum timeframes at IDR

RG 165.86 Timeliness in responding to complaints and disputes is a key element of successful internal complaints handling.

RG 165.87 Figure 1 summarises the maximum IDR timeframes for handling complaints and disputes.

RG 165.88 If you are a financial service provider, credit provider, credit service provider or unlicensed COI lender:

- (a) in accordance with the Guiding Principle of ‘responsiveness’ in AS ISO 10002–2006, you should immediately acknowledge the receipt of complaints or disputes and address them promptly in accordance with their degree of urgency; and
- (b) if you are required to be a member of an ASIC-approved EDR scheme, or you are an unlicensed COI lender, you must provide a final response to a complainant or disputant within a maximum of 45 days—unless a different timeframe applies to traditional services complaints (see RG 165.95–RG 165.101) or to certain types of credit disputes (see RG 165.102–RG 165.120).

Note 1: The requirement to provide a final response to the complainant or disputant does not apply when the complaint or dispute (except for a complaint or dispute relating to hardship, a declined insurance claim, or the value of an insurance claim) is resolved to the complainant’s or disputant’s complete satisfaction *by the end of the fifth business day* after the complaint or dispute was received and the complainant or disputant has not requested a response in writing.

Note 2: Unless otherwise mentioned, references to unlicensed COI lenders also include reference to prescribed unlicensed COI lenders.

Transitional arrangements for superannuation fund, approved deposit fund and retirement savings account complaints

Prior to the *Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Act 2018* (AFCA Act), provisions of the *Superannuation Industry (Supervision) Act 1993* (SIS Act) and the *Retirement Savings Account Act 1997* (RSA Act) imposed requirements in relation to the time within which complaints should be dealt with by the trustees of regulated superannuation funds and approved deposit funds, and by retirement savings account (RSA) providers. The SIS Act also imposed requirements in relation to the giving of reasons for decisions on complaints by the trustees of regulated superannuation funds. These requirements sat alongside the IDR arrangements for financial service providers under the Corporations Act.

Schedule 2 of the AFCA Act has now:

- repealed s101(1) and (1A) of the SIS Act and s47(1) and (2) of the RSA Act, which set out the requirements for dealing with inquiries and complaints within 90 days and the requirements for the giving of reasons for decisions on complaints;
- amended the SIS Act and RSA Act to require trustees of a regulated superannuation fund (other than a self-managed superannuation fund) or of an approved deposit fund, or an RSA provider to have an IDR procedure that complies with the standards and requirements made or

approved by ASIC for s912A(2)(a)(i) of the Corporations Act in relation to AFS licensees; and

- amended the SIS Act and RSA Act to empower ASIC to make a legislative instrument setting out requirements for the giving of reasons for decisions on complaints.

As a transition measure, the IDR timeframe requirements for trustees of regulated superannuation funds and approved deposit funds, and RSA providers in s101(1) and (1A) of the SIS Act and s47(1) and (2) of the RSA Act will continue until we consult on and finalise updated IDR standards and requirements that are made or approved under s912(2)(a)(i) of the Corporations Act.

The effect of the requirements in the SIS Act for trustees of regulated superannuation funds in relation to the giving of reasons for decisions on complaints is also retained until ASIC makes a legislative instrument setting out the requirements: Sch 2, item 10 of the AFCA Act.

Transitional arrangements for disclosure of AFCA contact details in final response letters and 'delay letters'

AFCA will commence receiving complaints about financial service providers (including superannuation trustees and RSA providers), credit providers, credit service providers or unlicensed COI lenders on 1 November 2018. To promote consumer awareness of their rights to pursue a complaint in the transition to commencement of AFCA, these providers and lenders must:

- ensure that IDR final response letters and 'delay letters' (see RG 165.92) issued on or after 21 September 2018 and before 1 November 2018 include references to *both* the relevant predecessor EDR scheme (which will be able to receive complaints only up until 31 October 2018) and AFCA (which will be able to receive complaints on and after 1 November 2018)—we have set out example text below for IDR final response letters; and
- ensure that such letters issued on or after 1 February 2019 include references to AFCA but not the predecessor EDR schemes. Letters issued between 1 November 2018 and 1 February 2019 may continue to include references to both the predecessor EDR scheme and AFCA, provided it is clear that only AFCA can receive complaints after 1 November 2018.

Example text for members of the Financial Ombudsman Service:

If you are not satisfied with our response, you may lodge a complaint:

- with the Financial Ombudsman Service Australia **if lodged before 1 November 2018:**

Online: www.fos.org.au

Email: info@fos.org.au

Phone: 1800 367 287

Mail: Financial Ombudsman Service Limited
GPO Box 3
Melbourne VIC 3001; or

- with the Australian Financial Complaints Authority **if lodged on or after 1 November 2018:**

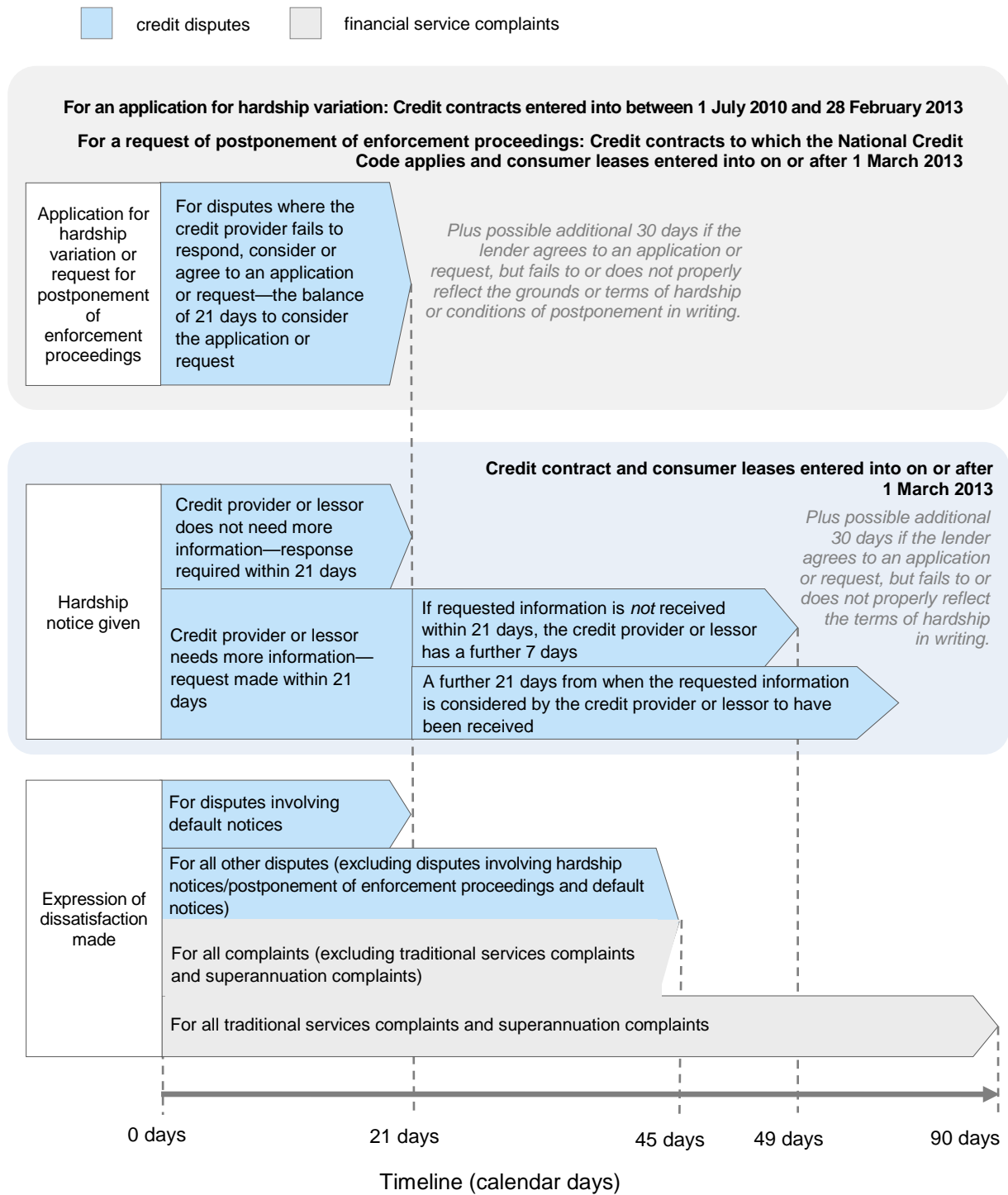
Online: www.afca.org.au

Email: info@afca.org.au

Phone: 1800 931 678

Mail: Australian Financial Complaints Authority
GPO Box 3
Melbourne VIC 3001

Figure 1: Maximum IDR timeframes



RG 165.89 The pursuit of ‘best practice’ procedures should result in timeframes shorter than 45 days regularly being achieved.

- RG 165.90 A ‘final response’ requires that you must write to the complainant or disputant within 45 days, informing them of:
- (a) the final outcome of their complaint or dispute at IDR;
 - (b) their right to take their complaint or dispute to EDR; and
 - (c) the name and contact details of the relevant EDR scheme to which they can take their complaint or dispute.

Note: If you are an unlicensed COI lender and have not joined an EDR scheme, to give a ‘final response’ you must inform the disputant of the final outcome of their dispute at IDR within 45 days.

- RG 165.91 You do not need to provide a final response when a complaint or dispute (except for a complaint or dispute relating to hardship, a declined insurance claim, or the value of an insurance claim) is resolved to the complainant’s or disputant’s complete satisfaction *by the end of the fifth business day* after the complaint or dispute was received and the complainant or disputant has not requested a response in writing.

- RG 165.92 If you are required to be a member of an ASIC-approved EDR scheme, or you are an unlicensed COI lender and have joined an EDR scheme, and you are unable to respond to a complaint or dispute within 45 days—or any shorter timeframe, as detailed in the EDR scheme’s Terms of Reference or under an applicable industry code of conduct or practice—you must, before the end of that period:

- (a) inform the complainant or disputant of the reasons for the delay;
- (b) advise the complainant or disputant of their right to complain to EDR; and
- (c) provide the complainant or disputant with the name and contact details of the relevant EDR scheme to which they can complain.

Note: If you are an unlicensed COI lender and have not joined an EDR scheme, you must, before the end of the 45 days, inform the disputant of the reasons for the delay.

- RG 165.93 The 45-day timeframe to provide a final response:
- (a) does not recommence where new information is provided in respect of the complaint or dispute. We consider that this will encourage financial service providers, credit providers and credit service providers to ensure they have sufficient facts and information to handle the complaint or dispute at an early stage of the IDR process;
 - (b) does not affect shorter timeframes for IDR required under applicable industry codes of conduct or practice; and
 - (c) does not affect the maximum 90-day time limit applicable to complaints about superannuation while the effect of either s101 of the SIS Act or s47 of the RSA Act is maintained under the transitional arrangements (see the box below RG 165.88).

RG 165.94 We also encourage you to consider ways of improving your handling of complex complaints or disputes within the 45-day timeframe, so errors in complaints or disputes handling can be avoided.

Traditional services complaints

RG 165.95 A trustee company providing traditional services must give a final response to a complainant within a maximum of 90 days.

RG 165.96 A ‘final response’ requires that you must write to the complainant within 90 days, informing them of:

- (a) the final outcome of their complaint at IDR;
- (b) their right to take their complaint to EDR; and
- (c) the name and contact details of the relevant EDR scheme to which they can take their complaint.

RG 165.97 You do not need to provide a final response when a traditional services complaint (except for a complaint relating to hardship) is resolved to the complainant’s complete satisfaction *by the end of the fifth business day* after the complaint was received and the complainant has not requested a response in writing.

RG 165.98 Where you are unable to respond to a traditional services complaint within 90 days—or any shorter timeframe, as detailed in the EDR scheme’s Terms of Reference or under an applicable industry code of practice—you must, before the end of that period:

- (a) inform the complainant of the reasons for the delay;
- (b) advise the complainant of their right to complain to EDR; and
- (c) provide the complainant with the name and contact details of the relevant EDR scheme to which they can complain.

RG 165.99 During the 90 days, you must:

- (a) on receipt of a traditional services complaint, use your best endeavours to identify and notify other persons who may request an information return (e.g. other beneficiaries) and who may reasonably have an interest in the outcome of the complaint. We encourage you to do this as quickly as possible;
- (b) where relevant to the efficient and fair handling of the complaint at IDR, consider the views of those identified at RG 165.99(a); and
- (c) keep those identified at RG 165.99(a) informed of the progress of the traditional services complaint at key stages of the IDR process, including when a final response or notification of delay is given under RG 165.96 or RG 165.98.

- RG 165.100 Under the 90-day deadline at IDR, time stops running when:
- (a) another person commences legal proceedings to be included as a beneficiary and the outcome would affect the handling of the complaint at IDR; or
 - (b) the trustee company applies for an opinion, advice or direction from a court to reasonably handle the complaint at IDR (e.g. where the trustee company is acting as a manager or administrator of the trust property).
- RG 165.101 Time starts to run again, under the 90-day deadline, once the court determines whether the other person should be included as a beneficiary, or provides an opinion, advice or otherwise gives a direction, and the time to lodge an appeal (if relevant) has passed.

Timeframes for certain types of credit disputes

Disputes involving default notices

- RG 165.102 Under s88 of the National Credit Code, a credit provider or lessor must give a borrower a 'default notice' before commencing enforcement proceedings to recover money or take possession of or sell property. The default notice must inform the borrower or lessor that they must remedy the default within 30 days and must also substantially meet the pro forma notice requirements in Form 12A and Form 18A of the National Credit Regulations.

Note 1: Transitional arrangements apply until 1 December 2013. A credit provider may continue to use the existing Form 12 in the National Credit Regulations for credit contracts entered into before or after 1 March 2013. However, for any default notice given on or after 1 December 2013 for credit contracts entered into on or after 1 March 2013, only Form 12A may be used: see reg 85.

Note 2: See s208, National Credit Code; reg 6, 86, 105K and Form 12, 12A and 18A National Credit Regulations, as amended by the National Consumer Credit Protection Amendment Regulation 2013 No 1 (National Credit Amendment Regulations).

- RG 165.103 A dispute may involve a default notice where, for example:
- (a) there is an allegation that the default notice was not served;
 - (b) the borrower disputes the amount specified in the default notice or whether the default was rectified; or
 - (c) there is a dispute about the lender's communications leading up to the issue of the default notice.
- RG 165.104 Where the dispute involves a 'default notice', the timeframe for handling a complaint or dispute at IDR under RG 165.88(b) does not apply.
- RG 165.105 Instead, you must give a final response to the disputant within a maximum of 21 days (unless the dispute relates to a hardship notice or a request for postponement of enforcement proceedings, which was previously sought and rejected or not considered, as described at RG 165.120, in which case the

disputant may have their dispute handled directly at EDR once the timeframes in the National Credit Code have passed).

- RG 165.106 A 'final response' requires that you must write to the disputant within 21 days, informing them of:
- (a) the final outcome of their dispute at IDR;
 - (b) their right to take their dispute to EDR; and
 - (c) the name and contact details of the relevant EDR scheme to which they can take their dispute.

Note: If you are an unlicensed COI lender and have not joined an EDR scheme, to give a 'final response', you must inform the disputant of the final outcome of their dispute at IDR within 21 days.

- RG 165.107 You do not need to provide a final response when a dispute (except for a dispute relating to hardship) is resolved to the disputant's complete satisfaction *by the end of the fifth business day* after the dispute was received and the disputant has not requested a response in writing.

- RG 165.108 If you are required to be a member of an ASIC-approved EDR scheme, or you are an unlicensed COI lender and have joined an EDR scheme, and you are unable to give a final response within 21 days, you must, before the end of the 21 days:

- (a) inform the disputant of the reasons for the delay;
- (b) advise the disputant of their right to complain to EDR; and
- (c) provide the disputant with the name and contact details of the relevant EDR scheme to which they can complain.

Note: If you are an unlicensed COI lender and have not joined an EDR scheme, you must, before the end of the 21 days, inform the disputant of the reasons for the delay.

- RG 165.109 While the dispute is being handled at IDR during the 21 days, and for a reasonable time thereafter, credit providers (including debt collectors), credit service providers, their credit representatives and unlicensed COI lenders must refrain from commencing or continuing with legal proceedings or any other enforcement action (i.e. debt collection activity), unless the statute of limitations is about to expire.

Note: We also expect industry participants to refrain from commencing or continuing with legal proceedings or any other enforcement action (i.e. debt collection activity), unless the statute of limitations is about to expire, while an application for hardship or request for postponement of enforcement proceedings is being addressed under RG 165.116.

- RG 165.110 This will enable the dispute to be genuinely handled at IDR and also allow the disputant a reasonable opportunity to lodge their dispute with an EDR scheme if the dispute cannot be successfully resolved at IDR.

RG 165.111 We expect that a sufficient timeframe ‘thereafter’ for a disputant to complain to EDR will be at least 14 days from giving a ‘final response’ at IDR under RG 165.105 and RG 165.106, but may be longer, depending on the particular circumstances of the dispute (e.g. if the disputant needs more time to lodge a dispute at EDR because they have reading and writing difficulties).

Urgent credit disputes involving hardship notices or requests for postponement of enforcement proceedings

RG 165.112 Under the National Credit Code, a borrower or guarantor may give a hardship notice or request a postponement of enforcement proceedings. A lessee may also give a hardship notice or request a postponement of enforcement proceedings in relation to leases entered into on or after 1 March 2013.

RG 165.113 Credit providers and lessors must have a dedicated telephone number and, where possible, a fax number, postal address and email address to accept and handle hardship notices.

RG 165.114 Credit providers, credit service providers, lessors and unlicensed COI lenders must treat disputes involving hardship notices or postponement of enforcement proceedings as urgent matters.

RG 165.115 We expect that credit providers, credit service providers, lessors and unlicensed COI lenders will have systems in place to easily identify a dispute involving hardship or postponement of enforcement proceedings.

RG 165.116 Where a dispute relates to a hardship notice or request for postponement of enforcement proceedings, the following maximum timeframes at IDR will apply:

- (a) the credit provider or lessor has 21 days to consider and agree to a change in the terms of the credit contract or lease for hardship under s72 and 177B of the National Credit Code, or 21 days to consider and agree to the request for postponement of enforcement proceedings under s94 and s179H of the National Credit Code; or
- (b) if further information is requested, the credit provider or lessor has the additional time allowed for credit contracts or leases entered into on or after 1 March 2013, under s72 and s177B of the National Credit Code (up to 28 days from the date the information is requested, but not received, or up to 21 days from when the information is considered by the credit provider or lessor to be received).

There will be no further time at IDR to handle the dispute (unless RG 165.118 applies) and the disputant should be referred to the relevant EDR scheme that can directly handle the dispute.

Note 1: See Information Sheet 105 *Dealing with consumers and credit* (INFO 105) for more information on timeframes for responding to a hardship notice when further information is required.

Note 2: Transitional arrangements apply to RG 165.116, RG 165.118 and RG 165.119. From 4 April 2013 to 1 March 2014, the maximum timeframes summarised in Figure 1 will apply, even though credit providers and lessors are exempt from having to confirm in writing:

- until 30 days after an agreement is made, that they have agreed to a change in the terms of the credit contract or lease for either within 21 days or, if further information is requested, within the additional time allowed for credit contracts or leases entered into on or after 1 March 2013, under s72 and 177B of the National Credit Code; and
- the particulars of the change to the terms of the credit contract or lease when the agreement is a simple arrangement. A simple arrangement is an agreement that defers or reduces the obligations of a debtor for a period of no more than 90 days.

See regs 69A and 69B of the National Credit Amendment Regulations.

We expect credit providers and lessors will still consider and respond to requests for a change to the terms of the credit contract or lease for hardship and advise the terms of the agreement for simple arrangements within the timeframes under the National Credit Code.

RG 165.117 We confirm in RG 139 that the Terms of Reference of the EDR scheme may allow the scheme a discretion to refer the dispute back to IDR for a maximum of 14 days where it may be appropriate to do so, when no agreement is reached within the 21 days (or within the additional time allowed for credit contracts entered into on or after 1 March 2013 under the National Credit Code, if further information is required to assess a hardship notice).

RG 165.118 Where a hardship notice has been given or request for postponement of enforcement proceedings has been made, and agreement has been reached under s72, 94 177B or 179H of the National Credit Code, the credit provider or lessor has a further 30 days under s73 or 177C of the Code to confirm in writing the terms of change to the credit contract or lease, or a further 30 days under s95 or 179J of the Code to confirm in writing the conditions of postponement of enforcement proceedings. *There will be no further time at IDR to handle the dispute and the disputant should be referred to the relevant EDR scheme that can directly handle the dispute.*

Note: See the note to RG 165.116 for transitional arrangements that apply.

RG 165.119 The disputant must be informed of the right to complain to EDR and the name and contact details of the relevant EDR scheme when:

- (a) the disputant is advised in writing within 21 days whether they have been granted a change to the terms of their credit contract or lease for hardship or their request for postponement of enforcement proceedings has been agreed to (or within the additional time allowed for credit contracts entered into on or after 1 March 2013 under the National Credit Code, if further information is required to assess a hardship notice); and

- (b) a change or request has been agreed to, the disputant is notified in writing of the terms of the change or conditions of postponement within a further 30 days from when agreement is reached (if reached within 21 days, or within the additional time allowed for credit contracts entered into on or after 1 March 2013 under the National Credit Code, if further information is required to assess a hardship notice).

Note 1: This requirement does not apply to an unlicensed COI lender who has not joined an EDR scheme.

Note 2: See the note to RG 165.116 for transitional arrangements that apply. Between 4 April 2013 and 1 March 2013, we expect credit providers and lessors will comply with RG 165.119(b) and, for simple arrangements, will verbally inform disputants of the right to complain to EDR and the name and contact details of the relevant EDR scheme when a simple arrangement is agreed to.

- RG 165.120 We recognise that disputes involving hardship notices or postponement of enforcement proceedings may also involve issues relating to default notices. We clarify that a disputant may lodge their dispute directly with an EDR scheme where the dispute involves a default notice, issued after a credit provider or credit service provider has considered and/or decided not to grant a change to the terms of the credit contract or lease for hardship or postponement of enforcement proceedings. Where this is the case, RG 165.116, RG 165.117 and RG 165.118 will apply.

Multi-tiered IDR procedures

- RG 165.121 The timeframe of 45 days discussed at RG 165.88–RG 165.94, or 90 days discussed at RG 165.95–RG 165.101, also applies to financial service providers that operate multi-tiered IDR procedures—that is, IDR procedures that include internal appeals or escalation mechanisms.
- RG 165.122 The timeframe of 45 days, unless different timeframes apply for certain types of credit disputes, discussed at RG 165.88–RG 165.120 also applies to credit licensees and unlicensed COI lenders that operate multi-tiered IDR procedures.
- RG 165.123 We believe that complainants and disputants should have the same rights to access EDR whether or not the financial services provider, credit provider, credit service provider or unlicensed COI lender they complain to uses a multi-tiered complaints or disputes procedure.

Other matters

- RG 165.124 The regulations also expressly state that we may have regard to any other matter we consider relevant when making requirements for IDR procedures: see regs 7.6.02(1)(b) and 7.9.77(1)(b), Corporations Regulations, and reg 10(1)(b) and Sch 2, National Credit Regulations.

RG 165.125 After reviewing AS ISO 10002–2006 for the purposes of this guide, we believe that there are two other specific requirements with which your IDR procedures must comply.

Documenting IDR procedures

RG 165.126 IDR procedures need to be documented to:

- (a) enable the relevant staff to understand and follow the procedures;
- (b) promote accountability and transparency of the procedures;
- (c) facilitate the ease of understanding and accessibility of the procedures for consumers (i.e. via the production of user-friendly guides); and
- (d) facilitate the self-certification process for AFS licence and credit licence applicants.

RG 165.127 The need to document IDR procedures and the process for doing so also ensures that effective procedures are properly thought out and established.

RG 165.128 The requirement to document IDR procedures includes setting out in writing:

- (a) the procedures and policies for:
 - (i) receiving complaints or disputes;
 - (ii) investigating complaints or disputes;
 - (iii) responding to complaints or disputes within appropriate time limits;
 - (iv) referring unresolved complaints or disputes to an EDR scheme;
 - (v) recording information about complaints or disputes; and
 - (vi) identifying and recording systemic issues;
- (b) the types of remedies available for resolving complaints or disputes; and
- (c) internal structures and reporting requirements for complaint or dispute handling.

RG 165.129 You should provide a copy of the procedures to all relevant staff. A simple and easy-to-use guide to the procedures should also be made available to consumers, either on request or when they want to make a complaint or dispute.

Links between IDR procedures and EDR schemes

RG 165.130 For a dispute resolution system to be fully effective, you need to establish appropriate links between individual IDR procedures and the relevant EDR scheme for those complaints or disputes that you cannot resolve directly.

Your IDR procedures must therefore provide that, if a complaint or dispute has been through the IDR process but remains unresolved, or is not resolved within the appropriate time limits, the relevant complaints or disputes handling staff will:

- (a) inform the complainant or disputant that they have a right to pursue their complaint or dispute with an EDR scheme; and
- (b) provide details about how to access the relevant EDR scheme.

RG 165.131 You are also required to provide details about how a consumer can access the relevant EDR scheme in any:

- (a) Financial Services Guide (s942B(2)(h) and 942C(2)(i), Corporations Act) or PDS (s1013D(1)(g), Corporations Act) that you issue; and
- (b) Credit Guide that you issue as a credit provider (s126, 127, 149, 150 and 160, National Credit Act), credit service provider (s113, 136, National Credit Act), and credit representative (s158, National Credit Act), or that you are required to give if you are a credit licensee or credit representative authorised by a credit provider to collect debt (s160, National Credit Act).

RG 165.132 If you are a securitisation body, you must ensure that a Credit Guide is given to a consumer as soon as you become aware that you will enter into a credit contract or consumer lease: see reg 25G and Sch 3, National Credit Regulations. Informing consumers and investors about the availability of the EDR scheme in this way ensures that they know what further steps they may take to pursue an unresolved complaint or dispute.

Note: Unlicensed COI lenders who have not joined an ASIC-approved EDR scheme do not need to establish appropriate links between IDR procedures and EDR schemes. However, where unlicensed COI lenders have joined an EDR scheme, we encourage the development of IDR procedures with appropriate links to EDR. This can be achieved by meeting the requirements in RG 165.130.

Applying for an AFS licence or credit licence: Self-certification

RG 165.133 To obtain an AFS licence or credit licence, an entity that is subject to the dispute resolution provisions must self-certify that its IDR procedures comply with our requirements.

RG 165.134 You will also need to provide us with details of the position within your organisation that is responsible for the operation of the IDR procedures.

RG 165.135 To self-certify you will have to answer a series of questions about your IDR procedures and about how you have satisfied yourself that your IDR procedures comply with our requirements.

- RG 165.136 The self-certification and further information will be obtained:
- (a) from licensees during the licence application process; and
 - (b) from unlicensed product issuers and unlicensed secondary sellers either when they lodge a PDS under s1015B or give notice that a PDS is in use under s1015D.

Note: We can cancel an AFS licence or credit licence if information in an application is false in a material particular or is materially misleading, or an application has omitted a material matter: see s915C(2), Corporations Act and s54, National Credit Act.

- RG 165.137 You may have existing IDR procedures that you rely on to meet current licensee obligations or industry standards. If so, you should review these procedures against this guide before you provide us with your self-certification.

C Guidelines for membership of one or more ASIC-approved EDR schemes

Key points

AFS licensees, unlicensed secondary sellers and unlicensed product issuers are required to be members of one or more ASIC-approved EDR schemes that covers, or together cover, complaints made by retail clients (other than complaints that may be dealt with by the SCT).

Credit licensees and credit representatives are also required to be a member of one or more ASIC-approved EDR schemes that can handle disputes relating to the credit activities they engage in.

Unlicensed COI lenders may choose to become a member of an ASIC-approved EDR scheme.

Securitisation bodies and trustee companies providing traditional services must also be members of an ASIC-approved EDR scheme.

EDR scheme membership

EDR scheme membership under the Corporations Act

RG 165.138 If you are an AFS licensee, unlicensed product issuer or unlicensed secondary seller, you are required to be a member of one or more ASIC-approved EDR schemes that covers, or together cover, complaints made by retail clients in relation to the financial services provided (other than complaints that may be dealt with by the SCT): see s912A(2)(b) and 1017G, Corporations Act.

Note: See RG 165.6–RG 165.10 for further information on the jurisdiction of the SCT.

RG 165.139 Unlicensed product issuers and unlicensed secondary sellers are also required to notify us of their EDR scheme membership details at the time they lodge a copy of their first PDS with us (see s1015B, Corporations Act) or at the time they issue their first PDS (see s1015D, Corporations Act).

EDR scheme membership under the National Credit Act

Credit licensees and credit representatives

RG 165.140 Credit licensees must be a member of one or more ASIC-approved EDR schemes that covers, or together cover, disputes in relation to the credit activities engaged in by the licensee and its credit representatives: see s11 and 47, National Credit Act.

RG 165.141 In addition to their credit licensee's EDR scheme membership, credit representatives must also be a separate member of an EDR scheme to remain authorised to act on behalf of their credit licensee: see s64 and 65, National Credit Act. However, employees or directors of a credit representative who is a body corporate, that have been sub-authorised by that body corporate as credit representatives under s65(1) of the National Credit Act, will not need to be a separate member of an ASIC-approved EDR scheme: see reg 16, National Credit Regulations.

Note: We clarify EDR scheme arrangements in RG 139, particularly where a complaint or dispute involves more than one licensee (whether a credit licensee or AFS licensee) that are members of different ASIC-approved EDR schemes.

Unlicensed COI lenders

RG 165.142 If you are an unlicensed COI lender, you are not required to be a member of an ASIC-approved EDR scheme, but may choose to become a member.

Note: Unless otherwise mentioned, references to unlicensed COI lenders also include reference to prescribed unlicensed COI lenders.

RG 165.143 If you are an unlicensed COI lender and you choose not to become a member of an EDR scheme, you must keep a register of each of the following:

- (a) disputes relating to your carried over instruments;
- (b) hardship notices made under s72 and 177B of the National Credit Code; and
- (c) requests for postponement of enforcement proceedings under s94 and 179H of the National Credit Code.

Note 1: See Sch 2 of the National Credit Regulations as inserted by item 32 of Sch 1 of the National Consumer Credit Protection Amendment Regulations 2010 (No. 2) for the detailed information the registers must include.

Note 2: The specific information that must be kept on the disputes register, including the name of the disputant, the date of the dispute, the details of the substance of the dispute and the details of the outcome of the dispute, is in addition to the requirement at Section B that unlicensed COI lenders have IDR procedures that incorporate Section 8.1—Collection of information in AS ISO 10002–2006: see RG 165.82 and Appendix 1.

Securitisation bodies

RG 165.144 If you are a securitisation body, you may be exempt from having to hold a credit licence if you:

- (a) enter into a servicing agreement with a credit licensee under which the credit licensee acts on your behalf; and
- (b) are a member of an ASIC-approved EDR scheme.

Note: See regs 23B and 23C of the National Credit Regulations.

When will an entity subject to the dispute resolution provisions be required to join more than one ASIC-approved EDR scheme?

RG 165.145 Some EDR schemes are limited in coverage to a particular industry or industries. This means that an entity that is subject to the dispute resolution provisions and that provides a broad range of financial products and services or credit activities may need to join more than one scheme to meet its EDR obligations.

Confirming EDR scheme membership

AFS licensees

RG 165.146 If you are an AFS licensee, you must show us that you are a member of an ASIC-approved EDR scheme or schemes, as required under the dispute resolution provisions. This means that, when applying for an AFS licence, you will need to provide us with:

- (a) proof of your membership of an ASIC-approved EDR scheme or schemes, including proof of the date you became a member; and
- (b) details of the position(s) within your organisation with primary responsibility for dealing with the EDR scheme(s) in respect of complaints.

Unlicensed product issuers and unlicensed secondary sellers

RG 165.147 If you are an unlicensed product issuer or an unlicensed secondary seller, you must show us that you are a member of an approved EDR scheme or schemes, as required under the dispute resolution provisions. This means that, when you first issue a PDS, you will need to provide us with:

- (a) proof of your membership of an ASIC-approved EDR scheme or schemes, including proof of the date you became a member; and
- (b) details of the position(s) within your organisation with primary responsibility for dealing with the EDR scheme(s) in respect of complaints,

either when you first lodge a PDS under s1015B of the Corporations Act, or give notice that a PDS is in use under s1015D.

Credit licensees

RG 165.148 If you are a credit licensee, you must show us that you are a member of an ASIC-approved EDR scheme or schemes. This means that, when applying for a credit licence with us, you will need to include in your application:

- (a) details of your membership of an ASIC-approved EDR scheme or schemes, including the date you became a member; and
- (b) where you have credit representatives, details of whether you have, or will have, processes in place to ensure that your credit representatives are members of an ASIC-approved EDR scheme.

Note: See RG 203.

RG 165.149 We expect that you will have processes in place to know when your credit representatives change their EDR scheme membership or cease to be members of an EDR scheme.

Credit representatives

RG 165.150 Credit licensees and credit representatives who have sub-authorized a person, other than an employee or director under s65 of the National Credit Act, must ensure that the person to whom they give an authorisation under s64 or 65 of the National Credit Act (credit representative) is a separate member of an ASIC-approved EDR scheme. If you are a credit representative, you must also be a member of an ASIC-approved EDR scheme.

RG 165.151 If you are not a member of an ASIC-approved EDR scheme at the time of your purported authorisation, your authorisation will not have effect: s64(4)(a) and (5)(c), and s65(5)(c) and (6)(c), National Credit Act.

RG 165.152 You must also continue to be a member of an ASIC-approved EDR scheme for your authorisation to remain valid. If your membership of an ASIC-approved EDR scheme ceases, your authorisation will also cease to have effect: s64(4)(b) and (5)(c), and s65(5)(b) and (6)(c), National Credit Act.

RG 165.153 If you have been given an authorisation and it is of no effect because you cease to be a member of a scheme, the credit licensee or body corporate credit representative who authorised you may have committed an offence: s69, National Credit Act.

RG 165.154 The person who authorised you must also revoke your authorisation: s70, National Credit Act. When your authorisation is revoked, the credit licensee or body corporate representative who authorised you must notify us of the name of the EDR scheme of which you were a member and the date on which you ceased to be an authorised representative.

Unlicensed COI lenders

RG 165.155 If you are an unlicensed COI lender, you must join an EDR scheme and notify ASIC of your EDR scheme membership and the name of the EDR scheme you have joined: see Form COI1 *Notice of carried over instruments*.

Note: Unless otherwise mentioned, references to unlicensed COI lenders also include reference to prescribed unlicensed COI lenders.

Securitisation bodies

RG 165.156 If you are a securitisation body, the credit licensee who acts on your behalf must notify us when they enter into a servicing agreement with you. In that notice, they must tell us the EDR scheme that you have joined: see Form CL13.

Changes to EDR scheme membership: Notification and consequences

AFS licensees and credit licensees

RG 165.157 If your membership of an approved EDR scheme is not renewed, or is terminated, and you are not a member of an alternative ASIC-approved EDR scheme that can deal with all relevant complaints or disputes, you will fail to comply with one of your licensee obligations and, in the case of a credit representative, will no longer be authorised to act on behalf of your credit licensee. We may consider taking action against you.

RG 165.158 If you are an AFS licensee or a credit licensee, you must advise us if you change your membership from one ASIC-approved EDR scheme to another.

Note: see Form CL20 *Notification of change of credit licence details* and Form FS20 *Change of details for an Australian financial services licence*.

RG 165.159 If you are an AFS licensee or credit licensee, you must provide us with a written report as soon as practicable, and no later than three business days, after becoming aware that:

- (a) you failed to renew your membership of an ASIC-approved EDR scheme or schemes; or
- (b) your membership of an approved EDR scheme was terminated because of failure to pay membership fees, non-compliance with the Terms of Reference or a decision of that scheme.

The written report should set out the reasons for the circumstances in RG 165.158(a) or (b) above.

Note: See Condition 33, Pro Forma 209 *Australian financial services licence conditions* (PF 209), the 'External dispute resolution requirements' condition at paragraph 13,

Pro Forma 224 *Australian credit licence conditions* (PF 224) and Regulatory Guide 78 *Breach reporting by AFS licensees* (RG 78).

- RG 165.160 Under s71 of the National Credit Act, you must notify us whenever the status of your credit representatives' EDR scheme membership changes, including:
- (a) when you authorise new credit representatives—you must inform us of the ASIC-approved EDR scheme or schemes to which your credit representative belongs, including the date they became a member. You must notify us in writing within 15 business days of your credit representative's authorisation; and
 - (b) when your credit representative changes their EDR scheme membership or you revoke authorisation of a credit representative—you must notify us within 10 business days of the change in EDR scheme membership or revocation.

Note: See RG 205.

- RG 165.161 If you are an unlicensed COI lender, and you have joined an EDR scheme, you must notify us of changes to your EDR scheme membership.

Note: See RG 202 and Form COI2 *Change of details for unlicensed carried over instrument lender and prescribed unlicensed carried over instrument lender*.

- RG 165.162 It is a condition of approval of an EDR scheme that the operators of the scheme inform us of any non-compliance by a scheme member and of any membership that is terminated. Under RG 139, operators of the scheme must inform us of systemic issues and serious misconduct. As a condition of approval under RG 139, we require the Terms of Reference of the EDR scheme to allow the scheme to terminate the membership of a non-compliant member. RG 139 further stipulates that a scheme should not terminate a member's membership without informing us. This is important because we may need to consider further action against the member.

- RG 165.163 We want to prevent a member whose membership has been terminated from one scheme from simply joining another scheme without our knowledge. On being informed that a member has:

- (a) been non-compliant with the rules of a scheme;
- (b) been terminated from membership of a scheme; or
- (c) failed to renew membership of a scheme,

we have a number of options for dealing with the matter. Where that member is an AFS licensee or a credit licensee we can, in the most serious cases, convene a hearing to determine whether the AFS licence or credit licence should be suspended or cancelled: see s915C, Corporations Act and s55, National Credit Act.

Unlicensed product issuers and unlicensed secondary sellers

- RG 165.164 If you are an unlicensed product issuer or an unlicensed secondary seller, you must make sure that you have a dispute resolution system in place, as required under the dispute resolution provisions, at the time that you first issue a PDS: see RG 165.139. Failure to have such a system in place for your retail clients is an offence.

Securitisation body

- RG 165.165 If you are a securitisation body, and you have not elected to be regulated as a credit licensee, you must be a member of an ASIC-approved EDR scheme (from 1 April 2011) and have a servicing agreement with a credit licensee who acts on your behalf.

Note: If you are not a member of an ASIC-approved EDR scheme, you will be committing an offence: s29 of the National Credit Act.

Appendix 1: IDR procedures and the standards

Appendix 1 provides guidance on how ASIC will apply the Australian Standard on Complaints Handling to IDR procedures.

Table 2 shows the Guiding Principles of Section 4, and Section 5.1—Commitment, Section 6.4—Resources, Section 8.1—Collection of information, and Section 8.2—Analysis and evaluation of complaints, of the Australian Standard on Complaints Handling (AS ISO 10002–2006).

Where possible, we give examples of how the Guiding Principles and relevant Sections of AS ISO 10002–2006 might operate in practice. These Guiding Principles and Sections may apply differently depending on the size and nature of your business.

You will need to obtain a copy of the relevant standard and be aware of its requirements. Copies can be obtained from the SAI Global website at infostore.saiglobal.com.

Table 2: Application of the Guiding Principles and Sections 5.1, 6.4, 8.1 and 8.2 of AS ISO 10002–2006 to the financial services and credit industries

AS ISO 10002–2006 reference	More detailed guidance
Guiding Principle 4.2 (Visibility)	<p>You should take reasonable steps to ensure that consumers, investors, other interested parties (i.e. consumer representatives) and, where you provide traditional services, persons who may request an information return (e.g. beneficiaries) know about the existence of your IDR procedures and how to make a complaint or dispute, give a hardship notice or request a postponement of enforcement proceedings.</p> <p>This information should be readily available, not just at the time a consumer or investor wishes to make a complaint or dispute.</p> <p>It is a requirement to include information about IDR procedures in Financial Services Guides and PDSs, as well as Credit Guides, including how the procedures can be accessed.</p> <p>You should make details about your IDR procedures available in a convenient and accessible form.</p> <p>The details could be on your website or in a short document that is handed to customers when a complaint or dispute is made or on request. The document could set out what a complainant or disputant must do to lodge a complaint or dispute and how you undertake to deal with the complaint or dispute.</p> <p>All staff who deal with customers, not just complaints or disputes handling staff, should also have an understanding of the IDR procedures.</p>
Guiding Principle 4.3 (Accessibility)	<p>You should have simple and accessible arrangements for making complaints or disputes.</p> <p>Complaints or disputes do not need to be in writing and, in some cases, insisting that complaints or disputes are in writing can be a disincentive to the complainant or disputant—for example, if the complainant or disputant has poor writing skills. Where a complainant or disputant has limited literacy skills, the complainant or disputant should be assisted with filling in forms or given help in expressing their complaint or dispute more clearly.</p> <p>The IDR procedure should enable complainants or disputants to make a complaint or dispute by any reasonable means—for example, by letter, telephone, email or in person.</p> <p>To enable complaints or disputes to be made orally, a toll-free or local call fee facility could be made available, especially if your organisation is a large–medium sized business.</p> <p>Where complainants or disputants have special needs, the availability of interpreters and staff who are cross-culturally trained or trained to cater for special needs should be provided.</p> <p>Information about making and resolving complaints or disputes should be easy to understand and in plain English. So as not to disadvantage complainants or disputants, the information should also be made available in alternative formats, such as translated into other languages, printed in large print, Braille or made available on audiotape.</p>
Guiding Principle 4.4 (Responsiveness)	<p>Your IDR procedures should include clear response times for dealing with a complaint or dispute and the complainant or disputant should be made aware of these response times.</p> <p>As a general rule, you should aim to acknowledge receipt of a complaint or dispute immediately.</p>

AS ISO 10002–2006 reference	More detailed guidance
<p>Guiding Principle 4.4 (Responsiveness) <i>cont.</i></p>	<p>Where immediately acknowledging receipt of a complaint or dispute is not possible, acknowledgement should be made as soon as practicable.</p> <p>You must respond to complaints or disputes promptly in accordance with the urgency of the complaint or dispute. This involves prioritising complaints and disputes.</p> <p>We consider that you must provide a final response to a complaint or dispute within a maximum of 45 days (or 21 days for disputes involving default notices; or 90 days for traditional services complaints).</p> <p style="padding-left: 40px;">Note: The time limit of 45 days will not apply in those instances while the effect of either s101 of the SIS Act or s47 of the RSA Act is maintained. Each of these provisions allows a maximum time limit of 90 days for responding to a complaint or inquiry.</p> <p>The requirement to provide a final response does not apply when the complaint or dispute (except for a complaint or dispute relating to hardship, a declined insurance claim, or the value of an insurance claim) is resolved to the complainant's or disputant's complete satisfaction <i>by the end of the fifth business day</i> after the complaint or dispute is received and the complainant or disputant has not requested a response in writing.</p> <p>If you cannot provide a final response to the complainant or disputant within 45 days (or 21 days for disputes involving default notices; or 90 days for traditional services complaints), you must inform the complainant or disputant of the status of the complaint or dispute, the reasons for the delay, the right to complain to an ASIC-approved EDR scheme and provide the name and contact details of the relevant scheme. By providing a final response to a complaint or dispute, we mean that you must accept the complaint or dispute and, where appropriate, offer redress that will be the final result at IDR.</p> <p style="padding-left: 40px;">Note: If you are an unlicensed COI lender or prescribed unlicensed COI lender and you have not joined an EDR scheme, you will not need to inform the disputant of the right to complain to an ASIC-approved EDR scheme and the name and contact details of the relevant scheme.</p> <p>Where the dispute involves a hardship notice or request for postponement of enforcement proceedings, you must:</p> <ul style="list-style-type: none"> • when you inform the disputant whether you will grant a change to the terms of the credit contract or lease for hardship or the request has been agreed to within 21 days under the National Credit Code (or within the additional time allowed for credit contracts entered into on or after 1 March 2013 under the National Credit Code, if further information is required to assess the hardship notice), inform the disputant in writing of the right to complain to an ASIC-approved EDR scheme and provide the name and contact details of the relevant scheme; and • when you write to the disputant confirming the terms of the change or conditions of postponement of enforcement proceedings within the further 30 days after agreement is reached (if agreement is reached within 21 days or, if agreement is reached, within the additional time allowed for credit contracts entered into on or after 1 March 2013 under the National Credit Code, where further information is required to assess the hardship notice)—inform the disputant in writing of the right to complain to an ASIC-approved EDR scheme and provide the name and contact details of the relevant scheme. <p style="padding-left: 40px;">Note 1: If you are an unlicensed COI lender or prescribed unlicensed COI lender and you have not joined an EDR scheme, you will not need to inform the disputant of the right to complain to an ASIC-approved EDR scheme and the name and contact details of the relevant scheme.</p>

AS ISO 10002–2006 reference	More detailed guidance
<p>Guiding Principle 4.4 (Responsiveness) <i>cont.</i></p>	<p>Note 2: Transitional arrangements apply. From 4 April 2013 to 1 March 2014, the maximum timeframes summarised in Figure 1 will apply, even though credit providers and lessors are exempt from having to confirm in writing:</p> <ul style="list-style-type: none"> • until 30 days after an agreement is made, that they have agreed to a change in the terms of the credit contract or lease for hardship, either within 21 days or, if further information is requested, within the additional time allowed for credit contracts or leases entered into on or after 1 March 2013, under s72 and 177B of the National Credit Code.; and • the particulars of the change to the terms of the credit contract or lease when the agreement is a simple arrangement. A simple arrangement is an agreement that defers or reduces the obligations of a debtor for a period of no more than 90 days. <p>See regs 69A and 69B of a National Credit Amendment Regulations.</p> <p>We expect credit providers and lessors will still consider and respond to requests for a change to the terms of the credit contract or lease for hardship and advise the terms of an agreement for simple arrangements within the timeframes under the National Credit Code.</p> <p>It is important that consumers and investors are kept informed of the progress of their complaints or disputes, and progress of their hardship application or request for postponement of enforcement proceedings.</p> <p>For traditional services complaints, it is also important that other persons who may request an information return, and who may reasonably have an interest in the outcome of a traditional services complaint (e.g. other beneficiaries), are kept informed of the progress of the complaint at key stages in the IDR process.</p> <p>It may be reasonable for you to consider shorter timeframes:</p> <ul style="list-style-type: none"> • for different types of complaints or disputes (e.g. administrative complaints or disputes, performance-related complaints or disputes, or advice-related complaints or disputes); and • depending on the size of your organisation, the client base and the types of products and services offered under the AFS licence or credit licence. <p>You should also take into account any timeframes for responding to complaints or disputes, as set out in relevant industry codes of conduct (where shorter).</p> <p>Where the complaint or dispute is resolved to the complainant or disputant's complete satisfaction <i>by the end of the fifth business day</i> after the complaint or dispute was received, you will not be required to apply the full IDR process (i.e. in terms of capturing and recording complaints or disputes).</p> <p>Note: If you are an unlicensed COI lender and have chosen not to join an EDR scheme, you must still capture and record details of the dispute: see RG 165.143(a).</p>
<p>Guiding Principle 4.5 (Objectivity)</p>	<p>Each complaint or dispute should be addressed in an equitable, objective and unbiased manner through the complaints or disputes handling process.</p> <p>This requires that:</p> <ul style="list-style-type: none"> • IDR procedures should allow adequate opportunity for each party to make their case (and where a credit dispute involves a credit representative, for the credit representative to provide relevant information to its credit licensee). • IDR procedures should allow for other persons who may request an information return (e.g. beneficiaries), and who may reasonably have an interest in the outcome of a traditional services complaint, to be identified, notified and their views considered, where relevant to the efficient and fair handling of the complaint.

AS ISO 10002–2006 reference	More detailed guidance
Guiding Principle 4.5 (Objectivity) <i>cont.</i>	<ul style="list-style-type: none"> Wherever possible, a complaint or dispute should be investigated by staff not involved in the subject matter of the complaint or dispute. We recognise that this will not always be possible for a small–micro sized business. <p>In responding to complaints or disputes, you should give reasons for reaching a decision on the complaint or dispute and adequately address the issues that were raised in the initial complaint or dispute. We consider that, where practicable, reasons for a decision should be in writing and should refer to applicable provisions in legislation, codes, standards or procedures.</p>
Guiding Principle 4.6 (Charges)	<p>We consider that:</p> <ul style="list-style-type: none"> material explaining IDR procedures should be provided free of charge to complainants or disputants; and complainants or disputants should not have to pay to access the complaints or disputes handling process.
Guiding Principle 4.7 (Confidentiality)	<p>Personally identifiable information concerning the complaint or dispute should not be disclosed, unless it is needed for the purposes of addressing the complaint or dispute. This type of information should be actively protected from disclosure.</p> <p>Disclosure can only otherwise be made if the customer, complainant or disputant expressly gives their consent.</p>
Guiding Principle 4.8 (Customer-focused approach)	<p>The organisation should adopt a customer-focused approach (including being helpful, user-friendly and communicating in plain English), be open to feedback and show commitment to resolving complaints or disputes by its actions.</p> <p>For credit licensees, this is particularly important where disputes involve default notices and hardship notices or requests for postponement of enforcement proceedings.</p>
Guiding Principle 4.9 (Accountability)	<p>Reports about complaints or disputes should be prepared for the top management of your organisation. These reports should also include the actions taken and decisions made in respect of complaints or disputes.</p> <p>Data about your complaints or disputes, including the actions taken and decisions made, should also be available for inspection by us in certain situations—for example, during surveillance.</p>
Guiding Principle 4.10 (Continual improvement)	<p>The continual improvement of the complaints or disputes handling process and the quality of products and services should be an ongoing objective of the organisation.</p> <p>This involves conducting regular reviews of IDR procedures to identify areas for improvement. The frequency of reviews may vary according to the size of the organisation and its complaints or disputes volumes. We consider that reviews should be conducted at least every 2–3 years to ensure that the complaints or disputes system is operating effectively. We consider that a larger organisation might benefit from an independent review.</p> <p>We also consider that for credit licensees with credit representatives, regular reviews should be conducted on how efficiently and effectively the IDR procedures are covering disputes involving credit representatives. We consider that an initial review should be conducted within the first year of holding a credit licence and may be conducted less frequently thereafter—for example, every 2–3 years or to align with other general reviews.</p>

AS ISO 10002–2006 reference	More detailed guidance
<p>Section 5.1—Commitment</p>	<p>The organisation should be actively committed to effective and efficient complaints or disputes handling.</p> <p>It is particularly important that commitment be shown by, and promoted from, the organisation’s top management.</p> <p>Such commitment should be reflected in the definition, adoption and dissemination of complaints handling policies and procedures.</p> <p>Management commitment should be shown by the provision of adequate resources, including training.</p> <p>This commitment can be demonstrated by:</p> <ul style="list-style-type: none"> • ensuring all relevant staff are aware of, and educated about, IDR procedures; • ensuring that adequate resources are allocated to IDR (see Section 6.4—Resources); and • implementing management systems and reporting procedures to ensure timely and effective complaints or disputes handling and monitoring. <p>For credit licensees with credit representatives, this will include ensuring there are sufficient resources devoted to adequately cover the handling of disputes involving credit representatives, and that the relevant staff of credit representatives are educated about the existence of the credit licensee’s IDR procedures (and how those IDR procedures will cover disputes involving credit representatives).</p>
<p>Section 6.4—Resources</p>	<p>Top management should ensure that the complaints or disputes handling process operates effectively and efficiently.</p> <p>Top management should also assess the need for resources and provide them without undue delay. This assessment should include having sufficient resources to offer some complainants or disputants assistance to make their complaint or dispute if needed.</p> <p>The selection, support and training of personnel involved in the complaints or disputes handling process are particularly important.</p> <p>The adequacy of resources also relates to documentation, specialist support, materials and equipment, computer hardware and software, and finances.</p> <p>We consider that, at a minimum, when implementing IDR procedures you should:</p> <ul style="list-style-type: none"> • establish a contact point for complainants or disputants; • nominate staff to handle complaints or disputes who have sufficient training and competence to deal with those complaints or disputes, including the authority to settle complaints or disputes or ready access to someone who has the necessary authority; and • ensure adequate systems are in place to handle complaints or disputes promptly, fairly and consistently. <p>For larger organisations with a large retail client or consumer base, ensuring adequate resources might include such matters as providing a toll-free/local call facility where complaints or disputes can be logged, and appointing sufficient staff to deal with complaints or disputes.</p> <p>For smaller organisations, adequate resources might include ensuring a senior staff member is available to deal with complaints or disputes.</p>

AS ISO 10002–2006 reference	More detailed guidance
Section 6.4—Resources <i>cont.</i>	For credit licensees with credit representatives, this will extend to ensuring that the complaints handling process operates effectively and efficiently to handle disputes involving credit representatives. This may involve devoting resources to develop contact persons so that credit representatives can refer disputes or disputants efficiently and effectively to their credit licensee’s IDR procedures.
Section 8.1—Collection of information	<p>You should establish a recording system for managing complaints or disputes, while protecting personal information and ensuring complainant or disputant confidentiality.</p> <p>The system should specify the steps for identifying, gathering, maintaining, storing and disposing of records.</p> <p>You should record your complaints or disputes handling and take the utmost care in maintaining and preserving such items as electronic files and magnetic recording media. Complaints or disputes handling data is a useful means of tracking compliance issues or risks. We may require you to produce complaints or disputes data in certain circumstances. You should, therefore, keep this data in an accessible form.</p>
Section 8.2—Analysis and evaluation of complaints	<p>All complaints or disputes should be classified and then analysed to identify systemic, recurring and single incident problems and trends. This will help eliminate the underlying causes of complaints or disputes.</p> <p>To do this, it will be important to be able to analyse complaints or disputes according to categories, such as type of complainant, subject of complaint, outcome of complaint, and timeliness of response.</p>

Appendix 2: Establishing or updating your dispute resolution system for credit, margin lending financial services and traditional services

Appendix 2 sets out questions to consider when establishing or updating your dispute resolution system for credit, margin lending financial services and traditional services to comply with the dispute resolution requirements covered in Sections B and C. You need to read Appendix 2 in conjunction with the corresponding section of this guide and Appendix 1.

Appendix 2 is not intended as a compliance checklist—it does not cover everything you need to consider, and it may cover some things that do not apply to you. You still need to consider your individual circumstances, including the size of your business, the range of products or services your business offers, your customer base, and the likely number and complexity of complaints or disputes.

We will continue to review and update Appendix 2 in light of our regulatory experience.

Table 3: Questions to consider

Coverage of IDR procedures	<ul style="list-style-type: none"> • Do your IDR procedures cover the majority of complaints and/or disputes you receive? • Do your IDR procedures cover individuals and small businesses, consumers, borrowers and guarantors (and, in the case of traditional services, persons who may request an information return (e.g. beneficiaries))?
AS ISO 10002–2006— Definition of ‘complaint’ and ‘dispute’	<ul style="list-style-type: none"> • Have you adopted the definition of ‘complaint’ in AS ISO 10002–2006?
AS ISO 10002–2006— Guiding Principles and Sections 5.1, 6.4, 8.1 and 8.2	<ul style="list-style-type: none"> • How will you ensure that complainants and disputants are aware of your IDR procedures and how to make a hardship notice or request for postponement of enforcement proceedings? • How will you identify and notify other persons who may request an information return (e.g. beneficiaries) and who may reasonably have an interest in the outcome of a traditional services complaint? • Will your IDR procedures be published on your website? • How can a complaint or dispute be made to you? • How will you prioritise disputes or complaints according to their urgency and the maximum IDR timeframes in this regulatory guide? • How will you inform the complainant or disputant of the right to complain to EDR and how to contact the EDR scheme if you cannot meet the maximum IDR timeframes? • How and when will you review your IDR procedures to ensure they are operating efficiently and effectively?

AS ISO 10002–2006— Guiding Principles and Sections 5.1, 6.4, 8.1 and 8.2 <i>cont.</i>	<ul style="list-style-type: none"> • Will training be provided to your staff on your dispute resolution procedures? • Who are your nominated staff for handling disputes or complaints? • Do you have adequate systems in place to handle disputes fairly, promptly and consistently? • Do you have a recording system for your complaints or disputes? • How will you collect and synthesise data about your complaints or disputes? Will you also be able to analyse the complaints and disputes for systemic, recurring or single incident problems and trends? • How will you know whether you have taken longer than five business days to resolve a complaint or dispute (except for complaints or disputes relating to hardship, a declined insurance claim, or the value of an insurance claim) to a customer's complete satisfaction, so you can give a 'final response'?
Documenting IDR procedures	<ul style="list-style-type: none"> • How and where do you document your IDR procedures? • Are your staff aware of and trained about your IDR procedures? • How and where do you make your IDR procedures available to consumers?
Links between IDR procedures and EDR schemes	<ul style="list-style-type: none"> • How do you inform complainants or disputants of their right to complain to EDR? • Do you give a final response? • Does your Financial Services Guide, PDS or Credit Guide inform a consumer about how they can access EDR?
EDR scheme membership	<ul style="list-style-type: none"> • Are you a member of an ASIC-approved EDR scheme? • Are your credit representatives a member of an ASIC-approved EDR scheme, and is the EDR scheme your credit representatives belong to different to your EDR scheme?

Key terms

Term	Meaning in this document
AFCA Act	<i>Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Act 2018</i>
AFS licence	An Australian financial services licence under s913B of the Corporations Act that authorises a person who carries on a financial services business to provide financial services Note: This is a definition contained in s761A of the Corporations Act.
AFS licensee	A person who holds an Australian financial services licence under s913B of the Corporations Act Note: This is a definition contained in s761A of the Corporations Act.
AS ISO 10002–2006	Australian Standard AS ISO 10002–2006 <i>Customer satisfaction—Guidelines for complaints handling in organizations</i> (ISO 10002:2004, MOD)
ASIC	Australian Securities and Investments Commission
ASIC Act	<i>Australian Securities and Investments Commission Act 2001</i>
beneficiary	Means: <ul style="list-style-type: none"> • a beneficiary under a deceased's will; • where a person has died without a will, a person who has an entitlement or interest in the deceased's estate under a state or territory law; • a person who has commenced a proceeding in a court under a state or territory law to be included as a beneficiary of a deceased's estate; and • a beneficiary of a trust (excluding charitable trusts) Note: See regs 7.1.28A and 5D.2.01 of the Corporations Regulations.
carried over instrument	Has the meaning given in s4 of the Transitional Act
[CO 09/339] (for example)	An ASIC class order (in this example numbered 09/339)
COI lender	A credit provider or lessor who only has a closed pool of carried over instruments as at 1 July 2010 and will not offer new credit contracts or consumer leases from 1 July 2010

Term	Meaning in this document
complainant	A person or company who at any time has: <ul style="list-style-type: none"> made a complaint to an AFS licensee, credit licensee, unlicensed product issuer, unlicensed secondary seller, unlicensed COI lender or any other person or business who must have IDR procedures that meet ASIC's approved standards and requirements; or lodged a complaint with a scheme about a scheme member that falls within the scheme's Terms of Reference or Rules
complaint	Has the meaning given in AS ISO 10002–2006
Corporations Act	<i>Corporations Act 2001</i> , including regulations made for the purposes of that Act
Corporations Regulations	Corporations Regulations 2001
credit	Credit to which the National Credit Code applies Note: See s3 and 5–6 of the National Credit Code.
credit activity (or credit activities)	Has the meaning given in s6 of the National Credit Act
credit contract	Has the meaning in s4 of the National Credit Code
Credit Guide	A document that must be provided to a consumer by a credit provider, credit service provider, credit representative or debt collector under the National Credit Act
credit licence	An Australian credit licence under s35 of the National Credit Act that authorises a licensee to engage in particular credit activities
credit licensee	A person who holds an Australian credit licence under s35 of the National Credit Act
credit provider	Has the meaning given in s5 of the National Credit Act
credit representative	A person authorised to engage in specified credit activities on behalf of a credit licensee under s64(2) or 65(2) of the National Credit Act
credit service	Has the meaning given in s7 of the National Credit Act
credit service provider	A person who provides credit services
declined insurance claim	This includes where an insured person (the retail client) makes a claim on an insurance policy and: <ul style="list-style-type: none"> the insurer declines or does not accept the claim; or the insurer does not determine the claim within 10 business days of receiving all the information necessary to do so

Term	Meaning in this document
disputant	<p>A person or small business who at any time has:</p> <ul style="list-style-type: none"> • a dispute with an AFS licensee, credit licensee, unlicensed product issuer, unlicensed secondary seller, unlicensed COI lender or any other person or business who must have IDR procedures that meet ASIC's approved standards and requirements; or • lodged a dispute with a scheme about a scheme member that falls within the scheme's Terms of Reference or Rules
dispute	Has the same meaning as complaint
EDR	External dispute resolution
EDR scheme (or scheme)	An external dispute resolution scheme approved by ASIC under the Corporations Act (see s912A(2)(b) and 1017G(2)(b)) and/or the National Credit Act (see s11(1)(a)) in accordance with our requirements in RG 139
final response	A response in writing required to be given to the complainant under RG 165, setting out the final outcome offered to the complainant at IDR, the right to complain to an ASIC-approved EDR scheme and the relevant name and contact details of the scheme
financial product	<p>Generally a facility through which, or through the acquisition of which, a person does one or more of the following:</p> <ul style="list-style-type: none"> • makes a financial investment (see s763B); • manages financial risk (see s763C); • makes non-cash payments (see s763D) <p>Note: See Div 3 of Pt 7.1 of the Corporations Act for the exact definition.</p>
financial service	Has the meaning given in Div 4 of Pt 7.1 of the Corporations Act
Financial Services Guide	<p>A document required by s941A or 941B to be given in accordance with Div 2 of Pt 7.7</p> <p>Note: This is a definition contained in s761A of the Corporations Act.</p>
financial service provider	A person who is an AFS licensee, unlicensed product issuer or unlicensed secondary seller
guardianship laws	Means the state and territory guardianship laws listed at Sch 8AC of the Corporations Regulations

Term	Meaning in this document
hardship notice	<p>Means:</p> <ul style="list-style-type: none"> for credit contracts entered into before 1 March 2013, to which the National Credit Code applies, an application for a change to the terms of the contract for hardship; and for credit contracts or leases entered into on or after 1 March 2013, to which the National Credit Code applies, a hardship notice under s72 or 177B (as modified by the <i>National Consumer Credit Protection Amendment (Enhancements) Act 2012</i>)
IDR	Internal dispute resolution
IDR procedures, IDR processes or IDR	Internal dispute resolution procedures/processes that meet the requirements and approved standards of ASIC under RG 165
information return	<p>A trustee company providing traditional services must give certain information to beneficiaries, settlors of trusts, and certain other parties within 30 days of a request.</p> <p>Such information must include:</p> <ul style="list-style-type: none"> the income earned on the trust's assets; the expenses of the trust, including remuneration, commission or other benefits received by the trustee company; and the net value of the trust's assets <p>Note: See s601RAC1(e) of the Corporations Act and regs 5D.2.01, 5D.2.02 and 7.1.28A of the Corporations Regulations.</p>
licensee	An AFS licensee or a credit licensee
licensee obligations	The obligations of an AFS licensee as set out in s912A and 912B of the Corporations Act and the requirement to be of good fame and character as included in s913B of the Corporations Act; and the obligations of a credit licensee as set out in s47 and 48 of the National Credit Act
margin lending financial service	<p>A margin lending financial service is:</p> <ul style="list-style-type: none"> a dealing in a margin lending facility; or the provision of financial product advice in relation to a margin lending facility
multi-tiered IDR procedures	IDR procedures that include internal appeals or escalation mechanisms
National Credit Act	<i>National Consumer Credit Protection Act 2009</i>
National Credit Code	National Credit Code at Sch 1 of the National Credit Act
National Credit Regulations	National Consumer Credit Protection Regulations 2010

Term	Meaning in this document
National Credit Amendment Regulations	National Consumer Credit Protection Amendment Regulation 2013 No 1
old Credit Code	Has the meaning given in s4 of the Transitional Act
PDS	Product Disclosure Statement
prescribed unlicensed COI lender	Has the meaning given in modified s5A of the National Credit Act, as inserted by item 2.5 of Sch 2 of the National Credit Regulations Note: In general terms, a prescribed unlicensed COI lender is an unlicensed COI lender who fails to meet certain probity requirements and who has restrictions placed on their conduct in relation to their carried over instruments. A prescribed unlicensed COI lender must not engage in credit activities with respect to their carried over instruments. They must instead appoint a credit licensee as a 'representative' to engage in credit activities on their behalf with respect to their carried over instruments.
Product Disclosure Statement (PDS)	A document that must be given to a retail client in relation to the offer or issue of a financial product in accordance with Div 2 of Pt 7.9 of the Corporations Act Note: See s761A for the exact definition.
reg 16 (for example)	A regulation of a set of regulations as specified (in this example numbered 16)
retail client	A client as defined in s761G of the Corporations Act and Ch 7, Pt 7.1, Div 2 of the Corporations Regulations
RG 139 (for example)	An ASIC regulatory guide (in this example numbered 139)
RSA Act	<i>Retirement Savings Account Act 1997</i>
RSA	A retirement savings account as defined in the Retirement Savings Accounts Act 1997
s64 (for example)	A section of an Act or Code as specified (in this example numbered 64)
SCT	Superannuation Complaints Tribunal, established under the <i>Superannuation (Resolution of Complaints) Act 1993</i>
securitisation body	Means a 'special purpose funding entity' (credit), which includes both: <ul style="list-style-type: none"> • a securitisation entity; and • a fundraising special purpose entity, as defined by s5 of the National Credit Act
servicing agreement	An agreement between a securitisation body and a credit licensee as defined in s5 of the National Credit Act
SIS Act	<i>Superannuation Industry (Supervision) Act 1993</i>

Term	Meaning in this document
small business	A small business as defined in s761G of the Corporations Act
sole beneficiary	Means the only beneficiary under a will, the only person who has an entitlement or interest in the deceased's estate under a state or territory law or the only beneficiary of a trust (excluding charitable trusts)
Terms of Reference	The document that sets out an EDR scheme's jurisdiction and procedures, and to which scheme members agree to be bound. In some circumstances, it might also be referred to as the scheme's 'Rules'
traditional services	Means traditional trustee company services as defined by s601RAC of the Corporations Act
Transitional Act	<i>National Consumer Credit Protection (Transitional and Consequential Provisions) Act 2009</i>
unlicensed COI lender	Has the meaning given in s5 of the National Credit Act, as modified by item 2.4 of Sch 2 of the National Credit Regulations
unlicensed product issuer	An issuer of a financial product who is not an AFS licensee
unlicensed secondary seller	A person who offers the secondary sale of a financial product under s1012C(5), (6) or (8) of the Corporations Act and who is not an AFS licensee
value of an insurance claim	Means the monetary amount or value to be paid out to an insured person (the retail client) under an insurance policy, once the insured person has made a claim on the policy

Related information

Headnotes

AFS licensees, beneficiaries, carried over instrument, credit licensees, credit representatives, dispute resolution requirements, EDR scheme, EDR scheme membership, external dispute resolution, IDR processes, information return, internal dispute resolution, lender, margin lending financial services, non-lender, person who may request an information return, prescribed unlicensed COI lenders, securitisation bodies, servicing agreement, special purpose funding entities, traditional services, trustee company, unlicensed COI lenders, unlicensed product issuers, unlicensed secondary sellers

Class orders and pro formas

[CO 09/339] *Internal dispute resolution procedures*

[CO 09/340] *External dispute resolution schemes*

[CO 10/249] *External dispute resolution schemes (credit)*

[CO 10/250] *Internal dispute resolution procedures (credit)*

[CO 10/517] *Internal dispute resolution (credit—unlicensed COI lenders)*

PF 209 *Australian financial services licence conditions*

PF 224 *Australian credit licence conditions*

Regulatory guides

RG 78 *Breach reporting by AFS licensees*

RG 139 *Approval and oversight of external dispute resolution schemes*

RG 202 *Credit registration and transition*

RG 203 *Do I need a credit licence?*

RG 204 *Applying for and varying a credit licence*

RG 205 *Credit licensing: General conduct obligations*

RG 206 *Credit licensing: Competence and training*

RG 207 *Credit licensing: Financial requirements*

Information sheets

INFO 105 *Dealing with consumers and credit*

INFO 110 *Lenders with carried over instruments*

Legislation

AFCA Act, Sch 2

ASIC Act, s1

Corporations Act, Ch 7, s601RAB, 601RAC, 760A, 761G, 912A, 915C, 942B(2)(h), 942C(2)(i), 1013D(1)(g), 1015B, 1015D, 1017G; Corporations Regulations, regs 5D.2.01, 5D.2.02, 7.1.28A, 7.6.02, 7.9.77 and Sch 8AC.

National Credit Act, Ch 2, s10(1)(a), 11, 29, 45(7), 47, 54, 55, 64, 65, 69, 70, 71, 113, 126, 127, 136, 149, 150, 158 and 160; National Credit Code, s72, 73, 88, 94, 95, 177B, 177C, 179H, 179J and 208; National Credit Regulations, regs 6, 9A, 10, 16, 23B, 23C, 85, 86, Schs 2 and 3, Forms 12, 12A, 18A; National Credit Amendment Regulations, regs 69A and 69B; National Consumer Credit Protection Amendment Regulations 2010 (No. 2), item 32 of Sch 1; Transitional Act, s4(1).

RSA Act, s47

SIS Act, s101

Superannuation (Resolution of Complaints) Act 1993, s22A

Cases

Australian Timeshare and Holiday Ownership Council Limited v Australian Securities and Investments Commission [2008] AATA 62 (23 January 2008)

Consultation papers and reports

CP 102 *Dispute resolution—Review of RG 139 and RG 165*

CP 112 *Dispute resolution requirements for consumer credit and margin lending*

CP 138 *Dispute resolution requirements for trustee companies providing traditional services*

CP 172 *Review of EDR jurisdiction over complaints when members commence debt recovery legal proceedings*

CP 190 *Small business lending complaints: Update to RG 139*

REP 156 *Report on submissions to CP 102 Dispute resolution—Review of RG 139 and RG 165*

REP 182 *Feedback from submission to the Financial Ombudsman Service Limited's new Terms of Reference*

REP 195 *Response to submissions on CP 112 Dispute resolution requirements for credit and margin lending*

REP 236 *Response to submissions on CP 138 Dispute resolution requirements and traditional services*

REP 308 *Response to submissions on CP 172 Review of EDR jurisdiction (debt recovery legal proceedings)*

REP 348 *Response to submissions on CP 190 Small business lending complaints: Update to RG 139*

ASIC forms

CL13 *Notice in relation to special purpose funding entities*

CL20 *Notification of change of credit licence details*

COI1 *Notice of carried over instruments*

COI2 *Change of details for unlicensed carried over instrument lender and prescribed unlicensed carried over instrument lender*

FS20 *Change of details for an Australian financial services licence*

Media and information releases

08-05AD *ASIC proposes new financial services EDR claim limit of \$280,000 (8 September 2008)*

09-263AD *ASIC grants approval to the Financial Ombudsman Service Limited for its new single terms of reference (18 December 2009)*

10-95AD *Access to dispute resolution for consumers of credit and margin lending financial services (7 May 2010)*

10-150AD *ASIC sets dispute resolution standards for unlicensed lenders with carried over instruments (6 July 2010)*

11-23AD *Revised internal dispute resolution procedures for financial institutions (16 February 2011)*

11-279AD *ASIC review: EDR schemes handling of complaints when members commence debt recovery legal proceedings (2 December 2011)*

12-254MR *ASIC releases findings of review into EDR scheme jurisdiction over debt recovery legal proceedings complaints (19 October 2012)*