



ASIC

Australian Securities & Investments Commission

REGULATORY GUIDE 204

Applying for and varying a credit licence

February 2013

About this guide

This guide is for people who want to apply for a credit licence that authorises them to engage in credit activities.

This guide explains how to apply for a credit licence using the online application. It also explains how to apply for a variation of a credit licence if your business changes after you are granted a licence.

This guide also provides a roadmap to other guidance that is useful for credit licensees and applicants for credit licences.

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 (primarily the Corporations Act)
- 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 guide was issued in February 2013 and is based on legislation and regulations as at the date of issue.

Previous version:

- Superseded Regulatory Guide 204, issued 7 June 2010 and reissued 2 March 2012

Disclaimer

This guide does not constitute legal advice. We encourage you to seek your own professional advice to find out how the 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

Key points

Your first step is to decide whether you need a credit licence. You should read Regulatory Guide 203 *Do I need a credit licence?* (RG 203) to help you make this decision: see RG 204.3–RG 204.9.

If you need a credit licence, you should apply online at www.asic.gov.au.

The information you will be asked to provide in your application will be tailored depending on whether you are a 'standard' applicant, a 'streamlined' applicant, an AFS licensee and/or a body regulated by APRA.

We will only grant you a credit licence if you meet the requirements in the *National Consumer Credit Protection Act 2009* (National Credit Act).

If we refuse your application, you cannot engage in credit activities.

If there are changes to your business after your credit licence is granted, you may need to apply for a variation of your licence.

- RG 204.1 If you engage in credit activities from 1 July 2011, you need to be:
- (a) authorised to engage in those activities under an Australian credit licence (credit licence);
 - (b) exempt from the requirement to be licensed; or
 - (c) acting as a representative of another person who is licensed or exempt from the requirement to be licensed.
- RG 204.2 This guide provides you with information to help you apply for a credit licence.

Do I need a credit licence?

- RG 204.3 A credit licence authorises you and your representatives to engage in the credit activities that are specified in the licence.

Who needs to be licensed?

- RG 204.4 Most people who engage in credit activities will need to be covered by a credit licence, either as a credit licensee or as a representative of a credit licensee.
- RG 204.5 When you are deciding whether you need to apply for a credit licence, you should think about:
- (a) whether your business will involve engaging in credit activities; and

- (b) whether any exemptions from the licensing requirements cover the credit activities that you will engage in.

RG 204.6 This guide does not contain guidance on whether you will need a credit licence. For more information on the types of credit activities that are regulated under the credit licensing regime and the people and activities that are exempt, see Regulatory Guide 203 *Do I need a credit licence?* (RG 203).

Representatives of credit licensees or people who are covered by an exemption

RG 204.7 If you engage in credit activities on behalf of another person (i.e. a principal) who either has a credit licence or is exempt from the requirement to hold a credit licence, you may be able to rely on your principal's credit licence or exemption.

RG 204.8 You will be a 'representative' of another person if you are:

- (a) an employee or director of the person, or of a related body corporate of the person; or
- (b) if the person is a credit licensee, you are authorised by them as a 'credit representative' under s64 or 65 of the *National Consumer Credit Protection Act 2009* (National Credit Act).

RG 204.9 If you only engage in credit activities as another person's representative, you will not need to get your own credit licence. Before you decide to apply for a licence, you should think about whether your credit business will operate under another person's licence or exemption.

How do I apply for a credit licence?

RG 204.10 To get a credit licence, you must complete an application (Form CL01 *Application for an Australian credit licence*), lodge it with us and pay the application fee.

RG 204.11 You are not automatically entitled to a credit licence. You will need to meet the requirements for a credit licensee, which include:

- (a) being able to comply with the general conduct obligations of credit licensees under the National Credit Act, which aim to ensure that you operate your credit business properly; and
- (b) being a 'fit and proper' person to engage in credit activities.

We have published guidance on complying with the general conduct obligations: see Section B, Table 3.

Where do I get an application?

- RG 204.12 The application is an online form that can be accessed in the following ways:
- (a) If you are an Australian financial services (AFS) licensee, go to www.asic.gov.au and select 'AFS licensees' from the drop-down menu under 'Lodge online' (on the right side of the page). To log in to the application, you will need to use your AFS licence number and the user name and password you selected when you registered for online access. Select 'CL01' to apply for a credit licence.
 - (b) For other applicants, go to www.asic.gov.au/credit and follow the links to apply for a credit licence. As part of the process, you will be asked to enter a user name and password of your choice and create a 'Security question and answer' in case you forget your password.
- RG 204.13 If you can't apply online (e.g. because you don't have access to the internet), you can ask us to approve lodgement of a paper application. However, we will only do this in limited circumstances. You will also pay a higher application fee if you lodge a paper application: see Section B, Table 4.
- RG 204.14 For more detailed information about the process for making an application using our online credit licensing system, see Section B.

What is the application fee?

- RG 204.15 The fee that is payable when you lodge your application will depend on:
- (a) the total amount of credit you have advanced, or that has been assigned to you;
 - (b) the total value of applications for credit or consumer leases submitted by you to credit providers, lessors and intermediaries that have resulted in the provision of credit or a consumer lease; and
 - (c) the total amount of rent payable by consumers under consumer leases entered into by you,

in the financial year before the application is made. For more information on how the application fee is calculated, see Section B, Table 4.

What questions will I be asked?

- RG 204.16 You are not automatically entitled to a credit licence. You will only be granted a credit licence if you meet the requirements set out in the National Credit Act. The online application is designed to obtain information to satisfy these requirements: see Table 1.

Table 1: The questions you will be asked and where to find our guidance on answering them

Relevant part of the application	What you will be asked	Where to look in this guide
You and your business A1–A7	You will be asked questions about who you are and the types of credit activities you propose to engage in under the credit licence.	Section C
Compliance with your obligations B1 B2–B7	<p>You will be asked questions to confirm that you will comply with the obligations that you will have under the National Credit Act if the credit licence is granted.</p> <p>You will be asked to identify each of the people who are involved in the management of your credit business. In the online application, these people are called your ‘fit and proper people’.</p> <p>You will be asked to indicate which of these people you rely on to demonstrate that you are competent to engage in credit activities. These people are called your ‘responsible managers’.</p> <p>You will be asked for details about your compliance arrangements, your representatives, the adequacy of your resources and the dispute resolution, risk management and compensation systems that you have in place or will put in place by the time your licence is granted.</p>	Section D
Supporting information	<p>To support your application, you will be asked to provide more detailed information about:</p> <ul style="list-style-type: none"> • the past conduct of each of your ‘fit and proper people’; • the experience and qualifications of your responsible managers; and • what your credit business will involve and how it will be operated. 	Section E
Statements and declarations	<p>You will make a statement about your past conduct, and that of each of your ‘fit and proper people’.</p> <p>You will declare that if you are granted a credit licence you will comply with your obligations as a credit licensee.</p> <p>If you engage in a credit activity by being a credit provider, lessor, mortgagee or beneficiary of a guarantee in relation to a carried over instrument and intend to also engage in other credit activities, you must declare that the application is made in relation to each of these credit activities.</p> <p>You will also make standard declarations about the reliability of the information provided in your application.</p>	<p>Section F</p> <p>For more information about ‘carried over instruments’, see RG 204.26–RG 204.30</p>

RG 204.17 We will assess the information that you provide in your application to decide whether you meet the licensing requirements. If we consider that we need more information about you or your proposed business before we make a decision, we will contact you.

- RG 204.18 You can minimise the amount of time that we will need to spend on your application by:
- (a) properly describing the credit activities that you propose to engage in;
 - (b) providing all the information that we ask for; and
 - (c) promptly responding to our queries if we contact you to ask for more information.

Streamlined applicants

- RG 204.19 The National Credit Act and associated regulations allow a streamlined application process for:
- (a) authorised deposit-taking institutions (ADIs);
 - (b) general insurers registered with the Australian Prudential Regulation Authority (APRA) under the *Insurance Act 1973* (Insurance Act) that are included on the Register of General Insurers and Authorised Non-Operating Holding Companies (NOHCs) persons and that:
 - (i) offer mortgage insurance products; and
 - (ii) engage in credit activities only as an assignee in relation to providing those mortgage insurance products (lenders mortgage insurers); and
 - (c) life insurers registered with APRA under the *Life Insurance Act 1995* that engage in credit activities only because of the operation of the terms and conditions of a life policy, or a document issued or given by the life insurer in relation to a life policy, that was entered into by the life insurer before 1 July 2010.
- RG 204.20 If you are a streamlined applicant, you will be asked to provide less information than standard applicants. We have explained which questions and supporting documents will be asked of streamlined applicants in Sections C, D and E.

How do we assess streamlined applicants?

- RG 204.21 For streamlined applicants, the requirements in s37 of the National Credit Act do not apply. This means that we will not need to form a view on whether these types of applicant:
- (a) are likely to contravene the general conduct obligations if they are granted a credit licence (s37(1)(b)); and
 - (b) are not fit and proper people to engage in credit activities (s37(1)(c)).
- RG 204.22 These applicants will need to make a statement that they will comply with the general conduct obligations if they are granted a credit licence: see RG 204.317(c).

RG 204.23 To make the required written statement about compliance with the general conduct obligations, we consider that streamlined applicants need to have arrangements and systems for compliance with the obligations in place at the time that their application is made, or processes to ensure that such arrangements and systems will be put in place before their licence is granted. As a part of the required statement, streamlined applicants will be asked some questions in the online application to confirm that they will comply with the general conduct obligations.

RG 204.24 We must still refuse to grant a credit licence to a streamlined applicant if:

- (a) the applicant has not given a statement that they will comply with the general conduct obligations (if the licence is granted);
- (b) a banning order or disqualification order under Pts 24 of the National Credit Act is in force against the applicant in relation to a credit activity that would be covered by the licence; or
- (c) an order under the *Crimes (Criminal Organisations Control) Act 2009* (NSW), *Criminal Organisation Act 2009* (Qld) or the *Serious and Organised Crime (Control) Act 2008* (SA) (relevant State Criminal Organisations Acts) is in force against the applicant or a director, secretary or senior manager who would perform duties in relation to the credit activities to be authorised by the applicant's licence.

Note: See s40 of the National Credit Act.

RG 204.25 Streamlined applicants will be asked to identify all of the people who are involved in the management of their credit business, and to provide some basic information about the roles and experience of those people, so that we can check that the applicant is not a person who is excluded from being granted a credit licence by s40 of the National Credit Act.

Credit contracts and consumer leases made before 1 July 2010

RG 204.26 If you only engage in credit activities in relation to credit contracts or consumer leases entered into by you before 1 July 2010, you are a carried over instrument lender (COI lender) and you must either:

- (a) be 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 are subject to a modified statutory regime.

Note 1: 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 of the *National Consumer Credit Protection (Transitional and Consequential Provisions) Act 2009* (Transitional Act).

Note 2: The modified statutory regime for unlicensed COI lenders is set out in Ch 2 of the National Credit Act, as modified by Sch 2 of the National Consumer Credit

Protection Regulations 2010 (National Credit Regulations). 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) (Credit Amendment Regulations 2010 (No. 2)).

Note 3: For more information about your options as a COI lender, see Information Sheet 110 *Lenders with carried over instruments* (INFO 110).

RG 204.27 Some people who engage in credit activities in relation to credit contracts or consumer leases that were entered into before 1 July 2010 and that are carried over instruments will need to be a credit licensee. For example, you will need to be a credit licensee if you are:

- (a) assigned the rights of a credit provider lessor, mortgagee or beneficiary of a guarantee under a carried over instrument on or after 1 July 2010 (even if you will then only engage in credit activities for the purpose of collecting debts owed under those carried over instruments);
- (b) a credit provider, lessor, mortgagee or beneficiary of a guarantee under carried over instruments, but will also enter new credit contracts or consumer leases from 1 July 2010; or
- (c) a credit provider, lessor, mortgagee or beneficiary of a guarantee under carried over instruments, but will provide credit services in relation to any other credit contracts or consumer leases.

RG 204.28 You cannot elect to be regulated as an unlicensed COI lender in relation to your carried over instruments and as a credit licensee for your credit activities in relation to new credit contracts and consumer leases.

Note: Under regs 7A and 25F of the National Credit Regulations, we can only grant a credit licence to a person who engages in credit activities as a credit provider or lessor in relation to carried over instruments and also other credit activities if the application is made in relation to all of those credit activities. Regulations 7A and 25F of the National Credit Regulations were inserted by items [8] and [26], respectively, of the Credit Protection Amendment Regulations 2010 (No. 2).

RG 204.29 If you apply for a credit licence, your application and the credit licence (if it is granted) will be in relation to all of your credit activities, including the credit activity of being a credit provider, lessor, mortgagee or beneficiary of a guarantee in relation to carried over instruments.

RG 204.30 In your application, you will make a declaration that the application for a credit licence is made in relation to all of your credit activities, including the credit activity of being a credit provider, lessor, mortgagee or beneficiary of a guarantee in relation to carried over instruments: see Section F.

What if my application is refused?

RG 204.31 If we refuse your application for a credit licence, you cannot engage in credit activities, unless:

- (a) you act as a representative of another person who:

- (i) holds a credit licence; or
 - (ii) is exempt from the requirement to be licensed; or
- (b) you are a COI lender, and you:
- (i) will only engage in the credit activity of being a credit provider or lessor in relation to the carried over instruments; and
 - (ii) notify ASIC that you will engage in this credit activity as an unlicensed COI lender.

RG 204.32 We will give you reasons for our decision to refuse your application, and notify you of your rights to have that decision reviewed. For more detailed information about your rights if we refuse your application, see Section G.

What if my business changes?

RG 204.33 If, after your credit licence is granted, your business changes, or the people who manage your business change, you may need to apply for a variation of your licence. For more detailed information about how to apply for a variation, see Section H.

B How do I apply for a credit licence?

Key points

The credit licence application is an online application available on our website, including through online portals that we have established for the credit industry and AFS licensees: see RG 204.37–RG 204.51.

You will be able to complete the online application quickly and easily if you go through the steps in Table 2 before you start your application.

The application fee is calculated based on the following in the financial year before the application is made:

- the total amount of credit you have advanced or that has been assigned to you;
- the total value of applications submitted by you that have resulted in the provision of credit contracts or consumer leases; and
- the total amount of rent payable under consumer leases you have entered into: see RG 204.52–RG 204.60 and Table 4.

RG 204.34 To get a credit licence, you must complete an application (Form CL01), lodge it with us and pay the application fee.

RG 204.35 You are not automatically entitled to a credit licence. You will need to meet the requirements for a credit licensee, which include:

- (a) being able to comply with the general conduct obligations under the National Credit Act, which aim to ensure that you operate your credit business properly; and
- (b) being a fit and proper person to engage in credit activities.

What do I need to do before I start my online application?

Table 2: Steps to take before starting an application for a credit licence

Steps	Explanation
1 Think about the types of credit activities you will engage in as part of your business.	You need to apply for authorisations on your credit licence that are appropriate for your business. See Section C for an explanation of the authorisations that you can apply for.
2 Read our guidance on the general conduct obligations of credit licensees and prepare your arrangements and systems to meet those obligations.	If you are granted a credit licence, you must meet the general conduct obligations of credit licensees from day one. You will need to confirm in your application that you have arrangements and systems in place to ensure your compliance with these obligations. To find our guidance on the general conduct obligations, see Table 3.

Steps	Explanation
<p>3 Do any background checks on your 'fit and proper people' to allow you to provide the supporting information and make the required statements about their past conduct: see Section E, Table 7 and Section F, Table 8.</p>	<p>Most applicants will need to provide copies of a national criminal history check and a bankruptcy check for each of the people who will manage their credit business. These checks can take a while to be completed. You should ask for these checks to be made at least six weeks before you plan to lodge your online application.</p> <p>If you are a streamlined applicant, you don't need to provide copies of these checks, but you still need to be satisfied about the past conduct of the people who manage your business. You may need to ask for new checks to be completed if the information that you have about these people is out-of-date.</p>
<p>4 Make sure you have authorised the person who prepares and submits the application to make required statements and declarations on your behalf: see Section F.</p>	<p>All applicants must make a number of statements and declarations, and will be taken to have made those statements and declarations when the application is submitted.</p> <p>If another person is submitting the application on your behalf (e.g. because you are using a lodging agent), you need to authorise the person who physically submits the application (by pressing the 'Submit' button) to make those statements and declarations on your behalf.</p>
<p>5 If you are a company or AFS licensee, make sure your details on ASIC's registers are correct.</p>	<p>Some information will be pre-filled in your application from the Australian Company Register and the AFS Licensees Register. You cannot complete your online application until these registers are up-to-date. To update your details, lodge Form 484 <i>Change to company details</i> or Form FS20 <i>Change of details for an Australian financial services licence</i> (as appropriate).</p> <p>Changes will be processed more quickly if you lodge these notifications electronically.</p>

- RG 204.36 When you are thinking about whether you will be able to comply with the obligations of credit licensees under the National Credit Act, you need to:
- (a) read our guidance on the general conduct obligations and how you can demonstrate that you will meet those obligations;
 - (b) look at the arrangements and systems that you use, or plan to use, in your credit business. Think about whether these arrangements and systems will be adequate to meet your obligations as described in our guidance; and
 - (c) look at any written plans that you already have that document your arrangements and systems. Think about whether these written plans demonstrate that your arrangements and systems are adequate. If you do not have any written plans, you should prepare some.

Table 3: Where to find our guidance on the general conduct obligations of credit licensees

Types of obligation	General conduct obligations	Where to find our guidance
Your broad compliance obligations	Engage in credit activities efficiently, honestly and fairly	Section C of Regulatory Guide 205 <i>Credit licensing: General conduct obligations</i> (RG 205)
	Comply with the conditions on your licence	Information Sheet 97 <i>Guidance for small credit businesses</i> (INFO 97)
	Comply with the credit legislation	
Your internal systems	Have risk management systems in place (if you are not regulated by APRA)	Section D of RG 205
	Have arrangements for ensuring that clients are not disadvantaged by conflicts of interest	Section D of RG 205
	Have dispute resolution systems in place	Regulatory Guide 165 <i>Licensing: Internal and external dispute resolution</i> (RG 165)
Your people	Ensure your representatives comply with the credit legislation	Section E of RG 205
	Ensure your representatives are adequately trained and are competent	Regulatory Guide 206 <i>Credit licensing: Competence and training</i> (RG 206)
	Maintain the competence to engage in credit activities	RG 206
Your resources	Have adequate human and technological resources (if you are not regulated by APRA)	Section F of RG 205
	Have adequate financial resources (if you are not regulated by APRA)	Regulatory Guide 207 <i>Credit licensing: Financial requirements</i> (RG 207)
Compensation	Have compensation arrangements in place	Regulatory Guide 210 <i>Compensation and insurance arrangements for credit licensees</i> (RG 210)

How do I start my online licence application?

RG 204.37 The online licence application can be accessed from different parts of the ASIC website (www.asic.gov.au), depending on whether you are:

- (a) an AFS licensee registered for online access; or
- (b) a new applicant who has not previously lodged electronic documents with us.

I am an AFS licensee

- RG 204.38 If you are already registered for online access, you can access the online application via the Licensees Portal at www.asic.gov.au/licensees.
- RG 204.39 You will need your user name, password and AFS licence number to log in to the Licensees Portal. If you have forgotten your password, you can generate a new one after your identity has been verified using the security question and answer that you nominated when you registered for online access. If you have forgotten your user name, we will send it to you by email if you click on 'Forgotten user name' and enter your AFS licence number.
- RG 204.40 Once you have entered the Licensees Portal, go to the 'Start new transaction' page and select 'Start a credit licence application'. The licence application will appear in your 'Current transactions' list.

I am a new applicant

- RG 204.41 To find the online licence application on our website, go to www.asic.gov.au/credit and click on 'Licensing', then 'Apply for a licence'. Before you start your application you must read the ASIC Electronic Lodgement Protocol and agree to be bound by its terms and conditions. This protocol covers your responsibilities and ours when you lodge documents with us online.

Using the credit licensing system

Controlling access to the online licence application

- RG 204.42 You will be asked to select a user name and password so that you can control access to your licence application. Your user name must have a minimum of six characters and your password a minimum of six characters (including at least one numeric character). Both your user name and password are case-sensitive, so remember whether you have used upper or lower case.
- RG 204.43 You will also be asked to enter a security question and answer. The security question and answer will be used to verify your identity if you forget your password and need to generate a new one. You should choose a question that only you know the answer to and that has nothing to do with your password. We suggest that the security question be a question for which there is only one answer, and that the answer be one or two words. You must remember the format of the security answer as the validation of the answer is case- and space-sensitive. If you do not provide the answer as originally entered, a new password will not be generated.

- RG 204.44 The credit licensing system will generate a reference number for your application and ask you to make a note of it. The security of your application reference number, user name and password is your responsibility.

Saving and resuming the application

- RG 204.45 Once you have started your licence application, you can save it and resume it as many times as you like before you submit it. You will need your user name, password and reference number to resume your application at a later time. If you forget your password, you can generate a new one after your identity has been verified using your security questions and answer. However, if you forget your user name or reference number you will not be able to resume your application—you will need to start again.
- RG 204.46 The online licence application is designed so that you cannot progress to the next screen until you have completed the screen you are on, although you can go back to a completed screen to amend it. Your application is automatically saved to the ASIC server every time you hit 'Next'. If you are disconnected from the internet or you close out of the application, you will have saved all information up until the question you were last entering.

Pre-filled information

- RG 204.47 If you are an AFS licensee or a company, the credit licensing system will access other registers maintained by ASIC (e.g. the AFS Licensees Register and the Australian Company Register) to pre-fill some information. You need to check the pre-filled information to ensure it is up-to-date. If it is incorrect, you will need to update that information in the other registers before you can complete your online licence application. To do that, you need to lodge the appropriate notification: see Table 2. You will not be able to resume your online application until this information has been updated.

What happens to the information I send to ASIC?

- RG 204.48 The information you enter in your online application is protected by industry-standard encryption and stored on a secure server at ASIC.
- RG 204.49 The application lodged by you is not available to the public. If you are granted a credit licence, some basic information about your business will be uploaded to the Australian Credit Register, which will be available to the public on our website. See the privacy statement on our website for more information.

What if I can't apply online?

- RG 204.50 We expect all applications for a credit licence to be made online. If you cannot apply online, you will need to ask us to approve your use of a paper

application. We will only do this in unusual circumstances where you have demonstrated that it is impossible to complete the application online. For more information, phone our Client Contact Centre on 1300 300 630.

RG 204.51 It will take longer to process paper applications because we have to enter your data into the credit licensing system. The application fee is also higher if you lodge a paper application.

What is the application fee?

RG 204.52 The prescribed fee for a credit licence application depends on the total amount of credit you have advanced, been assigned or successfully referred to a credit provider and the amount of rent payable under consumer leases that you have entered into or successfully referred to lessors in the financial year before the application is made.

RG 204.53 To determine the application fee that is payable, you will need to add together:

- (a) the total amount of credit advanced by you in the financial year before the application is made;
- (b) the total amount of credit assigned to you in the financial year before the application is made (based on the face value of the credit, rather than the resale or purchased value of the credit);
- (c) the total value of credit in applications submitted by you to credit providers and intermediaries in the financial year before the application is made that have resulted in a loan being made;
- (d) the total amount of rent payable by consumers under consumer leases entered into by you in the financial year before the application is made;
- (e) the total amount of rent payable by consumers under consumer leases submitted by you to lessors and intermediaries in the financial year before the application is made that have resulted in a consumer lease being entered into.

You will then need to refer to the scale set out in Table 4.

RG 204.54 You should only include in your calculation amounts that relate to a provision of credit that is covered by the National Credit Act and National Credit Code. For example, if you have made loans to small business, which is a provision of credit that is not covered by the National Credit Code, you should not include the amount of those loans in your calculation.

RG 204.55 The amount of one or more of the parts of the calculation may be zero. If you did not provide credit or credit services in the financial year before the application is made (e.g. you will be operating a new 'start up' business), the sum that you calculate will be zero. If this is the case, you will need to select the range of 'Less than \$100 million': see Table 4.

- RG 204.56 If you select the range of ‘Less than \$100 million’, the application fee that you pay will depend on whether you are a ‘sole trader’. For applicants that are sole traders, the minimum fee is \$450. For applicants that are not sole traders, the minimum fee is \$1,000. ‘Sole trader’ is defined in the National Consumer Credit Protection (Fees) Regulations 2010 to mean:
- (a) a natural person; or
 - (b) a person (other than a natural person) that only has one representative that engages in credit activities on its behalf.
- RG 204.57 If you have only one representative (e.g. a director) who engages in credit activities, and also other people (e.g. employees) who engage in other sorts of conduct on your behalf, such as clerical work, you may be a ‘sole trader’. You will not be a ‘sole trader’ if you have more than one representative who will engage in credit activities on your behalf, even if you are a body corporate with only one director/secretary. For example, if you are a single director company and also have an employee or authorised credit representative that engages in credit activities on your behalf, you will not be a sole trader.

Table 4: Application fee for a credit licence

Range of credit referred and advanced and the value of property rented to consumers in the previous financial year	Fee for electronic lodgement	Fee for non-electronic lodgement
Less than \$100 million and the applicant is a ‘sole trader’	\$450	\$565
Less than \$100 million and the applicant is not a ‘sole trader’	\$1,000	\$1,250
\$100 million or more but less than \$200 million	\$1,000	\$1,250
\$200 million or more but less than \$600 million	\$4,000	\$5,000
\$600 million or more but less than \$1,000 million	\$8,000	\$10,000
\$1,000 million or more but less than \$1,400 million	\$12,000	\$15,000
\$1,400 million or more but less than \$1,800 million	\$16,000	\$20,000
\$1,800 million or more but less than \$2100 million	\$20,000	\$25,000
\$2,100 million or more	\$21,000	\$26,250

Note: The fee amounts set out in Table 4 are the base fees specified in Sch 1 of the National Consumer Credit Protection (Fees) Regulations 2010. These fees are subject to indexation on 1 July each year. To find out the current indexed application fee that will apply at the time you submit your application, see Information Sheet 108 *Fees for credit licence and annual compliance certificate* (INFO 108).

- RG 204.58 If you are a streamlined applicant, the application fee payable by you will be discounted to 90% of the amount shown in Table 4.

RG 204.59 The credit licensing system will calculate the application fee and give you a payment advice when you submit your application.

RG 204.60 Failure to pay the fee will not prevent your application from being accepted for lodgement. However, until you have paid the application fee, we will not grant you a credit licence.

Will I be reimbursed if I withdraw my application?

RG 204.61 The application fee is payable upon lodgement of your application.

RG 204.62 Your online application is not lodged at the time that you submit it. We must receive the transmissions and accept the application for lodgement. Once accepted, the fee will not be reimbursed if you withdraw your application.

C What questions will I be asked about my proposed credit business?

Key points

In Part A of your online licence application, you will be asked for information to identify yourself and the type of applicant you are: see RG 204.65–RG 204.104.

You will also be asked:

- to select the authorisation(s) that you want on your licence (see RG 204.109–RG 204.130);
- for a general description of your proposed business activities—some applicants will be asked additional questions if their proposed business activities involve additional requirements (see RG 204.131–RG 204.153); and
- how many representatives you propose to have if you are granted a licence (see RG 204.154–RG 204.162).

- RG 204.63 You will be asked questions about:
- (a) yourself (e.g. what type of entity you are, your contact details);
 - (b) your proposed credit business; and
 - (c) the types of credit activities that you will engage in if the credit licence is granted.

RG 204.64 All applicants will be asked these questions.

A1 Applicant and contact details

Details of the applicant

- RG 204.65 You will be asked to provide information that identifies you. The way you will be asked for this information will depend on how you start your application.
- RG 204.66 If you start your application from the Licensees Portal, details of your name, your entity type and any identifying numbers will be pre-filled. This includes your AFS licence number, Australian Business Number (ABN), Australian Company Number (ACN) or Australian Registered Body Number (ARBN).
- RG 204.67 If you start your application from the website, you will need to enter the following information.

Entity type

- RG 204.68 Unless your details have been pre-filled, you need to select whether you are a:
- (a) company or registered Australian body;
 - (b) body corporate (other than a company or registered Australian body);
 - (c) partnership;
 - (d) multiple trustee; or
 - (e) natural person.
- RG 204.69 A multiple trustee is a notional person that consists of two or more trustees of a single trust. As it is the notional person who is licensed (and not each trustee) the trustees of the trust can change from time to time without affecting the licence.
- RG 204.70 A person who is a sole trustee of a trust cannot apply as a multiple trustee—the application should be made under the appropriate entity type for that person (company, partnership or natural person).
- RG 204.71 The credit licensing system will tailor the application to the type of entity that you have selected.

AFS licence number, ABN, ACN or ARBN (if any) or name of applicant

- RG 204.72 Unless your details have been pre-filled, you will be asked to provide your AFS licence number, ABN, ACN or ARBN, if you have one.
- RG 204.73 If you do not have one of these identifying numbers, you will need to enter your full name. If you are:
- (a) a body corporate (e.g. an incorporated association, incorporated statutory body or a cooperative)—you should enter your body corporate name;
 - (b) a partnership—you should enter your firm name (and not simply a list of each of the partners). You will be required to provide the details of each partner in a different part of the application; or
 - (c) a multiple trustee—you should enter your name as ‘The trustees of [name of trust]’. You will be required to provide the details of each trustee in a different part of the application.
- RG 204.74 If you enter an AFS licence number, ABN, ACN or ARBN, the credit licensing system will check whether an entity with that identifying number is a credit representative. If you are a credit representative, a message will be displayed to remind you that you cannot be authorised as a credit representative for the same type of credit activities that are covered by your credit licence. If your credit licence is granted, any authorisations you have

to engage in the same types of credit activities as a credit representative will cease to have effect.

- RG 204.75 If you are a company or an AFS licensee, the credit licensing system will also access other registers maintained by ASIC to pre-fill parts of the online licence application. You will need to review all pre-filled information to ensure that it is up-to-date. If it is incorrect, you will need to update that information in the other registers before you can complete your online licence application. To do that, you need to lodge the appropriate notification: see Section B, Table 2. You will not be able to resume your online licence application until this information has been updated.
- RG 204.76 If you do not have an ABN, you can obtain one by:
- (a) applying electronically via www.business.gov.au;
 - (b) phoning the Business Infoline on 13 28 66 to ask for a registration package; or
 - (c) speaking to your tax agent.

Regulation by, or registration with, APRA

- RG 204.77 You must indicate whether you are a body regulated by APRA, or one that is registered with APRA under the *Financial Sector (Collection of Data) Act 2001*, and what type of regulated or registered body you are.
- RG 204.78 This question affects the assessment process, and helps to inform ASIC about the types of entities that are operating in the credit industry.
- RG 204.79 If you are a body regulated by APRA, not all of the licensee obligations under the National Credit Act apply and you will not be asked some questions in the application that relate to those obligations.
- RG 204.80 If you are an ADI, a lenders mortgage insurer or a life insurer that lends in accordance with the terms and conditions of a life policy entered into before 1 July 2010, you will also have the benefit of the streamlined application process: see RG 204.19–RG 204.25.

Applicants that are part of a group

- RG 204.81 You must indicate whether you are part of a group of companies that is applying for more than one credit licence, and provide the names of any other applicants in the group.
- RG 204.82 We will endeavour to assess together all credit licence applications that are made by applicants from the same group, to ensure that these applications are dealt with efficiently and consistently.

Lodging agents

- RG 204.83 You need to indicate whether you are lodging the application on behalf of an applicant. If you are, you will need to make an additional declaration before you submit the application: see Section G.

A2 Principal business address

- RG 204.84 You will be asked to enter your principal business address. If you are granted a licence, this information will be included in the Australian Credit Register.
- RG 204.85 This information will be pre-filled for:
- (a) AFS licensees—from the principal business address listed in the AFS Licensees Register; and
 - (b) companies—from the principal place of business address listed in the Australian Company Register.
- RG 204.86 If there has been a change to your principal business address, you need to notify us of that change by lodging Form FS20 or Form 484 (as appropriate), and the change must be recorded in those other registers, before you can complete the online application.
- RG 204.87 Your online application will be saved and you can resume it from this question after this information has been updated.

Use of an alternative address in the public register

- RG 204.88 If your principal business address is your residential address, and you are concerned that publication of your residential address on the public register will put at risk your safety or the safety of your family, you can nominate an alternative address to be included in the register. The alternative address must be an address within Australia at which you can be served with documents. This must be a street address and not a post office box.
- RG 204.89 You will not be able to nominate an alternative address if you are a company or an AFS licensee, because the details of your principal business address are already publicly available through other registers we maintain.
- RG 204.90 If an alternative address is recorded in the public register, you will need to notify us within 10 days of any changes to that address. You must also notify us within 14 days if there are any changes to your residential address. You can do this by lodging Form CL20 *Notification of change to credit licence details*.

A3 Contact details

- RG 204.91 The contact person can be you, one of your officers or employees, or another person who is preparing the application on your behalf.
- RG 204.92 During the application process, we will direct any questions and correspondence about your application to this contact person.
- RG 204.93 If you are granted a licence, any general correspondence will be sent to this contact person by email. Any formal correspondence will be sent to your principal business address.
- RG 204.94 The details of this person will not be included in the public register of credit licensees. However, if you are granted a licence, you will need to keep the details of your contact person (including their email address) up-to-date by lodging Form CL20. This will assist us when we communicate with you in the future.

A4 Business names

- RG 204.95 You will be asked to enter details of any registered business name under which you conduct business.
- RG 204.96 A business name is a name or title under which a person carries on business—for example, Roxy Cafe, Hollingdale & Page.
- RG 204.97 From 28 May 2012, business names are registered in a national register maintained by ASIC (Business Names Register). Before that date, business names were registered in each state or territory in which the business or trade was carried out.
- RG 204.98 If your business name was registered after 28 May 2012, you will need to have an ABN to register a business name. In your credit licence application, you can specify your ABN as the number for the business name.
- RG 204.99 If your business name was registered in a state or territory before 28 May 2012 and transferred to the national register, it may not be linked to an ABN. If you have not yet linked your business name to your ABN, you may need to include details of the previous state or territory registered business name. Under the previous registration systems, each business name had an individual number but the format and length varied according to the state or territory of issue. The state of registration precedes the number—for example, 'NSW E6882145', 'QLD BN2027148' or 'SA 0341685J'.

Note: For more information on the national Business Names Register and how to register a business name, see Regulatory Guide 235 *Registering your business name* (RG 235) and the information on our website at www.asic.gov.au/business-names.

- RG 204.100 If you are granted a licence, this information will be included in the Australian Credit Register.
- RG 204.101 If you are an AFS licensee, this question will be pre-filled with the details of business names listed in the AFS Licensees Register. These pre-filled details cannot be removed. If these registered business names are no longer current, you will need to notify us of that change by lodging Form FS20, and the change must be recorded in that other register, before you can complete the online application.
- RG 204.102 Your online licence application will be saved and you can resume it from this question after this information has been updated.
- RG 204.103 If you have additional registered business names that will apply to your credit activities, you can add the details of additional names.
- RG 204.104 If you need to look up your business name details, you can do a business name search by clicking the link in the online application. For full information on registered business names, see our website at www.asic.gov.au/business-names.

A5 Delayed licence commencement

- RG 204.105 You can request a delay to the commencement of your credit licence (if it is granted). You may wish to do this to, for example:
- (a) have additional time to make sure that your business systems and processes will be in place before you start to engage in credit activities under your credit licence; or
 - (b) ensure that your obligation to prepare and lodge an annual compliance certificate arises at a convenient time for you.
- Note: As a credit licensee, you must lodge an annual compliance certificate every year within 45 days of your annual compliance date. Your annual compliance date is the anniversary of the day on which your licence commenced.
- RG 204.106 The delayed commencement date must be within three months of the date that you submit your online application.
- RG 204.107 If we decide to grant a licence with a delayed commencement, we will issue a credit licence that specifies the date on which it will take effect (the effective date).
- RG 204.108 If you are granted a licence with a delayed commencement, you will not be able to engage in credit activities until the effective date.

A6 Authorisations

- RG 204.109 You will be asked to select the authorisation that covers the types of credit activities you want to engage in.
- RG 204.110 You can choose:
- (a) engage in credit activities other than as a credit provider or lessor;
 - (b) engage in credit activities as a credit provider or lessor; or
 - (c) engage in all credit activities.
- RG 204.111 You should only choose the authorisation that is necessary to cover the credit activities that you propose to engage in if you are granted a licence.
- RG 204.112 You should not choose an authorisation that covers credit activities that you do not propose to engage in 'just in case' your business changes. If your business changes after you are granted a licence, you should apply for a variation to your licence. See Section H for more information on varying your credit licence.
- RG 204.113 We will check the authorisation you have selected against the information you include in your application about your intended business activities (i.e. your 'Details of business activities' and the supporting document 'Summary business description'). If the selected authorisation does not seem to be appropriate for the description you have provided, we will contact you. This may cause a delay in our assessment.
- RG 204.114 We will take into account the authorisation you select when we assess the information in your application about your competence to engage in the credit activities that will be covered by the licence (if granted). If we consider that you are not competent to engage in credit activities covered by the authorisation that you select, we may refuse your application or decide to offer you a licence with a different authorisation.

What do the authorisations cover?

Engage in credit activities other than as a credit provider or lessor

- RG 204.115 This authorisation covers:
- (a) the provision of credit services (including providing credit assistance and acting as an intermediary) in relation to a credit contract or consumer lease where you are not the credit provider or lessor; and
 - (b) performing the obligations or exercising the rights of a credit provider, mortgagee, beneficiary of a guarantee or a lessor in relation to the following where you are not the credit provider or lessor:
 - (i) a credit contract;

- (ii) a mortgage that secures obligations under a credit contract;
- (iii) a guarantee that guarantees obligations under a credit contract; or
- (iv) a consumer lease.

RG 204.116 We expect that this authorisation will be appropriate for all non-credit providers. For example, we expect that you will need to select this authorisation if you are:

- (a) a mortgage broker, finance broker, financial planner or adviser or other type of intermediary between the consumer and credit provider;
- (b) a mortgage manager who manages a credit contract on behalf of a credit provider (but who has not been assigned any rights under the contract); or
- (c) an aggregator.

Engage in credit activities as a credit provider or lessor

RG 204.117 This authorisation covers:

- (a) carrying on a business of providing credit to which the National Credit Code applies or providing consumer leases;
- (b) being a credit provider under a credit contract or a lessor under a consumer lease;
- (c) performing the obligations or exercising the rights of a credit provider, mortgagee, beneficiary of a guarantee or a lessor in relation to the following where you are the credit provider or lessor:
 - (i) a credit contract;
 - (ii) a mortgage that secures obligations under a credit contract;
 - (iii) a guarantee that guarantees obligations under a credit contract; or
 - (iv) a consumer lease; and
- (d) providing credit assistance to a consumer in relation to a credit contract or consumer lease where you are the credit provider or lessor.

RG 204.118 You may be carrying on a business of providing credit or consumer leases if you engage in pre-contractual conduct for the purpose of entering into credit contracts or consumer leases as a credit provider or lessor.

RG 204.119 You will be the credit provider or lessor where you are either:

- (a) the original credit provider or lessor; or
- (b) a person to whom the rights of another credit provider or lessor have been assigned or passed by law.

RG 204.120 An original credit provider or lessor is a person who provides credit under a credit contract or consumer lease that is the initial holder of rights under the

credit contract or consumer lease (i.e. a person who has not become a credit provider or lessor by being assigned rights under the credit contract or consumer lease). Assignment of rights means that those rights have been transferred. You will not be an assignee merely because you exercise rights on behalf of another person.

RG 204.121 We expect that this authorisation will be appropriate for most credit providers and lessors. For example, we expect that you will need to select this authorisation if you are:

- (a) an ADI (a bank, credit union or building society);
- (b) a responsible entity of a managed investment scheme that provides credit, such as a mortgage scheme; or
- (c) a seller of goods or real property by instalments.

RG 204.122 We also expect that this authorisation will be appropriate for applicants that are credit providers because they are a lenders mortgage insurer, a life insurer that lends in accordance with the terms and conditions of a life policy entered into before 1 July 2010, or an assignee of debts for the purpose of collecting those debts (assignee debt collector). However, because lenders mortgage insurers, life insurers and assignee debt collectors engage in credit activities in a limited capacity, we will limit the usual 'credit provider' authorisation. For more information, see RG 204.126–RG 204.130 and RG 204.135–RG 204.143.

Engage in all credit activities

RG 204.123 There may be some credit providers or lessors who will also provide credit services, or perform obligations and exercise rights, in relation to credit contracts or consumer leases that are provided by other licensees. These credit providers or lessors should select this authorisation.

RG 204.124 For example, some ADIs may engage in credit activities in relation to credit contracts or consumer leases that are provided by other licensees.

What do I select if I am a streamlined applicant?

ADI

RG 204.125 You may select either 'Engage in credit activities as a credit provider or lessor' or 'Engage in all credit activities' as appropriate.

Lenders mortgage insurer or a life insurer

RG 204.126 A lenders mortgage insurer is a person who:

- (a) is authorised by APRA as a general insurer under s12 of the Insurance Act;

- (b) is included on the Register of General Insurers and Authorised NOHCs maintained by APRA;
- (c) offers a lenders mortgage insurance product; and
- (d) engages in credit activities as an assignee in relation to providing the mortgage insurance product.

RG 204.127 If you are a lenders mortgage insurer, you will only be entitled to a streamlined application process if you *only* engage in credit activities as an assignee in relation to the lenders mortgage insurance products provided by you (i.e. you only engage in credit activities as a credit provider by reason of assignment of the rights of a credit provider under a lenders mortgage insurance product): see reg 8(7) of the National Credit Regulations. You will only be given the benefit of the full streamlined process if you select 'Engage in credit activities as a credit provider or lessor'.

RG 204.128 If you are a life insurer, you will only be entitled to a streamlined application process if you *only* engage in credit activities because of the operation of the terms and conditions of a life policy, or a document issued or given in relation to a life policy, that was entered into by you before 1 July 2010: see reg 8(8) of the National Credit Regulations. You will only be given the benefit of the full streamlined process if you select 'Engage in credit activities as a credit provider or lessor'.

RG 204.129 If you select one of the other authorisations, we will contact you to check whether you want to engage in credit activities other than as a lenders mortgage insurer or as a life insurer that lends in accordance with the terms and conditions of a life policy entered into before 1 July 2010. If you:

- (a) only want to engage in credit activities in these limited capacities, we will assess you as a streamlined applicant (see RG 204.21–RG 204.22 for an explanation of the benefits of this process); or
- (b) want to engage in credit activities other than in these limited capacities, we will assess you as a standard applicant. We may need to ask you to provide documents that support your application (see Section E for a description of the supporting documents that are required for standard applicants).

RG 204.130 This means that if you want to engage in credit activities other than in these limited capacities, in making our decision we may take into account whether there is any reason to believe that you are:

- (a) likely to contravene the general conduct obligations; or
- (b) not a fit and proper person.

A7 Details of business activities

- RG 204.131 You will be asked to answer a group of questions that are designed to provide a description of the size and nature of your business activities.
- RG 204.132 All applicants will be asked to answer these questions because they help us to understand how your business will work and the relevance of the licence authorisations you have selected. Your responses will also help to provide an overview of the size and nature of the credit industry, and will help ASIC develop procedures for later surveillance of the credit industry.
- RG 204.133 You will be asked to select the activities that best describe the business you intend to engage in if a credit licence is granted, and the types of credit contracts and consumer leases that those activities will relate to.
- RG 204.134 We will check whether the authorisations you selected at question A6 are appropriate to the business activities that you select. If they are not, we will contact you to clarify what sort of activities you intend to engage in and ensure that you have applied for the correct authorisations.

Lenders mortgage insurers

- RG 204.135 If you are a general insurer and you select the business description 'lenders mortgage insurer', you will be asked whether you will engage in credit activities only as an assignee in relation to mortgage insurance products provided by you.
- RG 204.136 If you answer 'yes':
- (a) you will be treated as a streamlined applicant (if you have selected the 'Engage in credit activities as a credit provider or lessor' authorisation at question A6), and the remainder of the application will be tailored to reduce the amount of information that you must provide; and
 - (b) the authorisation on your licence (if it is granted) will be limited to only cover credit activities engaged in by you as an assignee, or as a credit provider under the doctrine of subrogation, in relation to mortgage insurance products provided by you.
- RG 204.137 If you answer 'no':
- (a) we will contact you to check whether you want to engage in credit activities other than as a lenders mortgage insurer. You will not be entitled to the streamlined application process, and so will be treated as a standard applicant; and
 - (b) your licence (if it is granted) will contain the full authorisation to 'Engage in credit activities as a credit provider or lessor'.

Life insurers

RG 204.138 If you are a life insurer and select the business description ‘other’, you will be asked whether you will engage in credit activities in relation to the provision of credit only because of the operation of the terms and conditions of a life policy, or a document issued or given by you in relation to a life policy, that was entered into by you before 1 July 2010.

RG 204.139 If you answer ‘yes’:

- (a) you will be treated as a streamlined applicant (if you have selected the ‘Engage in credit activities as a credit provider or lessor’ authorisation at question A6), and the remainder of the application will be tailored to reduce the amount of information that you must provide; and
- (b) the authorisation on your licence (if it is granted) will be limited to only cover the credit activities engaged in by you as a life insurer in accordance with the terms and conditions of a life policy entered into before 1 July 2010, or a document issued or given by you in relation to a life policy, that was entered into by you before 1 July 2010.

RG 204.140 If you answer ‘no’:

- (a) we will contact you to check whether you want to engage in credit activities other than as a life insurer that lends in accordance with the terms and conditions of a life policy entered into before 1 July 2010. You will not be entitled to the streamlined application process, and so will be treated as a standard applicant; and
- (b) your licence (if it is granted) will contain the full authorisation to ‘Engage in credit activities as a credit provider or lessor’.

Assignee debt collectors

RG 204.141 An ‘assignee debt collector’ is a person to whom certain rights of a credit provider, lessor, mortgagee or beneficiary of a guarantee have been assigned or passed by law. These rights are to collect a debt owing under a credit contract or consumer lease by:

- (a) demanding and receiving payments from borrowers or guarantors under credit contracts, or lessees under consumer leases; and
- (b) enforcing rights in relation to taking possession of property secured by a mortgage or goods hired under a consumer lease.

Note: A person who engages in credit activities in the course of collecting debts on behalf of a credit provider or lessor (rather than as person who has become a credit provider by assignment) may be covered by the exemption from the requirement to hold a credit licence in reg 21 of the National Credit Regulations. If a person who is covered by reg 21 in relation to some credit activities also engages in credit activities as an assignee debt collector, they will still need to hold a credit licence for their conduct as an assignee debt collector.

- RG 204.142 If you select the business description ‘assignee of debts’, you will be asked whether you will engage in credit activities only as an assignee debt collector.
- RG 204.143 If you answer ‘yes’, your licence (if it is granted) will be limited to only cover credit activities engaged in by you as an assignee debt collector. If you answer ‘no’, your licence (if it is granted) will contain the full authorisation to ‘Engage in credit activities as a credit provider or lessor’, and your application will be assessed on this basis.

Information for credit licence fee calculation

- RG 204.144 You will be asked to calculate the total amount of credit you have advanced, been assigned or successfully referred to a credit provider and the amount of rent payable under consumer leases that you have entered into or successfully referred to lessors in the financial year before the application is made. You will need to add together:
- (a) the total amount of credit advanced by you in the financial year before the application is made;
 - (b) the total amount of credit assigned to you in the financial year before the application is made (based on the face value of the credit, rather than the resale or purchased value of the credit);
 - (c) the total value of credit in applications submitted by you to credit providers and intermediaries in the financial year before the application is made that have resulted in a loan being made;
 - (d) the total amount of rent payable by consumers under consumer leases entered into by you in the financial year before the application is made; and
 - (e) the total amount of rent payable by consumers under consumer leases submitted by you to lessors and intermediaries in the financial year before the application is made that have resulted in a consumer lease being entered into.
- RG 204.145 For more information on what amounts you need to take into account when you make your calculation, see RG 204.52–RG 204.55.
- RG 204.146 You will then need to:
- (a) select from the list in the online application the appropriate range that covers the total sum that you have calculated; and
 - (b) indicate whether you are a ‘sole trader’.
- RG 204.147 For more information on the ranges that you will be asked to select from, the meaning of ‘sole trader’ and the effect that this will have on the application fee, see RG 204.56–RG 204.57.

Will I be an 'original credit provider' or 'act as an intermediary'?

- RG 204.148 If you selected the authorisations to either 'Engage in credit activities as a credit provider or lessor' or 'Engage in all credit activities', you will be asked whether you intend to provide credit as an 'original credit provider'.
- RG 204.149 You are an original credit provider if you are the person who provides credit under a credit contract and who is the initial holder of rights under the credit contract (i.e. you have not become a credit provider because you have been assigned rights under the credit contract).
- RG 204.150 If you selected the authorisations to either 'Engage in credit activities other than as a credit provider or lessor' or 'Engage in all credit activities', you will be asked whether you intend to 'act as an intermediary' between a credit provider and a consumer for the purpose of securing credit for the consumer.
- RG 204.151 You will 'act as an intermediary' if you are a person who takes part in the process of securing the provision of credit for a consumer under a credit contract or consumer lease by preparing or passing on information as the result of a request from the consumer or another intermediary. You may be an intermediary even if you do not have face-to-face contact with the consumer. Innovations in credit product design mean that a consumer's credit application may pass through a number of hands between the first person they deal with and the credit provider, and the roles and functions of all of these different people may be uncertain. The definition of 'acts as an intermediary' is intended to cover all of these people.
- RG 204.152 For example, you will be acting as an intermediary if you are:
- (a) an aggregator that acts as a conduit between an individual broker and a credit provider; or
 - (b) a mortgage manager that is involved in arranging a credit contract (in addition to managing the credit contract once it has been provided).
- For more information on what is meant by acting as an intermediary, see RG 203.
- RG 204.153 If you answer 'yes' to either of these questions, you will be asked to indicate:
- (a) your intended distribution model (e.g. whether you will use employee sales representatives, third-party sales representatives (including franchisees) or related companies);
 - (b) how you will most often receive, or arrange, credit applications (e.g. over the counter, home visits, telephone, mail, internet);
 - (c) whether you intend to cross-sell financial products, other than credit contracts or consumer leases, to your client base, or refer your clients to

- the issuers of other financial products (e.g. you may sell insurance products to your clients); and
- (d) if you do cross-sell, whether you will receive commissions or other payments.

Representatives

Numbers of representatives

- RG 204.154 You will be asked how many representatives you have, or intend to have from the start of your licence, who will engage in credit activities.
- RG 204.155 'Representatives' includes your employees and directors, employees and directors of related bodies corporate and credit representatives.
- RG 204.156 In many businesses, there will be representatives who do not engage in credit activities (e.g. a receptionist may be an employee of a business that engages in credit activities, but they may not themselves engage in credit activities).
- RG 204.157 To answer this question, you will need to select, from the range provided, the number of representatives engaging in credit activities that you reasonably expect to have when you start to engage in credit activities (if the licence is granted).
- RG 204.158 If you have part-time representatives (e.g. they are part-time employees), they should be counted as an appropriate fraction of a full-time representative.

Estimated numbers of credit representatives

- RG 204.159 You will be asked how many credit representatives you expect to authorise in the first 12 months of operation under your credit licence (if it is granted).
- RG 204.160 'Credit representatives' are people who are authorised under s64 or 65 of the National Credit Act to engage in credit activities on your behalf.
- RG 204.161 If you indicate that you expect to have one or more credit representatives, you will also be asked where they will be located (i.e. particular states or territories, Australia-wide or overseas).
- RG 204.162 Your answer to this question will also trigger a later question about your processes for ensuring that these people are members of an approved external dispute resolution (EDR) scheme.

Money held in trust

- RG 204.163 You will be asked whether you are likely to receive money for or on behalf of another person in the course of providing credit services. If you select

‘yes’, you will be asked whether you will hold this money in a trust account with an Australian ADI.

RG 204.164 Credit licensees that receive money for or on behalf of another person in the course of providing credit services have obligations under Div 3 of Pts 2–5 of the National Credit Act to maintain a trust account.

RG 204.165 This question requires an indication of whether you expect to receive and hold money for consumers. Not all people who have an authorisation covering credit services will do this.

RG 204.166 Credit providers who also select the authorisation to ‘Engage in all credit activities’ may provide credit services, other than in their capacity as a credit provider, for the purpose of this question and the trust account obligations.

Note: For more information about whether the trust account obligations apply to you, see Information Sheet 136 *Complying with your trust account obligations as a credit licensee* (INFO 136).

D What questions will I be asked about compliance with the general conduct obligations?

Key points

In Part B of your online licence application, you will be asked a series of questions to confirm whether you have arrangements and systems to comply with the obligations that you will have as a credit licensee: see RG 204.167–RG 204.168.

You will be asked to:

- identify the people involved in the management of your business (your ‘fit and proper people’); and
- specify which of those people you will rely on to demonstrate that you are competent to engage in credit activities (your ‘responsible managers’): see RG 204.176–RG 204.223.

For standard applicants, this information is used to assess your competence to engage in the credit activities that are covered by the authorisation you have selected, and whether you are a fit and proper person to engage in credit activities: see RG 204.175.

For streamlined applicants, this information is part of the statement you are required to make about whether you will comply with your obligations as a credit licensee if you are granted a licence. The information about your ‘fit and proper people’ will also enable us to check whether you are a person who is excluded from being licensed by s40 of the National Credit Act: see RG 204.174.

Arrangements and systems for compliance with the general conduct obligations

RG 204.167 Each of the questions in this part of the application is designed to obtain your confirmation that your arrangements and systems for compliance with the general conduct obligations are adequate, having regard to the nature, scale and complexity of your business, rather than asking for detailed information about your arrangements and systems.

RG 204.168 To give this confirmation, you need to have developed your arrangements and systems, and the written plans to document those arrangements and systems, before you start your application.

Note: For more detailed guidance on what we consider to be ‘adequate’ arrangements and systems for compliance with the general conduct obligations, see the regulatory guides listed in Section B, Table 3. In considering whether your arrangements and

systems are adequate, you need to take into account the nature, scale and complexity of your credit activities.

- RG 204.169 You will not be asked in the online application for any further information to demonstrate the adequacy of your arrangements and systems. However, you will be required to give a declaration that if you are granted a credit licence you will comply with the general conduct obligations. See Section F for further information about the declarations that you will make when you submit the application.
- RG 204.170 During our assessment of your application, if we are concerned about your ability to comply with any of the general conduct obligations, we may ask you to provide additional information (such as a copy of your written plans that document your arrangements and systems).
- RG 204.171 You will need to have adequate arrangements and systems, and written plans that document them, to make the declaration required in the application and be prepared for any request by us for additional information during the assessment of your application.

AFS licensees

- RG 204.172 Applicants that are AFS licensees will be asked fewer questions in this part of the application. This is because AFS licensees have already demonstrated that they have adequate arrangements for compliance with their obligations as AFS licensees, and we expect that they will comply with their general conduct obligations as credit licensees by maintaining the same types of arrangements. AFS licensees will be asked some questions where the arrangements referred to are specific to the general conduct obligations of credit licensees.

Bodies regulated by APRA

- RG 204.173 Some of the general conduct obligations do not apply to bodies regulated by APRA. Accordingly, applicants that are bodies regulated by APRA will not be asked any questions in relation to these obligations.

Streamlined applicants

- RG 204.174 If you are a streamlined applicant, your answers to these questions will form part of your required statement that you will comply with your obligations under the National Credit Act if you are granted a credit licence. However, we will not refuse your application on the basis that your answers give us reason to believe that you will not comply with your obligations.

B1 Fit and proper person to engage in credit activities

RG 204.175 Before we can grant you a credit licence, we must be satisfied that you are a fit and proper person to engage in the credit activities that will be covered by that licence.

What is meant by ‘fit and proper’?

RG 204.176 You must be a fit and proper person to engage in credit activities. In determining whether you meet this requirement, we will have regard to whether each of the people involved in managing your credit business are fit and proper people to perform that role.

RG 204.177 To be a fit and proper person to engage in credit activities means that the person:

- (a) is competent to operate a credit business (as demonstrated by the person’s knowledge, skills and experience);
- (b) has the attributes of good character, diligence, honesty, integrity and judgement;
- (c) is not disqualified by law from performing their role in your credit business; and
- (d) either has no conflict of interest in performing their role in your credit business, or any conflict that exists will not create a material risk that the person will fail to properly perform their role in your credit business.

Note: These criteria for determining whether a person is a fit and proper person are consistent with the criteria set out for responsible persons of ADIs in Prudential Standard APS 520 *Fit and Proper*.

RG 204.178 To demonstrate that you have these attributes, you will need to:

- (a) identify the people involved in the management of your business (your ‘fit and proper people’);
- (b) specify which of those people you will rely on to demonstrate that you are competent to engage in credit activities (your ‘responsible managers’); and
- (c) provide us with information about each of those people, their role in your credit business and their past conduct, and, if they will be responsible managers, their knowledge and experience.

RG 204.179 Standard applicants will be required to provide some additional documents about each of their ‘fit and proper people’ to support the application. More information on these documents is set out in Section E.

- RG 204.180 For streamlined applicants, we will not take this information into account when we assess your application, except to check whether:
- (a) a banning order or disqualification order under Pts 2–4 of the National Credit Act is in force against the applicant; or
 - (b) an order under the relevant State Criminal Organisations Acts is in force against the applicant or a director, secretary or senior manager of the applicant who would perform duties in relation to the credit activities to be authorised by the licence.
- RG 204.181 When we consider whether you are a fit and proper person, we are also required to take into account whether you, or any of your ‘fit and proper people’, have been the subject of specified regulatory outcomes: see s37(2) of the National Credit Act. You will be required to make a statement about whether you or any of your ‘fit and proper people’ have been the subject of these regulatory outcomes: see Section F.
- RG 204.182 If you or one or more of the people involved in your credit business have been subject to one of these outcomes, this will not necessarily be grounds for refusing your application for a credit licence. However, we will need to consider the matter to decide the effect it may have on whether you are a fit and proper person to engage in credit activities. For example, if a responsible manager has been convicted of serious fraud, the circumstances of the offence may show such a disregard for the interests of other people, or so great an abuse of their confidence or trust, that we will conclude that the person’s involvement in your business means that you are not a fit and proper person to engage in credit activities.
- RG 204.183 If you or one or more of the people involved in your credit business have been subject to one of these outcomes, you will be asked to provide an explanation of the matter to help us make this decision.

Who are my ‘fit and proper people’?

- RG 204.184 Your ‘fit and proper people’ are:
- (a) if you are a company or other body corporate—your directors and secretaries, and any senior managers who will perform duties in relation to credit;
 - (b) if you are a partnership or a multiple trustee:
 - (i) the partners or trustees who will perform duties in relation to credit; and
 - (ii) if a partner or trustee is a body corporate—the directors and company secretaries of the partner or trustee; or
 - (c) if you are a natural person—you.

RG 204.185 ASIC does not maintain details of your fit and proper people on our public register of credit licensees. In general, if you are granted a licence you will only be required to notify us of changes to your fit and proper people on an annual basis, when you lodge your Annual Compliance Certificate. However, if you apply to vary your licence, you may need to update the details of your fit and proper people in the variation application.

Details of ‘fit and proper people’

RG 204.186 The way the list of people is presented when you first enter this part of your online application will depend on whether ASIC already holds information about your fit and proper people.

RG 204.187 If you are a company, the credit licensing system will access the Australian Company Register to pre-fill this information.

Company applicants

RG 204.188 When you first enter this part of the application, you will see a screen (the main screen) that lists:

- (a) the name and date and place of birth details of each officeholder; and
- (b) the ‘status’ of each person (which shows whether you have completed all of the information required to be included in the application for this person).

RG 204.189 For company applicants, the pre-filled information about each listed person has been accessed from the Australian Company Register. If the pre-filled information is not correct, you will need to update that register by lodging a Form 484 before you can complete your online application. You should allow 24 hours from the time the Form 484 is processed for changes to be reflected in your online application.

RG 204.190 ASIC does not have details of your senior managers, so these people are not pre-filled in your online application. You will need to click on ‘Add a senior manager’ and enter the requested information for that person on the displayed page. You will need to do this for each senior manager who will perform duties in relation to credit.

RG 204.191 You will need to decide who your senior managers are. A ‘senior manager’ is a person who makes, or participates in making, decisions that affect the whole, or a substantial part, of your business, or who has the capacity to significantly affect your financial standing. Senior managers are likely to be involved in setting the policies and procedures to be followed by your representatives who have direct contact with consumers. They are also likely to be responsible for ensuring that your representatives comply with the law.

- RG 204.192 When you first enter this part of the application, or add a person to the list, the 'Status' column will show as 'Not complete' for each of the people who are listed. You will need to click on the 'Edit' button, which will display a new screen that asks for the following information about this person:
- (a) a description of the person's role in your business (you can select one of the listed roles);
 - (b) the person's job title;
 - (c) a description of the industry category or categories that best describes the person's area of experience (you can select more than one of the listed categories); and
 - (d) whether you rely on the person to demonstrate that you are competent to engage in credit activities (i.e. whether they are a responsible manager).
- RG 204.193 If you indicate that the person is a responsible manager, you will be asked to provide information about the person's qualifications and experience later in the application.
- RG 204.194 When you have entered this information, click 'Next' and you will be returned to the main screen.
- RG 204.195 You will need to repeat this for each person who is listed.
- RG 204.196 When you have completed the required information for all of your listed people, click 'Next' and you will continue with your application.

Body corporate applicants (other than companies)

- RG 204.197 When you first enter this part of the application, you will see a screen (the main screen) that lists:
- (a) the name and date and place of birth details of each officeholder; and
 - (b) the 'status' of each person (which shows whether you have completed all of the information required to be included in the application for this person).
- RG 204.198 No people will be listed when you first enter the main screen. You will have to add all of your 'fit and proper people' by clicking on 'Add a director, secretary or senior manager'.
- RG 204.199 You will need to decide who your senior managers are. A 'senior manager' is a person who makes, or participates in making, decisions that affect the whole, or a substantial part, of your business, or who has the capacity to significantly affect your financial standing. Senior managers are likely to be involved in setting the policies and procedures to be followed by your representatives who have direct contact with consumers. They are also likely to be responsible for ensuring that your representatives comply with the law.

- RG 204.200 When you add a person to the list, the 'Status' column will show as 'Not complete' for this person. You will need to click on the 'Edit' button, which will display a new screen that asks for the following information about this person:
- (a) a description of the person's role in your business (you can select one of the listed roles);
 - (b) the person's job title;
 - (c) a description of the industry category or categories that best describes the person's area of experience (you can select more than one of the listed categories); and
 - (d) whether you rely on the person to demonstrate that you are competent to engage in credit activities (i.e. whether they are a responsible manager).
- RG 204.201 If you indicate that the person is a responsible manager, you will be asked to provide information about the person's qualifications and experience later in the application.
- RG 204.202 When you have entered this information, click 'Next' and you will be returned to the main screen.
- RG 204.203 You will need to repeat this for each person who is listed.
- RG 204.204 When you have completed the required information for all of your listed people, click 'Next' and you will continue with your application.

Partnership and multiple trustee applicants

- RG 204.205 When you first enter this part of the online application, you will see a screen (the main screen) that lists:
- (a) the name and date and place of birth details of each partner or trustee;
 - (b) if any partner or trustee is a body corporate:
 - (i) the name and ACN of the body corporate; and
 - (ii) the name and date and place of birth details of each officeholder of the body corporate; and
 - (c) the 'status' of the listed people (which shows whether you have completed all of the information required to be included in the application for this person).
- RG 204.206 The main screen first lists each partner or trustee who is a natural person. It then lists each body corporate partner or trustee, and the directors and secretaries of that body corporate.
- RG 204.207 No people will be listed when you first enter the main screen. You will have to add all of your 'fit and proper people'.

- RG 204.208 You can add a partner or trustee that is a natural person or a body corporate. You will need to click on the appropriate 'Add' link, and enter the requested information for that person or body corporate on the displayed page. You will need to do this for each partner or trustee who will perform duties in relation to credit.
- RG 204.209 If you add a body corporate partner or trustee, you will only need to enter its ABN, ACN or ARBN. The credit licensing system will access the Australian Company Register to pre-fill the details of officeholders. If the pre-filled information is not correct, that register must be updated by lodging a Form 484 before you can complete your online application. You should allow 24 hours from the time the Form 484 is processed for changes to be reflected in your online application.
- RG 204.210 If you click on 'Remove' for any of the body corporate partners or trustees, each officeholder of that body corporate will also be removed.
- RG 204.211 The 'Status' column will initially show as 'Not complete' for each person. You will need to click on the 'Edit' button, and this will display a new screen that asks for the following information about this person:
- (a) a description of the person's role in your business (you can select one of the listed roles);
 - (b) the person's job title;
 - (c) a description of the industry category or categories that best describes the person's area of experience (you can select more than one of the listed categories); and
 - (d) whether you rely on the person to demonstrate that you are competent to engage in credit activities (i.e. whether they are a responsible manager).
- RG 204.212 If you indicate that the person is a responsible manager, you will be asked to provide information about the person's qualifications and experience later in the application.
- RG 204.213 When you have entered this information, click 'Next' and you will be returned to the main screen.
- RG 204.214 You will need to repeat this for each person who is listed.
- RG 204.215 When you have completed all of your people, click 'Next'. You will be asked to enter the names of all other partners or trustees that have not been listed on the main screen. You should include in this section the names of any partners or trustees who will not be involved in your credit business (and so are not your 'fit and proper people').
- RG 204.216 When you have entered this information, click 'Next' and you will continue to the next part of the application.

Natural person applicants

- RG 204.217 When you first enter this part of the online application, you will see a screen that contains your name and date and place of birth details.
- RG 204.218 The 'Status' column will show as 'Not complete'. You will need to click on the 'Edit' button, and this will display a new screen that asks for the following information:
- (a) a description of your role in your business (you should select 'individual applicant or partner');
 - (b) your job title;
 - (c) a description of the industry category or categories that best describes your area of experience (you can select more than one of the listed categories); and
 - (d) whether you will be a responsible manager (you should select 'yes').
- RG 204.219 When you have entered this information, click 'Next' and you will continue with your application.

Responsible managers

- RG 204.220 You must identify at least one person as a responsible manager. We will assess the knowledge and skills of your responsible managers to determine whether you are competent to engage in the credit activities for which you have applied.

Note: For further information on the role of responsible managers and how we will assess your organisational competence by looking at the knowledge and skills of your responsible managers, see RG 206.

Key person licence condition

- RG 204.221 If we consider that you are heavily dependent on the expertise of a small number of people to be competent to engage in credit activities, we are likely to include a condition on your credit licence (if it is granted) that specifies that these people are 'key people' to your business.
- RG 204.222 If we put this condition on your credit licence, you will have to:
- (a) notify us if any of your key people leave, or are about to leave, your business; and
 - (b) nominate another suitably qualified person to take over from them.
- RG 204.223 You cannot change your key people unless you have varied your credit licence. For more information on applying to vary your credit licence, see Section H.

B2 Compliance arrangements

Compliance arrangements

- RG 204.224 Before we can grant you a credit licence, you must demonstrate that you have processes in place to adequately monitor compliance with your licence conditions and the credit legislation.
- RG 204.225 For more information on what we think is required for compliance arrangements to be adequate, see Sections B and C of RG 205. Your processes should be appropriate to the nature, scale and complexity of your business.
- RG 204.226 You will be asked a group of questions that are designed to obtain your confirmation that you have, or will have from the date your licence starts (if it is granted), adequate compliance arrangements and systems, including whether:
- (a) you have, or will have, a written plan that documents your arrangements and systems;
 - (b) the arrangements, or proposed arrangements, specify how often compliance with procedures is monitored and reported on; and
 - (c) there are people internal to your business who will be responsible for ongoing monitoring and reporting.
- RG 204.227 If you indicate that you will not, from the date your licence starts (if it is granted), have arrangements and systems to ensure compliance with the obligations, you will not be able to continue with the application because you would not meet the minimum requirements to be granted a credit licence.

Conflicts management

- RG 204.228 Before we can grant you a credit licence, you must demonstrate that you have arrangements in place to ensure that your clients will not be disadvantaged by any conflicts of interest that arise in relation to your credit activities.
- RG 204.229 For more information on what we think is required for conflicts management arrangements to be adequate, see Section D of RG 205. Your arrangements should be appropriate to the nature, scale and complexity of your business.
- RG 204.230 You will be asked to confirm that you have, or will have from the date your licence starts (if it is granted), adequate conflicts management arrangements and systems.

RG 204.231 If you indicate that you will not, from the date your licence starts (if it is granted), have arrangements and systems to ensure clients will not be disadvantaged by conflicts of interest that may arise wholly or partly in relation to your credit activities, you will not be able to continue with the application because you would not meet the minimum requirements to be granted a credit licence.

Outsourcing

RG 204.232 You will also be asked whether any functions of your business will be outsourced when you engage in credit activities. If you answer 'yes', you will be asked to select the types of functions that will be outsourced.

RG 204.233 You should only answer 'yes' to this question if you will be outsourcing parts of your business that relate to the provision of credit activities.

RG 204.234 If you outsource your functions as a credit licensee to other entities, you will still be responsible for complying with all of your licensee obligations in relation to those functions. For example, if you outsource the training of your representatives, you will still be responsible for ensuring that your representatives are competent and adequately trained.

RG 204.235 If you outsource any of your functions as a credit licensee, we expect that you will have appropriate processes in place to ensure that you:

- (a) have taken due skill and care in choosing a suitable service provider;
- (b) will monitor their ongoing performance; and
- (c) can deal effectively with any breaches of the outsourcing agreement or actions that lead, or might lead, to a breach of your licensee obligations.

RG 204.236 If you intend to outsource any of your functions as a credit licensee, you will also need to provide some information in the 'Summary business description' about who will perform these functions and in what location. For more information on the 'Summary business description', see Section E.

B3 Supervising and training representatives

RG 204.237 Before we can grant you a credit licence, you must demonstrate that you have adequate arrangements to:

- (a) supervise and monitor the activities of any representatives and ensure that any breaches are identified and remedied; and
- (b) ensure that any representatives are adequately trained, and are competent, to engage in the credit activities covered by your credit licence.

RG 204.238 For guidance on what we consider to be adequate training, see RG 206. Your arrangements should be appropriate to the nature, scale and complexity of your business.

RG 204.239 You will be asked a group of questions that are designed to obtain your confirmation that you have, or will have from the date your licence starts (if it is granted), arrangements to ensure that your representatives will be adequately trained and competent, and that you will supervise and monitor your representatives, including whether you:

- (a) have, or will have, a written policy that details the minimum training requirements;
- (b) have, or will have, a training register;
- (c) have, or will have, a documented process for monitoring and supervising all representatives (including credit representatives);
- (d) will undertake certain checks during your recruitment process for representatives;
- (e) have, or will have, processes to ensure representatives providing third-party home loan credit assistance will have, as a minimum, a Certificate IV in Finance and Mortgage Broking; and
- (f) have, or will have, processes to ensure credit representatives are members of an approved EDR scheme.

Note: 'Third-party home loan credit assistance' means home loan credit assistance where the credit assistance relates to credit secured by real property and neither the licensee nor its representatives will be the credit provider: see RG 206 for further details.

RG 204.240 If you are an AFS licensee, the online application will only display questions that are specific to the credit licensing regime. We have limited the questions that are asked because you have already demonstrated that you have adequate arrangements in relation to the training and supervision of your representatives in your AFS licence application. We expect that, if you are granted a credit licence, you will comply with your obligations under the National Credit Act by maintaining the same types of arrangements in relation to representatives that engage in credit activities on your behalf.

B4 Adequacy of resources

RG 204.241 Before we can grant you a credit licence, you must demonstrate that you have adequate financial, human and information technology (IT) resources to engage in credit activities and to carry out supervisory arrangements (unless you are a body regulated by APRA).

RG 204.242 For guidance on what we consider to be adequate resources, see Section F of RG 205 (for human and IT resources) and RG 207 (for financial resources).

Your resources should be appropriate to the nature, scale and complexity of your business.

- RG 204.243 Unless you are a body regulated by APRA, you will be asked a group of questions that are designed to obtain your confirmation that you have, or will have from the date your licence starts (if it is granted):
- (a) a written plan that documents your measures for ensuring that your financial resources are adequate and monitoring your financial resources to ensure that they continue to be adequate;
 - (b) a business planning process that includes consideration of the employees and other representatives that you need to engage in your credit business; and
 - (c) IT systems to support your business processes.
- RG 204.244 If you are an AFS licensee, the online application will only ask for confirmation about your business planning process. We have limited the questions that are asked because you have already demonstrated that you have arrangements for maintaining adequate financial resources and IT resources to conduct a financial services business in your AFS licence application. We expect that, if you are granted a credit licence, you will comply with your obligations under the National Credit Act by maintaining the same types of arrangements in relation to your credit activities.
- RG 204.245 If you indicate that you will not, from the date your licence starts (if it is granted), have a written plan that sets out measures to ensure your financial resources are adequate, you will not be able to continue with the application because you would not meet the minimum requirements to be granted a credit licence.

B5 Dispute resolution and hardship applications

- RG 204.246 Before we can grant you a credit licence, you must demonstrate that you have a dispute resolution system in place that comprises:
- (a) internal dispute resolution procedures that meet ASIC's approved standards and requirements set out in RG 165; and
 - (b) membership of one or more ASIC-approved EDR schemes that can deal with complaints about the credit activities that you will engage in under your credit licence. Contact details for the approved EDR schemes for credit are in Table 5.

Internal dispute resolution

- RG 204.247 You will be asked a group of questions that are designed to obtain your confirmation that you have, or will have from the date your licence starts (if

it is granted), an internal dispute resolution system, and that it meets, or will meet, the requirements set out in RG 165, including:

- (a) the role of the person responsible for internal dispute resolution;
- (b) whether your internal dispute resolution procedures meet, or will meet, the requirements in RG 165;
- (c) whether your procedures are, or will be, documented and available to clients; and
- (d) whether the procedures specify, or will specify, that information about unresolved complaints must be provided to your EDR scheme.

RG 204.248 You will also be asked whether you have, or will have, documented procedures for receiving and assessing requests to vary credit contracts on the grounds of hardship (if you intend to provide credit). You require separate procedures for these types of applications because they are generally of an urgent nature.

RG 204.249 If you are an AFS licensee, the online application will only display questions about hardship application procedures. We have limited the questions that are asked because you have already demonstrated that you have appropriate internal dispute resolution arrangements in relation to your financial services business. We expect that, if you are granted a credit licence, you will comply with your obligations under the National Credit Act by maintaining the same types of arrangements in relation to your credit activities.

RG 204.250 If you indicate that you will not, from the date your licence starts (if it is granted), have in place internal dispute resolution systems or procedures for dealing with hardship applications, you will not be able to continue with the application because you would not meet the minimum requirements to be granted a credit licence.

External dispute resolution

RG 204.251 You will be asked to enter the details of the EDR scheme or schemes of which you are a member, including your membership number and the date your membership commenced. If your EDR scheme does not provide membership numbers, you should leave this field blank. If you do not have a formal commencement date, you should enter the date you first became a member of the EDR scheme, or were first covered by the EDR scheme.

RG 204.252 If you are not a member of an EDR scheme, you can still continue with the application. However, you will not be granted a credit licence until you have become a member of an approved EDR scheme: see Table 5.

Table 5: Approved EDR schemes

EDR scheme	Contact details
Financial Ombudsman Service Ltd	<p>Address: GPO Box 3 Melbourne Vic 3001</p> <p>Phone: 1300 565 562 (members) 1300 780 808 (consumers) 03 9613 7366</p> <p>Email: info@fos.org.au (administration) membership@fos.org.au (membership enquiries)</p> <p>Website: www.fos.org.au</p>
Credit Ombudsman Service Ltd	<p>Address: Level 7, 287 Elizabeth Street Sydney NSW 2000</p> <p>PO Box A252 Sydney South NSW 1235</p> <p>Phone: 02 9273 8455 (members) 1800 138 422 (consumers)</p> <p>Email: members@cosl.com.au info@cosl.com.au</p> <p>Website: www.cosl.com.au</p>

B6 Risk management

- RG 204.253 Before we can grant you a credit licence, you must demonstrate that you have adequate risk management systems (unless you are a body regulated by APRA).
- RG 204.254 For guidance on what we consider to be adequate risk management systems, see Section D of RG 205. Your systems should be appropriate to the nature, scale and complexity of your business.
- RG 204.255 Unless you are a body regulated by APRA, you will be asked a group of questions that are designed to obtain your confirmation that you have, or will have from the date your licence starts (if it is granted), adequate systems, including whether:
- you have, or will have, documented processes to identify, analyse, evaluate, treat and communicate risks in your business, and to monitor and report on risk management issues;
 - you have assessed, or will assess, the risks associated with your business and the probability of those risks occurring; and
 - relevant representatives are, or will be, provided with risk management training.
- RG 204.256 If you indicate that your risk management processes will not include the identification, analysis, evaluation, treatment and communication of risks associated with your credit business, you will not be able to continue with

the application because you would not meet the minimum requirements to be granted a credit licence.

B7 Compensation arrangements

RG 204.257 As a credit licensee, you will need to have arrangements in place for compensating your clients for loss they suffer if you breach your obligations under the National Credit Act.

RG 204.258 For most applicants, the way to comply with this obligation is to have adequate professional indemnity (PI) insurance cover.

RG 204.259 Some applicants (i.e. general insurance companies, life insurance companies and ADIs) are exempt from the obligation to hold PI insurance cover. Related bodies corporate of these entities may also be exempt if they hold a guarantee that has been approved by ASIC.

Note: See reg 12(3) of the National Credit Regulations for details of licensees that are exempt from the requirement to hold PI insurance cover.

RG 204.260 In addition, if you will (if granted a licence) be a licensee who is authorised to engage in credit activities as a credit provider or lessor and will only provide credit services in relation to credit contracts or consumer leases for which the licensee is the credit provider or lessor, you will be exempt from the obligation to hold PI insurance cover.

Note: See reg 12(3)(c) and (d) of the National Credit Regulations.

RG 204.261 For information on our approach to compensation and insurance arrangements, including what features your PI insurance cover must have to be adequate, see RG 210.

RG 204.262 You do not need to have your compensation arrangements in place when you apply for a credit licence. However, we cannot grant you a credit licence until you confirm that you have adequate compensation arrangements in place. You should therefore start to organise your PI insurance cover, or apply to us for approval of an alternative arrangement or a guarantee, before making your application. It can take several weeks, or longer, to obtain PI insurance cover, or for us to assess whether your alternative compensation arrangements or guarantee are adequate.

Professional indemnity insurance

RG 204.263 If you indicate that you have PI insurance cover that complies with our policy in RG 210, you will continue to the next part of the application.

RG 204.264 You do not need to provide any further details about your PI insurance cover in the online application. If we consider that you should be granted a credit

licence, we will give you a decision in principle and a draft of the credit licence that we propose to grant.

- RG 204.265 However, before we can make a final decision to grant the credit licence, you will be asked to:
- (a) answer a questionnaire that asks for information about the insurer, the type and level of your cover, the scope of the cover and whether it has the features set out in our guidance on compensation and insurance arrangements for credit licensee; and
 - (b) provide a copy of the Certificate of Currency for your PI insurance policy.
- RG 204.266 If you indicate that you do not have PI insurance cover that complies with ASIC's policy, you will be asked whether you have a process to ensure that you will have such insurance cover when your credit licence takes effect. If you answer 'yes', you will not be asked any further questions about your compensation arrangements in the online application. However, you will need to provide the information described in RG 204.265 before we can make a final decision to grant a credit licence.

Exempt licensees and alternative compensation arrangements

Exempt licensees that do not require ASIC approval

- RG 204.267 If you indicate that you are an exempt licensee because you are a general insurance company, life insurance company or an ADI, you will not be asked for any more information about your compensation arrangements either in your online application or before your credit licence is issued.
- RG 204.268 If you indicate that you will only engage in credit activities as a credit provider, you will not be asked for any more information in your online application about your compensation arrangements.

Exempt licensees that require ASIC approval

- RG 204.269 If you select either 'ASIC approved guarantee' or 'ASIC approved alternative arrangements' as the reason for not having PI insurance cover, you will be asked in your online application whether ASIC's approval has been obtained. You do not need to have obtained our approval before you apply for a credit licence. However, your licence will not be granted until either we have approved the alternative arrangements or guarantee, or you have obtained adequate PI insurance cover.

Obtaining approval or a guarantee

- RG 204.270 If you want to apply for ASIC approval of alternative arrangements, or a guarantee from a related body corporate that is a general insurance company,

life insurance company or ADI, you will need to apply in writing to applications@asic.gov.au.

RG 204.271 In deciding whether to approve alternative arrangements, we will consider the same factors used to assess the adequacy of PI insurance.

E What supporting information will I need to provide?

Key points

You will be asked for some additional information about each of your 'fit and proper people' and your responsible managers: see RG 204.272–RG 204.301.

You will also be asked for a written summary that describes your proposed business activities: see RG 204.302–RG 204.303.

If you are a streamlined applicant, you will not be asked for all of this information: see Table 6.

- RG 204.272 You will be asked to provide additional information that we need to assess:
- (a) the size and nature of your proposed business, and how your business will be operated;
 - (b) whether you are competent to engage in the credit activities that will be covered by the credit licence you have applied for; and
 - (c) whether you are a fit and proper person to engage in those credit activities.

Table 6: Supporting information

Type of information	Required information	Applicants that must provide this information
Information about each of your 'fit and proper people'	Statement of Personal Information	Standard applicants only (i.e. not streamlined applicants)
	Particulars of any outcomes of concern listed in the Statement of Personal Information	Standard applicants only This information is only required if a 'yes' answer is given to a question in the Statement of Personal Information
	National criminal history check (not more than 12 months old), or overseas criminal history check for overseas people	Standard applicants only
	Bankruptcy check (not more than 12 months old)	Standard applicants only
Additional information about your responsible managers	Educational qualifications	All applicants (i.e. including streamlined applicants)
	Previous employers where experience relevant to the application was gained	All applicants

Type of information	Required information	Applicants that must provide this information
Overview of your proposed business	Summary business description	Standard applicants only

Information about ‘fit and proper people’

- RG 204.273 When you enter this part of the online application, you will see a screen (the main screen) that lists:
- (a) the name and date and place of birth details of each of the ‘fit and proper people’ listed in question B1; and
 - (b) the ‘status’ of each person (which means whether you have completed all of the information required to be included in this part of the application for this person).
- RG 204.274 When you first enter this part of the application, the status for each person will be shown as ‘Not complete’. To complete the supporting information for each person, you need to click on the ‘Edit’ button next to their name. This will take you through a series of screens, which will cover the supporting information listed in Table 6. When you have completed each of these screens and clicked on ‘Next’, you will be returned to the main screen.
- RG 204.275 You do not have to complete all of the required information for a listed person at the same time. You can return to the information for any of the listed people at any time before you submit the application by clicking on the ‘Edit’ button.
- RG 204.276 Once you have completed the required information for each of the listed people, you can click on the ‘Next’ button and will be taken to the next part of the application.

Statement of personal information

- RG 204.277 For each of your fit and proper people, you will be asked to certify whether the person has been subject to certain events within the last 10 years, whether in Australia or overseas. These events are matters that may affect whether they have the attributes of a fit and proper person to be involved in your credit business, and include:
- (a) refusal or restriction of authorisations required by law for a trade, business or profession; disciplinary action or investigations that may result in disciplinary action; licence cancellations;
 - (b) reprimand or disqualification or removal by a professional or regulatory body or EDR scheme in matters relating to the person’s honesty,

integrity or business conduct; claims against PI insurance in relation to advice given by the person; refusal of PI insurance; denial, cancellation or suspension of accreditation by a lender, mortgage manager or mortgage insurer;

- (c) use of different names to those in the application;
- (d) administrative, civil or criminal proceedings or enforcement action, which were determined adversely to the person; and
- (e) declaration of bankruptcy or insolvency; involvement in the management of any companies or businesses that have had an external administrator appointed, or entered a compromise or scheme of arrangement with creditors, or been declared insolvent.

RG 204.278 If you answer 'yes' to any of these events, you will be advised that you will need to provide an explanation of each of those matters. You must also provide specified documents or information about any of the following matters that the person may have been subject to:

- (a) a judgement against them in proceedings;
- (b) a declaration of bankruptcy or insolvency; or
- (c) a deed of arrangement, assignment or a composition under Pt X of the *Bankruptcy Act 1966* (Bankruptcy Act).

For more information, see RG 204.301.

RG 204.279 To enable you to give this certification, you will need to obtain from each of your fit and proper people a signed statement about those events. A template is included in Information Sheet 138 *Credit annual compliance certificate: Statement of personal information* (INFO 138). The online application includes a link to this document. You can use this template, or you can prepare the statement in the format of your choice provided it contains all of the required information. You will need to keep each signed statement given to you by your fit and proper people for seven years.

Additional information about responsible managers

RG 204.280 For each person you have identified as a responsible manager, you will be asked for additional information to demonstrate that they have adequate knowledge and experience for you to be competent to engage in the credit activities to be authorised by your credit licence.

Educational qualifications

RG 204.281 You will be asked for details of the educational qualifications of each person that are relevant to their responsibilities in your credit business. You need to

enter the name of the educational institution, the name of the course and the year of completion of the course.

Previous employers

RG 204.282 You will be asked for details of the previous employers of each person. You only have to include details of employment that you consider is relevant to your credit business and application.

Providing additional documents

Background checks

RG 204.283 For each of your 'fit and proper people', you will be required to provide:

- (a) a national criminal history check that is no more than 12 months old; and
- (b) a bankruptcy check that is no more than 12 months old.

RG 204.284 You are not required to send us original documents. However, you must keep, or have access to, the original documents for a period of at least seven years, and give them to us if we ask for them.

National criminal history check

RG 204.285 You can get national criminal history checks from any of the following sources:

- (a) Australian Federal Police;
- (b) state and territory police services; and
- (c) brokers accredited by CrimTrac.

RG 204.286 The national criminal history checks you provide to us must be no more than 12 months old. You should retain the original of each national criminal history check and send us a copy.

RG 204.287 For details of how to apply for a national criminal history check, see the websites listed in Table 7. The CrimTrac website provides a list of accredited brokers who can also be contacted for details of how to apply.

Table 7: How to apply for a national criminal history check

Who to apply to	Website address
Australian Federal Police	www.afp.gov.au
State and territory police services	New South Wales: www.police.nsw.gov.au Northern Territory: www.pfes.nt.gov.au Queensland: www.police.qld.gov.au South Australia: www.sapolice.sa.gov.au Tasmania: www.police.tas.gov.au Victoria: www.police.vic.gov.au Western Australia: www.police.wa.gov.au
Brokers accredited by CrimTrac	www.crimtrac.gov.au

Points to note about national criminal history checks

- RG 204.288 You are not obliged to disclose convictions to us that are ‘spent’ or ‘quashed’: see the definition of ‘spent conviction’ in Pt VIIC of the *Crimes Act 1914*. You must ensure that the national criminal history checks you apply for do not disclose details of spent convictions. We may not accept national criminal history checks that have been conducted for other purposes, such as applications for a firearms licence, because those checks may include details of spent convictions.
- RG 204.289 You need to pay a fee to the organisation providing the national criminal history checks on your responsible managers. These fees differ among the organisations listed in Table 7.
- RG 204.290 The time it takes to obtain national criminal history checks also differs for these organisations. Apply early for the checks about your responsible managers.
- RG 204.291 If you apply for national criminal history checks from the Australian Federal Police, insert the code number 25 ‘Australian Securities and Investments Commission (ASIC) Consumer Credit/Financial Services Licensing Requirements’ in the ‘Code Number’ field on the application form.

Overseas criminal history check

- RG 204.292 If a person has never lived in Australia, or has only recently arrived, an Australian criminal history check will not be relevant. In this situation, you must provide us with a criminal history check, no more than 12 months old, from the countries in which the person has lived in the last 10 years.
- RG 204.293 The criminal history check must be obtained from a national government authority in the relevant country. If this is not possible, you must provide a

criminal history check issued by a state or provincial authority for each state or province where the person has lived over the last 10 years.

- RG 204.294 If authorities in the relevant country do not provide criminal history checks, you must provide a statutory declaration declaring that the person has no criminal history and detailing the attempts you have made to obtain a criminal history check from the relevant authorities. If the person is still overseas at the time you lodge your licence application, the statutory declaration must be notarised and registered at an Australian consulate in the country where the person lives. If the person is living in Australia at the time the statutory declaration is made, the declaration must be signed and witnessed by a solicitor, justice of the peace, notary or other equivalently qualified person.

Bankruptcy check

- RG 204.295 You are required to provide a bankruptcy check for each of your fit and proper people.
- RG 204.296 You can obtain bankruptcy checks on your fit and proper people from the Insolvency Trustee Service of Australia (ITSA). The bankruptcy checks you provide to us must be no more than 12 months old.
- RG 204.297 ITSA maintains the National Personal Insolvency Index (NPII), which contains information on proceedings and administrations under the Bankruptcy Act. ITSA does not perform searches of the NPII for the general public, so you will need to request a bankruptcy check through an Index Search Agent who has been authorised by ITSA. Go to the ITSA website at www.itsa.gov.au for more information about the search agents. A fee applies to bankruptcy checks.

Overseas bankruptcy check

- RG 204.298 If a person has never lived in Australia, or has only recently arrived, an Australian bankruptcy check will not be relevant. In this situation, you must provide us with a bankruptcy check, no more than 12 months old, from the countries, states or provinces in which the person has lived in the last 10 years.
- RG 204.299 The bankruptcy check should be obtained from a national government authority in the relevant country or countries. If the national government for a relevant country does not issue a national bankruptcy check, you must provide a bankruptcy check issued by a state or provincial authority for each state or province where the responsible manager has lived over the last 10 years.
- RG 204.300 If authorities in a relevant country do not provide bankruptcy checks, you must obtain from the person a statutory declaration declaring that the person has never been bankrupt. You will also need to provide a statutory declaration detailing the attempts made to obtain a bankruptcy check from the relevant authorities. If the person is still overseas when you lodge your

licence application, their statutory declaration must be notarised and registered at an Australian consulate in the country where the person lives. If the person is living in Australia when their statutory declaration is made, the declaration must be signed and witnessed by a solicitor, justice of the peace, notary or other equivalently qualified person.

Other information about ‘fit and proper people’

- RG 204.301 If a ‘yes’ answer was given to any question in the Statement of Personal Information, you must also provide:
- (a) a document that sets out a full explanation of each matter. If you want, this explanation can include any mitigating circumstances and any comments that you may have on whether:
 - (i) the matter affects whether the person is a fit and proper person to be involved in your credit business; or
 - (ii) the person’s involvement in your credit business will affect whether you are a fit and proper person to engage in credit activities;
 - (b) if the matter involves a judgement in administrative, civil or criminal proceedings, a copy of the judgement and an indication of whether it has been satisfied;
 - (c) if the matter involves a declaration of bankruptcy or insolvency, the date of the declaration and district in which it was made and the bankruptcy number; and
 - (d) if the matter involves a deed of arrangement, assignment or acceptance by creditors of a composition under Pt X of the Bankruptcy Act, the date of the deed of arrangement, assignment or the special resolution accepting the composition, and the district in which it was made; the name and address of the trustee of the deed of arrangement, assignment or composition; and the identifying number for the deed of arrangement, assignment or composition in the office of the Registrar of Bankruptcy.

Summary business description

- RG 204.302 You must provide a document that describes your proposed business.
- RG 204.303 This document is an overview of what your business will involve and how you will operate it in practice. Details that should be provided include:
- (a) the credit activities that you will engage in (which may be all or only some of those that are covered by the authorisations you have applied for);

- (b) the types of credit products to which your activities will relate (e.g. home loans, secured personal loans, unsecured loans, credit cards);
- (c) how you will assess applications for credit (e.g. whether you will provide 'low' document loans);
- (d) your distribution model (e.g. whether you will rely on consumers to approach your business at branch offices, or will visit consumers at their own premises, or promote and provide credit products or credit services through telephone calls, the mail or the internet);
- (e) your remuneration structure (e.g. whether you receive commissions for your credit services, or up-front fees);
- (f) how many offices you will have, how geographically diverse your business is and how you supervise your representatives if they are located away from your main offices; and
- (g) if you will outsource functions, who you will outsource your functions to, where the outsourced service provider is located and how you have decided on them as an appropriate person to provide these functions for you.

Attaching documents to the application

- RG 204.304 You will be given an opportunity to attach to your application:
- (a) supporting documents about each of your 'fit and proper people' (as the last step in completing the information about each of these people); and
 - (b) other supporting documents (such as the summary business description and any explanation of reasons why you cannot make the statements required to be made in the application: see Section F).
- RG 204.305 Each time you select 'upload attachments', you will be transferred to a secure site in another window (the attachments window) where you can attach supporting documents and send them to ASIC automatically to form part of your application. You can return to a particular screen of your application to upload more documents at any time before the application is submitted.
- RG 204.306 In the attachments window, you should attach the documents that are specified (and in relation to the person that is specified in the 'subject' line if you are attaching information about a fit and proper person) and click 'send'. This will send the attached documents to ASIC as a secure file transfer. Each secure file transfer can contain up to 10 documents. You can only attach documents that are in TIFF, PDF or RTF formats.
- RG 204.307 You can print a record of the documents that you have sent to ASIC by selecting 'Print' in the attachments window. You can then continue with your application by closing the attachments window.

RG 204.308 You should upload and send attachments for each of your ‘fit and proper people’, and your other supporting information, separately. The ‘subject’ line in the attachments window will indicate which person you are uploading attachments for.

F What statements and declarations will I need to make?

Key points

You must make a statement about your past conduct and that of your 'fit and proper people': see RG 204.309–RG 204.316.

You must also make declarations that you will comply with your obligations as a credit licensee if you are granted a licence, and that the information in your application is complete and accurate: see RG 204.317–RG 204.319.

These statements and declarations are taken to be made by you when the application is submitted. You should review the application before it is submitted to make sure that it is complete and accurate: see RG 204.320–RG 204.322.

Required statement about past conduct or history

RG 204.309 Your application must contain a statement declaring that none of the people listed in the statement has been the subject of any of the specified orders or outcomes that affect ASIC's ability to licence you. The people listed in the statement are you, as the applicant, and any of the following persons who would perform duties in relation to the credit activities to be authorised by the credit licence:

- (a) if you are a company or other body corporate—each director, secretary and senior manager;
- (b) if you are a partnership—each partner; or
- (c) if you are a multiple trustee—each trustee.

Statement to be made by standard applicants

RG 204.310 The statement that you must be able to make in relation to each person is that:

- (a) the person's registration or licence under the credit legislation or their AFS licence has never been suspended or cancelled;
- (b) a banning order or disqualification order under Pts 2–4 of the National Credit Act or Div 8 of Pt 7.6 of the *Corporations Act 2001* (Corporations Act) has never been made against the person;
- (c) an order under the relevant State Criminal Organisations Acts has never been made against the person;

- (d) the person has never been banned from engaging in a credit activity under a law of a state or territory (whether as a result of a licence or registration being suspended or cancelled, or as a result of injunctions or other orders of a court);
- (e) the person has never been insolvent (this statement is not required for multiple trustees, but it must be true for each individual trustee that makes up the multiple trustee);
- (f) the person has never been disqualified from managing corporations under Pt 2D.6 of the Corporations Act; and
- (g) the person has no criminal convictions within the last 10 years.

RG 204.311 Each of these statements is relevant to whether you are a fit and proper person to engage in credit activities.

RG 204.312 If you cannot agree that each of these statements is true for you and each of the people referred to above, you will need to provide an explanation of why you cannot make the statements. This explanation may include any mitigating circumstances and any comments you have on why you consider that this does not affect whether you are a fit and proper person to engage in the credit activities that will be authorised by your credit licence (if a licence is granted).

Background checks that can be made

RG 204.313 To make these statements, you may need to complete some background checks on the listed people. Checks that you can make include those listed in Table 8.

Table 8: Background checks

Where checks can be made	Type of information
ASIC (online or at ASIC Business Centres)	<p>Personal name searches that include all action taken against a person under the Corporations Act (including suspension or cancellation of licences, banning orders and disqualification from managing corporations)</p> <p>Banned person registers for credit and financial services</p> <p>Lists of persons who have been banned from engaging in a credit activity under a law of a state or territory. These lists have been provided to ASIC by relevant authorities of each state and territory.</p>
<p>Australian Federal Police</p> <p>State and territory police services</p> <p>Brokers accredited by CrimTrac</p>	National criminal history checks (see Section E for more information)

Where checks can be made	Type of information
Index Search Agents authorised by Insolvency and Trustee Service Australia (ITSA): <ul style="list-style-type: none"> • Australian Business Research • CITEC • Espreon Property Services See www.itsa.gov.au for contact details	Search of the National Personal Insolvencies Index

Statement to be made by streamlined applicants

- RG 204.314 The statement that you must be able to make in relation to each person is that:
- (a) a banning order or disqualification order under Pts 2–4 of the National Credit Act or Div 8 of Pt 7.6 of the Corporations Act is not in force against the person; and
 - (b) an order under the relevant State Criminal Organisations Acts is not in force against the person.
- RG 204.315 If you cannot agree that each of these statements is true for you and each of the people referred to in RG 204.309, you will need to provide an explanation of why you cannot make the statements. This explanation may include any comments you have on why you consider that the orders would not result in you being excluded from being granted a credit licence by s40 of the National Credit Act.
- RG 204.316 See Table 8 for information on background checks that you can make to help you make these statements.

Declarations

- RG 204.317 To complete the application, you must make declarations that:
- (a) the application is submitted under the terms and conditions of the ASIC Electronic Lodgement Protocol, including that a signed copy of the application will be maintained by you;
 - (b) to the best of your knowledge, the information included in the application is complete and accurate; and
 - (c) if the licence is granted, you will comply with your obligations as a credit licensee.
- RG 204.318 Where you engage in a credit activity by being a credit provider, lessor, mortgagee or beneficiary of a guarantee in relation to a carried over instrument and intend to also engage in other credit activities, you must also

declare that the application is made in relation to each of these credit activities.

- RG 204.319 If the application is submitted by a lodging agent, an additional declaration will be displayed that:
- (a) under cl 16.2 of the ASIC Electronic Lodgement Protocol, the person is authorised to submit the application on your behalf; and
 - (b) the person is authorised by you to make declarations on your behalf.

How statements and declarations are made

- RG 204.320 Each of these declarations will be taken to have been made by you when the 'Submit' button is pressed. Before the application is submitted, you should ensure that you:
- (a) provide the person who is completing the application on your behalf with all information necessary to complete the application;
 - (b) review the application to ensure that the information in it is complete and accurate; and
 - (c) have authorised the person who prepares and submits the application to make statements and declarations on your behalf.
- RG 204.321 You should review your application carefully before you, or your lodging agent, submit it. Make sure your answers are correct. Once your application has been submitted, you will not be able to change your answers.
- RG 204.322 If you include a false or misleading statement in, or omit a material matter from, your application, we can refuse your application. It is also a criminal offence to make false or misleading statements in, or omit a material matter from, your application.

G What if my application is refused?

Key points

We may refuse your application if we consider you do not meet the minimum requirements for the granting of a credit licence: see RG 204.323–RG 204.325.

Before we make a decision to refuse to grant you a credit licence, we will offer you a hearing: see RG 204.326–RG 204.328.

You can apply to the Administrative Appeals Tribunal for a review of a decision to refuse to grant a licence: see RG 204.329.

- RG 204.323 When we assess your application, we may form the view that you do not meet all of the requirements in:
- (a) s37 of the National Credit Act (for standard applicants); or
 - (b) s38 of the National Credit Act (for ADIs); or
 - (c) reg 8(5) of the National Credit Regulations (for lenders mortgage insurers and life insurers that lend in accordance with life policies entered into before 1 July 2010).
- RG 204.324 If we have concerns about whether you meet the requirements, we will contact you to check on whether you have any more information that will address those concerns. If you do not, we may refuse to grant you a credit licence.
- RG 204.325 We must refuse your application (i.e. we have no discretion to grant you a credit licence) if:
- (a) a banning order or disqualification order under Pts 2–4 of the National Credit Act or Div 8 of Pt 7.6 of the Corporations Act is in force against you; or
 - (b) an order under the relevant State Criminal Organisations Acts is in force against you or one of your ‘fit and proper people’.
- RG 204.326 Before we can refuse to grant you a credit licence, we must offer you a hearing.
- RG 204.327 If the ASIC staff member who assesses your application thinks that there are grounds to refuse your application, they will refer it to an ASIC ‘delegate’, who is an impartial person authorised to make the final decision on your application.
- RG 204.328 If the delegate thinks that there are grounds to refuse your application, they will send you a letter explaining their concerns, and inviting you to appear at a hearing and/or make submissions. This will give you an opportunity to further explain why you believe you should be granted a credit licence.

RG 204.329 If, after considering any submissions, the delegate decides not to grant you a credit licence, they will send you a further letter setting out their decision and reasons why. They will also tell you how to apply to the Administrative Appeals Tribunal for a review if you are unhappy with the final decision.

H How do I vary my licence?

Key points

You can apply to vary the authorisations and other conditions on your credit licence: see RG 204.330–RG 204.331.

The variation application is an online application: see RG 204.332–RG 204.337.

The variation application includes similar questions to the credit licence application: see RG 204.338–RG 204.356.

If we decide that your variation application should be refused, we will not offer you a hearing before making this decision. However, a decision to refuse your application can be reviewed: see RG 204.357–RG 204.359.

- RG 204.330 You may need to apply for a variation of your credit licence if:
- (a) your business changes (e.g. you want to engage in credit activities that are not authorised under your existing credit licence); or
 - (b) you want to change one of the conditions on your licence (e.g. if you have a ‘key person’ condition on your credit licence and a person who is specified in the condition leaves your business).
- RG 204.331 To vary your credit licence, you need to complete and lodge Form CL03 *Vary authorisations or conditions of an Australian credit licence*. You are not automatically entitled to a variation of your licence.

Where do I get a variation application form?

- RG 204.332 The application to vary a credit licence must be completed and lodged online.
- RG 204.333 The variation application can be accessed through the Credit Portal or, if you are an AFS licensee, through the Licensees Portal.
- RG 204.334 To access the Credit Portal or Licensees Portal, you will need the user name and password you selected when you applied for your credit licence or AFS licence. If you have forgotten your user name or password, or you need extra ones for staff, apply for them online via our website.
- RG 204.335 If you cannot access the Credit or Licensees Portals, phone our Client Contact Centre on 1300 300 630.
- RG 204.336 For more information on how to access and use the credit licensing system, see Section B.
- RG 204.337 The streamlined application process does not apply to variation applications.

What questions will I be asked?

- RG 204.338 When you apply to vary your credit licence, you will be asked whether you want to vary:
- (a) the authorisations on your licence;
 - (b) one or more of the other (non-authorisation) conditions on your licence; or
 - (c) both.

Variation of authorisations

- RG 204.339 The online variation application will be pre-filled with your current authorisations. You will be asked to make changes to these authorisations (i.e. by de-selecting authorisations that you do not want, or selecting any additional authorisations that you want). For more information, see Section C.
- RG 204.340 Because we need to assess your capacity to engage in the credit activities covered by the authorisations you have applied for, you will be asked for the same information as in the licence application.
- RG 204.341 Where possible, the online variation application will be pre-filled with information already held by ASIC (i.e. the information that you provided in your licence application). You will need to review this information and update it as appropriate for your variation application.
- RG 204.342 For more detailed information on the questions that you will be asked and supporting information that you will need to provide, see Sections C, D and E.

Details of 'fit and proper people'

- RG 204.343 The online variation application will be pre-filled with the details of your 'fit and proper people' that we already hold. This means that your variation application will be pre-filled with:
- (a) the people that you listed in your licence application; and
 - (b) if you are a company, any current directors and secretaries that have been appointed since your credit licence was granted.
- RG 204.344 For the people that were listed in your licence application (about whom we already hold information that is relevant to our decision), you can:
- (a) rely on the information that you previously provided to us and that is pre-filled in your variation application;
 - (b) click on 'Edit' to update the information (e.g. if the person has changed their name, or has new experience that you want to refer to); or
 - (c) if the person is no longer a director or secretary, remove them from your list of 'fit and proper people' by clicking on 'Remove'. You will

not be able to remove a person if they are a current officeholder on the Australian Company Register (you must first lodge Form 484 to make any necessary changes to your officeholders).

- RG 204.345 New 'fit and proper people' who were not listed in your licence application (i.e. new officeholders that are pre-filled from the Australian Company Register and any people that you add to the list using the 'Add' function) will be listed with the status of 'Incomplete'. You will need to click on 'Edit' to provide details about these people.
- RG 204.346 See RG 204.186–RG 204.219 for more details about the information you will be asked to provide, and how to complete this part of the application.

Supporting information about 'fit and proper people'

- RG 204.347 The people that were listed in your licence application (about whom we therefore already hold information that is relevant to our decision) will be listed with a status of 'Complete'. You can either:
- (a) rely on the information that you previously provided to us and that is pre-filled in your variation application; or
 - (b) click on 'Edit' to update the information.
- RG 204.348 For each new person you will need to:
- (a) complete the Statement of Personal Information;
 - (b) provide any additional information to explain matters identified in the Statement of Personal Information;
 - (c) provide background checks; and
 - (d) if the person is identified as a responsible manager, complete details of their educational qualifications and previous employers.
- RG 204.349 For more information on completing the Statement of Personal Information and providing supporting documents, see Section E.

Summary business description

- RG 204.350 You will also need to provide a 'Summary business description' that describes how your business will operate if you are granted the authorisations you have applied for. See RG 204.302–RG 204.303 for more information about what you will need to include in this document.

Variation of other licence conditions

- RG 204.351 The variation application will be pre-filled with the current other (non-authorisation) conditions on your credit licence. You should select each of the conditions that you are applying to vary.

RG 204.352 You will then be asked to provide reasons why you consider each of these conditions should be varied. You should include all of your submissions in support of your application. If you do not have enough room for your submissions, you can provide a document that sets out your submissions.

Changes to key people

RG 204.353 If you apply to change the key people named on your credit licence, you will need to:

- (a) identify:
 - (i) any key person who has left, or is leaving, your business; and
 - (ii) each responsible manager that you wish to rely on instead;
- (b) provide an explanation of why there needs to be a change to your key people; and
- (c) provide reasons why the change to your key people should be allowed. This should include your explanation of whether each responsible manager that you wish to rely on has sufficient knowledge and skills to replace the key person, and is a fit and proper person to engage in credit activities.

RG 204.354 If you are applying to change this condition, you will also be presented with questions that ask for details of your 'fit and proper people' and supporting information about those people.

RG 204.355 If you have previously provided us with information about each responsible manager that you wish to rely on, you can rely on this information (which will be pre-filled in your variation application). However, you should review this information and update it as appropriate for your variation application. We may decide to refuse your variation application if:

- (a) the information that you have previously provided is out-of-date; or
- (b) we otherwise consider that it does not demonstrate that you have the capacity to engage in the credit activities that are, or would be, covered by your credit licence if the variation were granted.

RG 204.356 If you have not previously provided us with details of each responsible manager that you wish to rely on, you will need to provide the details and supporting information that is requested.

What if my variation application is refused?

RG 204.357 We may refuse your variation application if we do not believe you have the capacity to engage in the additional credit activities you have asked to be authorised for, or we think that your request to change your other (non-authorisation) conditions is not appropriate.

- RG 204.358 If we refuse to grant the variation to your credit licence, we will write to you and explain the reasons why. We will also tell you how to apply to the Administrative Appeals Tribunal for a review of our decision. Under the National Credit Act, we are not required to offer you a hearing or an opportunity to make submissions if we refuse to grant a variation to your credit licence.
- RG 204.359 If we refuse your variation application, your current credit licence will still be valid.

Key terms

Term	Meaning in this document
ABN	Australian Business Number
ACN	Australian Company Number
ADI	Authorised deposit-taking institution—Has the meaning given in s5 of the National Credit Act
AFS licence	An Australian financial services licence under s913B of the Corporations Act that authorises a person who carries out 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.
AFS Licensees Register	The register of financial services licensees maintained by ASIC
APRA	Australian Prudential Regulation Authority
ARBN	Australian Registered Body Number
ASIC	Australian Securities and Investments Commission
Australian Company Register	The register of companies maintained by ASIC
Australian Credit Register	The registers of registered persons, credit licensees and credit representatives maintained by ASIC
Bankruptcy Act	<i>Bankruptcy Act 1966</i>
carried over instrument	Has the meaning given in s4 of the Transitional Act
COI lender	A person who was a credit provider or lessor in relation to a carried over instrument immediately before 1 July 2010 and who remains the credit provider or lessor on or after 1 July 2010
consumer	A natural person or strata corporation Note: See s5 of the National Credit Act.
consumer lease	A consumer lease to which the National Credit Code applies Note: See s169–171 of the National Credit Code.
Corporations Act	<i>Corporations Act 2001</i> , including regulations made for the purposes of that Act

Term	Meaning in this document
credit activity (or activities)	Has the meaning given in s6 of the National Credit Act
Credit Amendment Regulations 2010 (No. 2)	National Consumer Credit Protection Amendment Regulations 2010 (No. 2)
credit assistance	Has the meaning given in s8 of the National Credit Act
credit legislation	Has the meaning given in s5 of 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 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
EDR scheme	An external dispute resolution scheme approved by ASIC under Regulatory Guide 139 <i>Approval of external complaints resolution schemes</i> (RG 139)
fit and proper people	In relation to a credit licensee or an applicant for a credit licence, means the following people: <ul style="list-style-type: none"> • where the licensee or applicant is a single natural person, the licensee or applicant; • where the licensee or applicant is a body corporate, each director and secretary of the body corporate, and each senior manager of the body corporate who would perform duties in relation to the credit activities to be authorised by the licence; • where the licensee or applicant is a partnership or the trustees of a trust, each partner or trustee
general conduct obligations	The obligations under s47(1) of the National Credit Act
Insurance Act	<i>Insurance Act 1973</i>
ITSA	Insolvency Trustee Service of Australia
lessor	A lessor under a consumer lease
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
person	Has the meaning given in s5 of the National Credit Act

Term	Meaning in this document
PI insurance	Professional indemnity insurance
Pt 2 (for example)	A part of the National Credit Code (in this example numbered 2), unless otherwise specified
reg 8 (for example)	A regulation of the National Credit Regulations (in this example numbered 8)
relevant State Criminal Organisations Acts	<i>Crimes (Criminal Organisations Control) Act 2009</i> (NSW), <i>Criminal Organisation Act 2009</i> (Qld) or the <i>Serious and Organised Crime (Control) Act 2008</i> (SA), as applicable
representative	Has the meaning given in s5 of the National Credit Act
responsible managers	A credit licensee's responsible managers will be the following people or a subset of these people that have been identified as people that the licensee relies on to demonstrate competence to engage in credit activities: <ul style="list-style-type: none"> • where the licensee is a single natural person, the licensee; • where the licensee is a body corporate, each director, secretary or senior manager of the body corporate who would perform duties in relation to the credit activities to be authorised by the licence; • where the licensee is a partnership or the trustees of a trust, each partner or trustee who would perform duties in relation to the credit activities to be authorised by the licence
RG 165 (for example)	An ASIC regulatory guide (in this example numbered 165)
s35 (for example)	A section of the National Credit Act (in this example numbered 35), unless otherwise specified
senior manager	Has the same meaning as in s9 of the Corporations Act
third-party home loan credit assistance	Home loan credit assistance where the credit assistance relates to credit secured by real property and neither the licensee nor its representatives will be the credit provider
Transitional Act	<i>National Consumer Credit Protection (Transitional and Consequential Provisions) Act 2009</i>
Transitional Regulations	National Consumer Credit Protection (Transitional and Consequential Provisions) Regulations 2010
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
you	Applicant for a credit licence or an unlicensed COI lender

Related information

Headnotes

Australian Credit Register, carried over instrument, COI lender, credit activities, credit licence, credit licensee, Credit Portal, credit representative, EDR scheme, National Credit Code, online application, representative, streamlined applicant, unlicensed COI lender

Regulatory guides

RG 139 *Approval of external complaints resolution schemes*

RG 165 *Licensing: Internal and external dispute resolution*

RG 203 *Do I need a credit licence?*

RG 205 *Credit licensing: General conduct obligations*

RG 206 *Credit licensing: Competence and training*

RG 207 *Credit licensing: Financial requirements*

RG 208 *How ASIC charges fees for credit relief applications*

RG 209 *Credit licensing: Responsible lending conduct*

RG 210 *Compensation and insurance arrangements for credit licensees*

RG 235 *Registering your business name*

Information sheets

INFO 97 *Guidance for small credit businesses*

INFO 108 *Fees for credit licence and annual compliance certificate*

INFO 110 *Lenders with carried over instruments*

INFO 136 *Complying with your trust account obligations as a credit licensee*

INFO 138 *Credit annual compliance certificate: Statement of personal information*

Legislation

Bankruptcy Act, Pt X

Corporations Act, Pt 2D.6, Pt 7.6 Div 8

Crimes Act 1914, Pt VIIC

Crimes (Criminal Organisations Control) Act 2009 (NSW)

Criminal Organisation Act 2009 (Qld)

Finance Brokers Control Act 1975 (WA)

Financial Sector (Collection of Data) Act 2001

Insurance Act

Life Insurance Act 1995

National Credit Act, Ch 2, Pts 2–4, Pts 2–5 Div 3, s37, 38, 40, 64, 65;
National Credit Code; National Credit Regulations, regs 7A, 8(1), (3) and
(5), 12(3), 12(3)(c), 21, 25F, Sch 2; Credit Amendment Regulations 2010
(No. 2), Sch 1; National Consumer Credit Protection (Fees) Regulations
2010, Sch 1; Transitional Act, s4; Transitional Regulations, Pt 3 Div 1

Serious and Organised Crime (Control) Act 2008 (SA)

ASIC forms

484 Change to company details

CL01 *Application for an Australian credit licence*

CL03 *Vary authorisations or conditions of an Australian credit licence*

CL20 *Notification of change to credit licence details*

CS02 *Notification of changes to registration details*

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