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# MEMBER / BROKER HANDBOOK

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## Member / Broker Handbook

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## Consumer Credit Reform Package

Commencing on 1st July 2010, the Consumer Credit Reform Package created a single, standard, national law for the regulation of consumer credit.

The key components of the Consumer Credit Protection Package include the following:

- a comprehensive licensing regime for those engaging in credit activities;
- industry wide responsible lending conduct requirements;
- improved sanctions and enhanced enforcement powers for ASIC in relation to consumer credit; and
- enhanced consumer protection through dispute resolution mechanisms, court arrangements and remedies.

The legislation and regulations that have subsequently been passed provide the legal framework that the finance and mortgage broking industry is expected to meet.

## Regulators

### Federal

The key regulators of the credit industry are as follows:

#### **Credit Services Providers**

**Australian Securities and Investments Commission (ASIC)** enforces and regulates the corporation's law and consumer protection in credit. It has jurisdiction over most businesses involved in the finance industry including mortgage and finance brokers, aggregators and mortgage managers, financial services, superannuation, insurance and deposit taking)

**Credit Providers** - Lenders are regulated federally by three bodies:

**Australian Prudential Regulatory Authority (APRA)** is the prudential regulator/supervisor of authorised deposit-taking institutions (ADIs). It oversees banks, credit unions and building societies, general and life insurers, reinsurers, friendly societies, and most members of the superannuation industry. APRA does not regulate non-bank lenders who raise capital from sources other than depositor funds.

**Australian Securities and Investments Commission (ASIC)** is the main regulator of non-ADI financial institutions.

**Australian Competition and Consumer Commission (ACCC)** regulates competition and consumer protection issues for most businesses. For mortgage and finance brokers and providers of financial services, some of these responsibilities have been transferred to ASIC.

## Laws and Codes of Practice

The laws and codes of practice which govern credit services intermediaries and lenders are described below.

The majority of the requirements of these laws and codes are incorporated into this handbook. Further guidance is in MLB policy documents.

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### National Credit Code 2009

The National Credit Code (“Credit Code”) governs consumer lending in Australia. Commencing on 1 July 2010, it replaced the state based Uniform Consumer Credit Code.

Designed to protect consumers, the Credit Code applies only to credit provided wholly or predominantly for personal, domestic or household purposes where the consumer is an individual or a strata corporation. It applies to credit for residential investment properties but does not apply to credit for business purposes.

The Credit Code is based on the principles of truth in lending which allows borrowers to make informed choices when purchasing credit. It also sets out rules by which credit providers must abide throughout the life of a loan.

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### National Consumer Credit Protection Act 2009

In addition to the Credit Code, the National Consumer Credit Act 2009 (CT) regulates lenders, mortgage brokers and intermediaries who assist consumers to obtain finance and credit services intermediaries such as aggregators and mortgage managers.

### Other Legislation

A variety of other legislation applies to the conduct and marketing activities of credit services intermediaries – these include:

- Competition and Consumer Act 2010 (Cth);
- ASIC Act 2001 (Cth);
- State Fair Trading Acts;
- Privacy Act 2001 (Cth);
- Door to Door Trading Acts (State and Territory);
- E-Marketing Code of Conduct (National);
- Spam Act 2003 (Cth); and
- Do Not Call Register Act 2006 (Cth)

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## **MLB Broker Agreement Obligations**

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MLB expect that all members and member authorised representatives will be compliant with all aspects of the legislative and regulatory framework at all times. These expectations are outlined in the member agreement with MLB. Any broker that is an authorised representative of an agreement holder is also held to account by the standards outlined in the member agreement.

The penalties for not conforming to the expectations are highlighted in the member agreement. However, any non-compliance with written expectations may also result in a material breach of the member agreements (of which member authorised representatives are held vicariously liable through the member agreement).

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## **ACL Compliance Package**

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Holders of an Australian Credit License will be expected to enrol in MLB's ACL compliance program through MLB Complifast.

This program requires ACL holders to assess their ACL general conduct obligations and related industry requirements by participating in a quarterly compliance program.

Licensees will receive 10 audits per annum as part of this package and will also receive licencing support to ensure they are meeting the general conduct obligations. The quarterly reviews will assist licensees to develop strategies to implement in the business that will ensure 100% compliance with the regulatory requirements.

The ACL support will include access to educational materials, feedback loops through comprehensive reporting and will also give Licensee's 8 MFAA / FBAA CPD hours per annum.

### **Non-Compliance with ACL program**

Any failure to meet the quarterly requirements of the ACL package and the associated file audits will be regarded as a failure to meet MLB compliance expectations and will result in sanctions, suspension or terminations in accordance with the member agreement.

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## **Credit Representative Compliance Package**

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Each Credit Representative of MLB must participate in file audits on a periodic basis, with a minimum of 5 files being reviewed bi-annually (dependent on volume). New CRs will be audited from 3 months after being authorized under MLB. These audits will assess loan files against a comprehensive audit checklist and will provide the broker with useful feedback on improvements that can be made to their documentation requirements. Reports will be provided for each audit, ensuring brokers can refer back to these materials in delivering best practice documentation standard.

A consistent failure to meet the file audit competency will be regarded as a failure to meet MLB compliance expectations and will result in sanctions, suspension or terminations in accordance with the member agreement.

## Ongoing Competence

MLB expect all members and member authorised representatives to participate in the MLB hosted Professional Development days and other online or face to face learning opportunities promoted by MLB.

MLB Professional development days deliver quality outcomes that educate and innovate. MLB will continue to deliver sessions of exceptional quality and frequency that are specifically tailored to meet the current needs in the mortgage broking industry. These sessions will be delivered with an increased focus on professionalism and feedback from our broker members.

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## Non-Compliance with Broker Handbook

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It is important to note that this Broker Handbook is an integral part of your engagement as an MLB member or Member Authorised representative. As such, all clauses, processes, guidelines and requirements covered in this handbook are binding on you.

Equally, a breach of any clause, process, guideline or requirement covered in this handbook is considered a breach of the overall agreement, and standards put in place to assist all MLB members and Member Authorised representatives with the effective and efficient running of their business.

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## MLB Actions for Non-Compliance

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When we become aware of a breach, or potential breach, of this handbook or any part of the agreement, Code of Conduct or related policy we will make an assessment of the situation and it may be referred to the MLB compliance committee

Breaches of this policy may result in:

- Issuance of a breach notice or notice of default.
- Issuance of a suspension notice;
- issuance of a termination notice;
- the deduction or withholding of commission;
- being placed on a compliance plan for a period of time; or
- other action MLB's compliance committee sees fit

The intention of this process is to highlight specific activity that is not in accordance with this policy, and that need to be brought to your attention, in order that the non-compliance can be managed in a timely manner and corrective action put in place.

## Civil Action

MLB may also take civil action in relation to a breach of this handbook (or related code / policy) by an MLB Broker Member (or their authorised representatives) and may refer any suspected or actual unlawful activity of an MLB member to law enforcement agencies.



## Codes of Practice

### MFAA Code of Practice

The MFAA Code of Practice is binding on every mortgage broker/originator, finance broker, mortgage manager and credit provider who is a Full or Life Member of the MFAA and who acts for a party to a transaction that involves or may involve the provision of credit.

It requires Members to commit to good industry practice and fair dealing in the finance marketplace. Its objectives are to:

- establish professional standards of consumer/Member dealings in the mortgage and finance industry;
- promote commitment by MFAA Members to compliance with laws and regulations in the spirit of those laws and regulations;
- promote the maintenance of the high public standing of MFAA Membership accreditation;
- promote ethical and fair business practices to the benefit of consumers and the public and Members; and
- promote education and professional programs for Members.

### FBAA Code of Practice

The FBAA code was developed with the objective of decreasing the cost of professional indemnity insurance for finance brokers by setting standards of behaviour, accountability and record keeping applicable to members of the FBAA to increase confidence in the services provided by members of the FBAA.

The FBAA Code of Practice applies to all accredited members of the Finance Brokers Association of Australia Ltd.

Under the FBAA Code of Practice, a Finance Broker has responsibilities to customers and to credit providers. The objectives of the code promote:

- standards of good conduct and service;
- informed and effective relationships between Finance Brokers and customers and credit providers;
- efficiency in transactions which involve Finance Brokers;
- provide for consultation with Consumer Representatives in dispute resolution and reviews of the code; and
- effective dispute resolution.

## MLB Compliance Documentation

### Credit Guide and Privacy:

Completed, signed and dated copy of the MLB Credit Guide and Privacy Disclosure Statement document. The Credit Guide must be provided before you provide any credit assistance; the date of generation must not predate any other forms.

Credit Guide must include the following:

- Details of the Licensee including name, ACL number and contact information
- Details of internal and external dispute resolution (IDR and EDR) schemes
- Commissions, fees and charges that may be payable
- Top six lenders used by ACL holder
- Whether commissions to third-party referrers will be paid
- Statement on any volume bonus arrangements in place
- If the Credit Guide is provided by a Credit Representative on behalf of the ACL holder, it must also include the following:
  - Details of the Credit Representative including name, CRN and contacts details
  - Fees and charges payable directly from the consumer to the Credit Rep
  - Information about the CR's IDR scheme

A Privacy Consent is included with the Credit Guide and this must be acknowledged by the clients for the purposes of data retention, data storage and management of the client's personal information.

### Preliminary Assessment and Credit Proposal:

Completed, signed and dated copy of the MLB Preliminary Assessment and Credit Proposal document. Document date must precede lodgement with the lender by no greater than ninety (90) days.

The PCA must demonstrate that reasonable investigation and verification has occurred in making the assessment that the loan applied for is "not unsuitable" for the client(s), and that the loan meets their requirements and objectives.

Commission disclosure and any other applicable remuneration must be disclosed in the Credit proposal and must be expressed as a maximum dollar value. Fees and commissions payable to the lender, the broker and other parties must be disclosed as well as the circumstances in which they are payable.

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## Material Changes Before Settlement

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If you become aware of a material change before the settlement of the loan you must advise the lender and issue a replacement Credit Proposal including the PCA to the consumer.

You must also keep adequate records of any material change and you should save these records in Chief

A material change will generally include:

- an increase in the loan amount;
- different product or lender;
- adding or removing an applicant;
- additional liabilities or dependents (previously undisclosed);
- income changes (including any expected future change).

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## Credit Quote:

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Completed, signed and dated copy of the MLB Credit Quote document. Only required where the broker has elected to charge the client(s) a fee, either:

- Any upfront fees for the provision of credit services, or
- A postponed fee recovery provision for clawback, or
- Both of the above

Note: The Credit Guide should contain details on fees and charges payable and should make reference to the Credit Quote. The Credit Quote must provide information amount maximum fees payable as a dollar value and must detail the services and situations that will incur the fee. The Credit Quote should be provided at the same time as the Credit Guide.

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## Manual Fact Find or Electronic Fact Find:

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Completed copy of the manual fact find document where one has been done.

Electronic Fact Find will automatically populate with the Credit proposal if using Chief.

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## Other Disclosures

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Within the disclosure documentation, you must also make declarations and provide assurances with regards to management of Conflicts of Interests and Insurances (confirmation that a conversation around insurances has taken place and that they are comfortable with their current level of cover, or, that they will take steps to investigate appropriate options).

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## Material Changes After Settlement

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A Credit Proposal (with the lender, product, amount, interest rate, payment on it), needs to be given to the customer when you provide credit assistance, before you lodge the loan application.

You also need to issue a new CP document when:

- there is a change of chosen product
- there is a change of Lender
- you submit the application for the loan, the Lender says that product won't work for this customer due to a change in their policy, so you try for a different loan with that Lender. As this is a different loan product, a new CPDD is to be given to your customer.

You don't have to issue new NCCP docs when:

- the loan amount is changed, the lender changes the loan amount or repayments, based on their own assessment
- the rate has changed but it's still the same loan *product*
- you have to extend an approval after 90 days have passed
- you have identified significant changes to the customer's financial position, such as change in employment, income and liabilities (But, you should inform the lender about this – your reputation matters too!)

In cases where there are significant changes to the client's servicing, or servicing was particularly tight, as a matter of best practice it is advisable to quickly review your serviceability calculations to ensure that they are still appropriate for the client.

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## Product Switches

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New Disclosure Documents will need to be issued and a full responsible lending assessment to be made in situations where the switch involves a new contract being issued. The legislation requires that all requirements need to be met when engaging in a credit activity and any loan that involves a new contract (even though it is with the same lender) will trigger all the legislative requirements for a new loan.

Confirm with your BDM to see if a switch form will trigger a new loan contract to be issued.

## Identification and Interviews

### Identification

In many cases you will be required to meet the lenders specific guidelines to identify the applicants and guarantors (if any). You must strictly follow the lender's procedures when doing so and promptly notify the lender if you have any concerns or suspicions about the person that you have identified. You must undertake AML/CTF training before you identify persons for lenders and refresh that training as necessary.

Where the lender undertakes its own identification process, you must still identify each individual by sighting an original photo identification document, such as a driver's licence or passport. You must keep a clear copy of the photo identification document on the client file. You should save these records on file and in Chief.

You must update your client identification records each time that you provide a new service to them, such as a new or top up loan. However, if the last service you provided was within the previous 6 months, the ID document on file has not expired (expired beyond 2 years for passports) and the person has confirmed they have not changed their name during that time, you may not be required to update your client identification records.

### Face-to-face Interviews

All client interviews must be conducted face-to-face. The purpose is to not only ensure the individuals are properly identified to meet AML/CTF requirements, but also to ensure copies of original supporting documents are obtained in order to reduce the risk of fraud. Most lenders require you to sign a declaration which includes a statement that you have sighted the originals of all supporting documents.

MLB expects you to conduct a face-to-face interview with each applicant.

During the interview, you must establish whether the applicant can speak and comprehend English sufficiently to understand the nature of the transaction. If this is not the case, MLB must be informed. If you cannot converse fluently in the language the applicant is most comfortable with, you must use an interpreter to assist with the interview and confirm to MLB that this has occurred.

You must identify each applicant using original photo-identification. This can be done by sighting a driver's licence or passport or some other photo identification card.

If the applicant fails to produce original photo-identification, you must determine whether it is available (but simply not in their possession at that particular time) and, if so, a further appointment must be made to complete identification. If you are satisfied that the applicant does not possess any

photo identification whatsoever, you must ask the applicant to produce their credit card(s), obtain a specimen signature from them during the interview and compare that signature with the signature on the card.

If a company is involved, all office bearers and beneficial owners must be identified in this way. If a document is in a language other than English, you must also provide a translation by a translator accredited by the National Accreditation Authority for Translators and Interpreters Ltd (NAATI).

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## Non-face-to-face Interviews

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If you are unable to conduct a face-to-face interview you must:

1. Notify the lender that you will be unable to conduct a face-to-face interview. This may be via the application form or by contacting the lender's BDM to obtain approval. (**Do not** sign any declaration on the lender's application form confirming you have conducted a face-to-face interview or sighted original documents). You will need the lenders permission before seeking permission from MLB.
2. Contact the MLB Compliance Team at [support@mylocalbroker.com.au](mailto:support@mylocalbroker.com.au) and explain why you cannot conduct a face-to-face interview and how you propose to interview and identify the client. You will be advised by email if you have been approved to proceed.
3. Retain the email with your approval to proceed on the client file. You should save these records in Chief.

### Proceeding with the non-face-to-face interview.

Ensure all supporting documents, together with ID documents, are certified by an acceptable certifier and you must retain the original certified copies on file (you must meet the individual lender's requirements about who may certify original documents).

Provide a translation by a translator accredited by the National Accreditation Authority for Translators and Interpreters Ltd (NAATI) if a document is in a language other than English.

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## ID Documentation and Verification:

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### Zip ID

MLB expects you to have a correctly completed ZipID report for each applicant and guarantor. Self-certified copies of ID only acceptable where ZipID app is unavailable at the time of interview (due to service interruption of internet accessibility issues). Copies of ID certified by another authorised party by exception, where it is impossible to meet the client face-to-face and ZipID service by courier is not available.

### Medicare card:

To be captured for each applicant and guarantor, whether in the ZipID report or separately, for the purpose of verifying dependents.

## AML / CTF Risk Assessments

Brokers can assess the AML / CTF risks according to 2 key factors:

1. Assessing the Jurisdiction Risk
2. Assessing the Product Risks

**Jurisdiction (Location) Risk** – Some geographical locations have different levels of money laundering and terrorism financing risk. For example, countries with significant levels of corruption, low levels of regulation, sanctions or embargoes or have been associated with drug trafficking are considered as Higher Risk jurisdictions.

The MFAA AML Standard classifies Australia and New Zealand as low or Standard Risk and all other countries as Higher Risk. This standard has been developed by the MFAA in collaboration with credit providers. The procedures in the Handbook embody this standard.

Use the following table to assess jurisdiction risk:

Criteria	Standard Risk	Higher Risk
Location of the client	Client is in Australia or NZ	Client lives outside Australia or NZ
Location of security	Security is in Australia or NZ	Security is outside Australia or NZ
Location of the asset to be financed	Asset is in Australia or NZ	Asset is in a country other than Australia or NZ
Location of funds to repay the loan	Loan will be repaid from an Australian or NZ source	Loan will be repaid from an offshore source

## Product Risk

Some products, because of certain features and benefits, may make it easier and therefore more attractive for money launderers. The table below shows the level or risk associated with common lending products according to the MFAA AML Standard.

Level of Risk	Product	
Standard Risk	• Standard Variable Rate Residential Mortgage	• Equity Release Mortgage
	• Standard Fixed Rate Residential Mortgage	• Standard Capped/Floored/Belted Residential Mortgage
	• Equity Finance / Shared Appreciation Mortgage	• Residential Mortgage with tied credit card facility
	• Novated lease (vehicle)	• Bank Guarantee
	• Business Loan	• Construction Loan
	• Offset Residential Mortgage	• Chattel mortgage
	• Hire Purchase	• Novated lease (property)
	• Partnership commercial loan	• Reverse Novation

	<ul style="list-style-type: none"> <li>• Commercial Overdraft</li> <li>• Commercial Line of Credit</li> </ul>	<ul style="list-style-type: none"> <li>• Lo-doc Residential Mortgage*</li> </ul>
<b>Higher Risk</b>	<ul style="list-style-type: none"> <li>• Letter of Credit</li> <li>• Residential line of credit</li> </ul>	<ul style="list-style-type: none"> <li>• Pre-shipment finance</li> </ul>

The following characteristics may indicate that a client is Higher Risk; they should be taken into account when assessing risk.

Characteristic	Reason
Loan repayments from third parties	Facilitates layering
Increased anonymity for customer	Facilitates multiple laundering events
Value churn through product	Facilitates layering
Early repayment with no/minimal penalties	Allows rapid movement of funds
Rapid access to funds at customer request	Allows rapid movement of funds
Cross border asset flows (as inherent part of product)	Facilitates complex asset trails

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## Suspicious Matter Reporting

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If you have reasonable grounds to suspect that the customer or activity may be related to money laundering or terrorism financing or if you suspect that the person, or agent of the person, is not who he or she claims to be, consider making a Suspicious Matter Report to the lender.

The lender is responsible for verifying identification information and investigating any Suspicious Matter before forwarding any reports to AUSTRAC.

### What information should be collected when reporting a Suspicious Matter

- Information on the client:
- Full name of the client;
- Client's business and/or residential address;
- Client's occupation, business or principal activity;
- Client's date of birth;
- Client's country of citizenship;
- Sources relied on to verify the client's identity, including type of document and its unique number and who produced it; and
- Full details of any other name used by the client.



## **Trigger for Suspicion:**

Details of the matter that has triggered the suspicion should be documented and should include:

- Any information that appears to be false or misleading, as well as an explanation of why you believe it is apparently false or misleading;
- Type of services or transactions which are the subject of the suspicious matter;
- Date/s of the service/s or transaction/s;
- Whether the client was the recipient or beneficiary of the transaction, or the person who initiated the transaction;
- Total amount of the transaction/s.

If the transaction/s is in a foreign currency, both the foreign currency amount and the amount converted to Australian dollars must be reported.

The amount of each component of the transaction must be reported, if relevant. For example, if the transaction is comprised of part cash and part cheque, then the amount of the cash and the cheque components must each be reported.

Details of any beneficiary to the transaction/s must be reported – including, where possible, the beneficiary's full name and address and, where available or relevant, the beneficiary's bank account details and the country to which the funds are being sent.

Details of the person who initiated the transaction must be reported - including the person's full name and address and, where available or relevant, the person's account details and the country to or from which any funds are being sent.

If another institution or intermediary was involved in the transaction:

- the full name of the other institution or intermediary;
- the branch name or branch location of the other institution or intermediary; and
- the country of the branch of the institution or intermediary involved in the transaction – if the country is not Australia.

If it appears that any other transaction may be related to the transaction in relation to which the suspicion has arisen, provide as many details as possible in respect of each of the related transaction/s; and

Any other detail that you consider may be relevant.

## **Tipping off**

After submitting a Suspicious Matter Report, do not give any information that could indicate that you suspect money laundering or counter terrorism financing to anyone other than the lender and AUSTRAC. Talking to the borrower/client, other brokers, the MFAA or others about your suspicions is a breach of the law.

Similarly, if the lender verifies the client's identification and rejects the application and you suspect

that the lender has reported a Suspicious Matter to AUSTRAC, do not tell the client. Instead, refer the client to the lender.

## **Fraud**

Many other types of fraud are commonly associated with mortgage transactions, including misrepresentation of financial, employment or identity information, false valuation or intentional default.

Any of the participants can be involved in fraud - from the borrower to the originator, broker, valuer, accountant, legal adviser or lender.

Fraud can have a significant impact on a broking business – there can be damage to personal and brand reputation, which can limit opportunities for new business and damage existing business relationships. It can also result in the loss of upfront and trailing commissions as well as significant legal costs when a broker is caught up in civil or criminal action.

Lenders' Mortgage Insurance does not cover losses suffered as a result of a fraud by the lender or anyone acting on behalf of the lender in the origination chain. Lenders are therefore likely to seek to recover the losses from anyone who has been involved in the fraud.

Client identification and verification will assist mortgage brokers to detect fraud, although there are other "red flags" that should alert you. Fraud detection is part of a mortgage brokers role. A lender often relies on a mortgage brokers assessment and investigation as they do not have direct contact with the client or the opportunity to see original documents.

Mortgage Brokers must abide by the particular identification verification requirements depending on the State in which they operate (or a secured property is situated).

## Responsible Lending Obligations

### Introduction

This policy forms part of MLB's procedures about applications for credit products and will assist you to meet the responsible lending requirements of *the National Consumer Credit Protection Act 2009*. You must comply with this policy when you provide credit assistance to a consumer.

Please note that this policy cannot specifically address all possible situations that you may face when providing credit assistance to consumers and you must also comply with the requirements of the law, ASIC's guidance in *Regulatory Guide 209: Credit licensing: Responsible lending conduct*, the MLB Member Agreement which permits you to introduce credit applications through MLB and each individual lender's procedures and other requirements. If you are an MLB credit representative you must also comply with the terms of your MLB Credit Representative Agreement.

The responsible lending requirements for credit assistance providers (brokers) require you to follow a number of steps before you make a preliminary assessment about whether a credit contract is *not unsuitable* for the consumer. The primary steps that you must take are:

- make reasonable inquiries about the consumer's requirements and objectives;
- make reasonable inquiries about the consumer's financial situation;
- take reasonable steps to verify the consumer's financial situation;
- give responsible lending documents to the consumer at the appropriate times;
- document your actions and the results of your inquiries.
- Ensure the product selected meets the requirements and objectives of the consumer
- Ensure the consumer is able to meet the commitments without experiencing financial hardship

This policy sets out minimum requirements with respect to each of these matters and also provides some additional information about identifying your clients.

You can only rely on information if you have a reasonable belief that it is true. You must not give credit assistance to a consumer based on information that you know or suspect is untrue.

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## Requirements & Objectives

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Before making a preliminary assessment, you must make reasonable inquiries about the consumer's requirements and objectives in relation to the credit contract. You should consider *all* of the consumer's requirements and objectives and the loan features required to achieve them.

You must:

- make reasonable inquiries about the consumer's requirements and objectives;
- document those requirements and objectives in the *Credit Proposal including Preliminary Credit Assessment* (you must prepare a new Preliminary Credit Assessment if any of the consumer's requirements and objectives change that includes an explanation of the changes);
- take all requirements and objectives into consideration when reviewing available products and ensure all suggested products meet the consumer's requirements and objectives; and
- keep adequate records to demonstrate the inquiries and verification that you have undertaken. You should save these records in Chief.

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## All Products

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As a minimum, the following areas must be addressed and captured in the Requirements & Objectives section of the *Credit Proposal including Preliminary Credit Assessment*:

- purpose of the loan (this must be specific and consistent with the size of the loan);
- amount of credit sought (this must be consistent with the purpose of the loan);
- loan term required;
- repayment type required and why (e.g. principal & interest or interest-only);
- product features required and why (e.g. fixed or variable interest rate, offset account, redraw facility, credit card, transaction account package); and
- other requirements/considerations (e.g. subject to finance clause, settlement deadline, pre-approval requirement, customer requests specific lender, LMI lender requirements).

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## Interest-Only Periods

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Due to the additional interest payable over the life of a loan and the fact that the principal will not be paid down during the interest-only period, a loan with an interest-only period has an increased risk of not meeting a consumer's requirements and objectives. As a result, you must record the following additional information if an interest-only period is proposed:

A statement confirming you have explained that:

- interest-only loan repayments will not reduce the principal owed during the interest-only period;
- the repayments required to pay out the loan will increase after the interest-only period ends to cover both interest and principal payments; and
- the applicant is likely to pay more over the life of their loan than if there was no interest-only period;
- length of interest-only period required (if greater than 5 years include a detailed explanation of why it is required);

- customer servicing of interest and principal repayments must be calculated over the remaining amortised term of the loan (after the interest-only period);

A description of the requirement or objective that the interest-only period will achieve, such as:

- taxation reasons;
- temporary reduction in income (with detailed explanation);
- anticipated non-recurring large expense items (with detailed explanation);
- variable Income (with detailed explanation);
- to create funds for investment purposes;
- principal reduction in an offset facility;
- other (with detailed explanation).

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## Lines of Credit

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As there may be no specific loan term associated with a line of credit and the overall cost of the loan may be greater than for other types of credit contracts, line of credit products is at greater risk of not meeting the consumer's requirements and objectives. As a result, you must record the following additional information for lines of credit:

- potential costs and benefits – a note confirming that you have explained the potential interest costs to the consumer and an explanation of the benefits that will be derived from the product which outweigh the potential costs;
- if the line of credit amortises after a period, then customer servicing must be calculated over the remaining amortised term of the loan;
- exit strategy – when and how does the consumer intend to repay the balance of the loan?

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## Fixed Interest Products

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Due to their restrictive nature and the potential additional fees/costs (e.g. if a loan is terminated prior to the end of the fixed interest period or if additional repayments are made), fixed interest products may be at greater risk of not meeting the consumer's requirements and objectives.

As a result, you must record the following additional information for fixed interest products:

- a statement confirming that you have explained the potential additional risks and costs of the fixed interest product to the consumer and an explanation of the reasons why they still want to proceed with this type of product (including which requirement/objective has priority).

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## Refinances/Switches

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There must be an overall cost saving to the consumer when switching/refinancing. If the overall cost savings are minimal the new product must better meet the consumer's requirements and objectives.

As a result, you must record the following additional information for an application to refinance or switch products:

- reasons for the refinance/switch;
- reasons why the new loan term will differ from the term remaining on the current credit contract;
- information about any additional costs and whether LMI will be payable;
- a statement confirming that you have explained the additional interest costs associated with refinancing over a longer loan term to the consumer (if applicable) and an explanation of the reasons why they still want to proceed with the refinance/switch (including which requirement/objective has priority); and
- if the new credit contract does not have all the features of the existing credit contract, an explanation about how it better meets the consumer's requirements objectives and why those loan features are no longer required.

**Note:** If a product switch with the same lender results in a new loan contract being issued, you must complete ALL of the required processes as if it is a new loan and a new credit activity is being conducted. This would include ALL responsible lending obligations and ALL disclosure documents being issued.

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## Debt Consolidation Loans

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When consolidating short term debts (e.g. credit cards and car/personal loans) into a longer-term credit product, the total interest costs are likely to increase significantly if the debt is paid off over a much longer term (e.g. 20-30 years). As a result, you must record the following additional information for an application that includes debt consolidation:

- reasons for the consolidation and an explanation of how the consumer will benefit; and
- a note confirming that you have advised the consumer that additional interest may be payable if the short-term debts were paid off over the entire term of the debt consolidation loan.

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## Self-Managed Superannuation Funds (SMSFs)

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SMSF's are financial products which are regulated under the Corporations Act. You must not advise about or deal in SMSF's if you do not hold an AFSL authorising you to do so (or have been appropriately authorised by an AFSL holder). MLB does not hold an AFSL and you are not authorised to provide SMSF advice or deal in SMSF products for or on behalf of MLB.

When providing credit assistance to an SMSF trustee you must ensure that you follow the relevant lender's procedures. Please note, some lenders will require you to undertake specific SMSF training as part of their accreditation process.

### **When dealing with SMSF you must:**

For an Individual Trustee

(E.g. John Smith as trustee for the Smith Super Fund)

Follow all of the usual responsible lending steps.

For a Corporate Trustee

(E.g. JSmith Pty Ltd as trustee for the Smith Super Fund)

Issue the Credit Guide (including MLB Privacy Consent) to all directors and co-applicants.

You should also issue a Credit Proposal and Preliminary Credit Assessment to provide a record of the interview process and inform the client of funds position, product fees and repayments.

If a client has questions about SMSFs you should tell them to contact their financial adviser.

You must keep a record of any financial adviser involved in an SMSF transaction (including their AFSL number). You should save these records in Chief.

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## Reverse Mortgages

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Before making a preliminary assessment in connection with a credit contract for a reverse mortgage you must satisfy the following additional requirements. You must also have satisfied the lender's reverse mortgage training and accreditation requirements.

For reverse mortgages you must make reasonable inquiries about the consumer's requirements and objectives in meeting possible future needs, including:

- a possible need for aged care accommodation;
- whether the consumer prefers to leave equity in the property for the consumer's estate; and
- are there or will there be any other persons residing at the property.

### Prepare Projections

Prior to undertaking your preliminary credit assessment, you must:

- prepare projections, calculated using an ASIC approved website (e.g. Money Smart website at [www.moneysmart.gov.au](http://www.moneysmart.gov.au)) in accordance with ASIC's instructions for making projections that are included in the calculator;
- show the consumer the projections (in person) and have them signed by all borrowers; and
- give the consumer a printed copy of the projections. This can be done by mail or e-mail, or by another form of electronic communication agreed to by the borrower.

### Reverse Mortgage Information Statement

Prior to undertaking your preliminary credit assessment, you must also give to the borrower a Reverse Mortgage Information Statement titled 'Key Information About Reverse Mortgages'. This document explains the impact of interest capitalisation on equity in the mortgaged property and highlights some important issues that a consumer should consider when deciding whether to borrow using a reverse mortgage. You must also include a Reverse Mortgage Information Statement on your website and give a copy to a consumer on request.

### Co-inhabitants

If the suggested lender's reverse mortgage credit contract does not include a provision for a person other than the borrower to have a right to occupy the reverse mortgaged property, you must not provide credit assistance unless you have given the borrower an NCCP *Form 7A – Disclosure about credit contracts (reverse mortgages)* document.

## **Loan to Value Ratio Requirement**

Your preliminary credit assessment must also confirm the loan to value ratio (LVR) does not exceed 15% for borrowers aged 55 or younger, increased by 1% for each year that the youngest borrower is older than 55. For example, if the youngest borrower is 60, an LVR that exceeds 20% is unsuitable unless the contrary is proved. If the youngest borrower is 70 an LVR that exceeds 30% is unsuitable unless the contrary is proved.

## **Independent Legal Advice**

All borrowers are required to obtain independent legal advice prior to submitting an application for a reverse mortgage. You must use the lender's Independent Legal Advice Certificate and retain a copy on file. You should save these records in Chief.

## **Independent Financial Advice**

All borrowers must obtain independent financial advice prior to submitting an application for a reverse mortgage. You must use the lender's Independent Financial Advice Certificate to confirm this requirement has been met and retain a copy on file. If the lender does not require independent financial advice, a signed and dated letter from the borrower's accountant/financial planner on letterhead confirming they have provided financial advice in relation to a reverse mortgage must be obtained and held in your client file. You should save these records in Chief.

## **Extensive Inquiries**

The consequences for a consumer of borrowing using an unsuitable reverse mortgage are potentially severe. Therefore, your inquiry and verification process must be extensive. For example, because the loan may impact Centrelink payments, you must inquire into whether the consumer is eligible for such payments and how they would be impacted by the loan.



## Income Inquiries and Verification

Before making a preliminary assessment, you must make reasonable inquiries about the consumer's financial situation and take reasonable steps to verify the consumer's financial situation. To assist you to meet this requirement you must:

- collect the relevant supporting documents;
- ensure the supporting documents contain adequate information to verify the consumer's income (including all of the information specified in Table 2);
- check each document and consider whether there is any reason to suspect that it may not be genuine;
- make notes setting out how you calculated the income from the supporting documents and why that calculation method is appropriate. You must have a reasonable basis for the method that you have used to calculate income; and
- you must also keep adequate records to demonstrate the inquiries and verification that you have undertaken.
- You should save these records in Chief.

If you receive financial institution statements (e.g. to verify income deposits / salary credits) you must consider them in their entirety as part of your inquiries about the consumer's financial situation.

Reasonable investigation and reasonable verification does not explicitly align with the lender's documentation checklist or the expectations of evidence set by lenders. Reasonable mortgage brokers must make their own independent investigations and source sufficient evidence to justify their verification standards.

MLB has produced a documentation checklist of what would be regarded as a best practice standard and the details are included within this document. Ultimately, a broker cannot rely on the minimal standards set by the lender and should have more rigorous standards in that ultimately allow an appropriate Preliminary Credit Assessment to be made. The PCA will adequately determine if the clients have the capacity to service the proposed loan without financial hardship.

## Documentation Standards

The following verification standards should be followed in the pursuit of best practice. These standards should be followed by MLB Credit Representative and all brokers who aggregate under the MLB network.

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### Lender-Originated Documents

#### Lender application documents:

Full copies of all lender-originated documents required for the purpose of completing the application.

These may include:

- Lender application form
- Lender privacy disclosure (if separate to application form)
- Lender VOI certificate (if separate to application form)
- Documentation checklist
- Serviceability calculator or UMI spreadsheet

#### Lender approval correspondence:

Copies of conditional and unconditional approval communications, either PDF letters or scanned emails depending on the lender.

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### Bank Account Statements

#### Account statement minimum standard:

Three months of statements from all bank accounts, credit cards and property-related loans in the clients' names and in any business name associated with the clients (business trading statements), at a minimum. Automatically covers any lender requirement to verify genuine savings.

#### Additional account statements:

Additional requirements for statements are addressed in other sections of this document where appropriate.

#### Currency of account statements:

All statements provided by clients must show end dates within thirty (30) days of the date of submission. If this is not the case, a current transaction history matching the account numbers on the statements must also be provided.

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### Verification of PAYG income

#### Payslips:

Two consecutive computerised payslips, most recent payslip end date within the last 30 days, preferably showing YTD income.

**Group Certificate/Payment Summary or Notice of Assessment:**

Most recent edition of either document if base income alone is factored for servicing. Most recent and previous editions of the same type of document (2 consecutive years) if bonuses, commissions, overtime, allowances etc are factored in for servicing. Where a client has changed jobs, all Group Certificates / Payment Summaries covering the relevant financial year(s) are required.

**Salary credit statements:**

Three months of statements from salary credit account(s), must show salary credits matching the dates of payment on the payslips provided. If this is not the case, a current transaction history matching the account numbers on the statements must also be provided.

**Recent change in jobs (within six months), or verifying overtime is a condition of employment:**

Employment letter on employer letterhead, stating the client's name, their job title, their basis of employment (permanent full-time, permanent part-time, casual et al), their start date, their salary, their additional entitlements, and their probation end date (if applicable). Signed by an appropriate authority with contact details clearly shown.

**Maternity leave:**

Letter from employer stating the client's name, their job title, their basis of employment (permanent full-time or permanent part-time only) the salary, their additional entitlements, and their return-to-work date. Signed by an appropriate authority with contact details clearly shown. Salary credits do not need to be demonstrated.

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## Verification of Self-Employed Income, full doc

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**Tax returns:**

Most recent and previous editions of individual and company tax returns.

*Notices of Assessment:* Most recent and previous editions of NOA.

**Addbacks:**

Robust business case regarding why addbacks have been included for servicing. These can include interest on business loans, limited depreciation, and one-off business expenses.

*Where previous and current tax returns are not used to calculate servicing under alternate lender policy regarding self-employed income, e.g. ANZ one-year tax return or Westpac Fast Track policy:*

Robust business case regarding why the specific credit niche has been used and why the individual(s) requesting the loan is/are creditworthy.

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## Verification of Self-Employed Income, low doc

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### **BAS statements:**

Most recent twelve months (or four quarters) of Business Activity Statements.

*At least one of the following:*

**1. Accountant's declaration:**

Letter from client's accountant, either on letterhead or on lender stationery as required (e.g. alt doc), detailing the client's annual income and liability position.

**2. Bank statements:**

Three months of statements from all bank accounts, credit cards and property-related loans in the clients' names, and six months of statements from all bank accounts, credit cards and property-related loans in the business name.

### **Other income documentation requirements**

#### **Rental income:**

Most recent rental statement or current lease agreement for all investment properties owned. If neither is available, see non PAYG-related income policy. If investment property is being purchased, rental appraisal from a licensed real estate agent.

#### **Rental Income from property to be purchased**

Proposed Rental Income from written letter by Real Estate agents and supported by evidence of market research (real estate websites) for comparable properties in comparable locations.

#### **Centrelink income, including DSP, Family Tax Benefit parts A and B, and child support:**

Letter from Centrelink dated within the last twelve months advising amount of entitlements; bank statements provided should correlate.

#### **Other income streams, including investment income, rental income from privately managed investment properties et al:**

Most recent and previous editions of individual tax returns detailing source(s) of income.

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## Property Documentation

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### **Contract of Sale:**

Full Contract of Sale including special conditions, listing agreed sale price and client details in the purchaser section.

### **Construction:**

Full copy of fixed price building contract from a registered builder, including building plans, agreed costing and client details.

### **First Home Owners Grant:**

Fully completed First Home Owners Grant form.

**Rates notices:** Most recent rates notice on all properties owned by the clients, should not show any arrears.

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## Evidence of Funds to Complete

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**Deposits already paid:**

Evidence of receipt of payment of deposits already paid from the relevant agent, e.g. real estate agency or private vendor.

**Savings account statements:**

All account statements used as evidence of funds to complete to show same date ranges.

**Gifts of funds or equity:**

Statutory declaration completed by related party and witnessed by an authorised person, attesting the value of the funds gifted, or that “equity” is being gifted, to the applicants as a non-refundable and non-transferable gift.

**Where genuine savings is not evident from bank statements:**

Twelve-month rental ledger showing good conduct in rental repayments.

**Where non-genuine savings policy is required and origin of funds is not gift related:**

Statutory declaration from clients declaring source of funds intended to be used for deposit.

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## Documentation of Existing Debts

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**Property-related loans to be refinanced:**

Six months of statements from property-related loans in the clients’ names.

**Other loans to be refinanced, including car loans, credit cards and HECS:**

Three months of statements from other loans in the clients’ names.

**Business or tax debt to be refinanced:**

Three months of statements from business loans or ATO tax portal in either the clients’ names or the associated business names, plus a robust business case regarding the cost benefit of refinancing such debt onto their residential property, and why the clients are creditworthy.

**Any loans not being refinanced:**

Most recent statement in the clients’ names, confirming account numbers, actual repayments, length of term, length of interest-only term (if any) and facility limit.

**HECS debt not being refinanced:**

Monthly repayment amount to be declared based on total income used for servicing, inclusive of income derived from non-PAYG sources, e.g. proposed and existing rental income. Check <https://www.ato.gov.au/Rates/HELP,-TSL-and-SFSS-repayment-thresholds-and-rates/> for current repayment income (RI) percentages.

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## Verification of Purpose for Cash Out

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**Cash out, up to \$50,000:**

Written declaration from clients attesting to the purpose of required funds.

**Cash out, above \$50,000:**

Reasonable quotations for all chattels and purposes required, except investment not related to property acquisition, which requires letter from accountant or financial planner.

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## Other Documentation Requirements

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**Secured or unsecured loans or credit cards closed within the last three months:**

Letter of closure from lender, plus final statement from lender showing \$0 owing.

**Living at home rent-free:**

Statutory declaration completed by either parent and witnessed by an authorised person, attesting the client lives at home and does not pay rent or board.

**Where child maintenance is being paid:**

Most recent Centrelink advice dated within the last twelve months advising correct amount of child maintenance to be paid; bank statements provided should correlate. If the deduction is taken from pay directly, payslip deductions must corroborate Centrelink advice.

**Professional membership LMI waiver, including Medico:**

Copy of current relevant professional membership certificate, e.g. AHPRA, CPA, Law Society et al.

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## Verification of Exit Strategy

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### **Client is 50 years or older and the loan term exceeds a reasonable age of retirement:**

Documentation relating to property, superannuation or other liquid assets deployable in order to pay out the loan.

Acceptable documentation may include:

- Investment property rates notice(s) plus either:
  - Most recent loan statement, or
  - Evidence of clear title
- Most recent superannuation, share or managed fund statement

Assets not acceptable for use as part of an exit strategy include:

- Expected windfalls, including distributions via probate
- Chattels, including but not limited to:
  - Vehicles
  - Plant/equipment assets
  - Valuables
  - Other home contents

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## Credit File/Credit Defaults

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### **Where credit file has been obtained:**

Full copy of credit file with notes regarding any credit enquiries which have been entered within the last twelve months.

### **Credit defaults evident:**

Robust business case as to what the circumstances were leading to the default(s) and why the clients are creditworthy.

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## Evidence of Guarantor Suitability

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### **Guarantors:**

From strongest to weakest form of guarantee security:

### **Term deposit:**

- Either:
  - Most recent term deposit statement showing names of guarantors, balance held and term deposit maturity date, or
  - Most recent savings account statement in the names of the guarantors showing balance to be placed in term deposit prior to settlement.

### **Investment property:**

- Rates notices for each property owned by the guarantors – must include rates notice for an owner-occupied property.

## **Owner-occupied property:**

- At least one of the following:
  - Lender servicing calculator showing ability of the guarantors to service the guarantee amount, or
  - Evidence of exit strategy in line with “Verification of exit strategy” requirements above, or
  - Clear independent legal advice regarding suitability of proposed guarantors to act in such a capacity.

## **Exceptions**

All exceptions to the above to be authorized in writing by MLB compliance.



## Expense Inquiries and Verification

In addition to investigating and verifying income through appropriate documentation, making reasonable inquiries about the consumer's financial situation explicitly includes the assessment of expenses.

To assist you to meet this requirement for expenses verification you must:

- collect supporting documents (described in documentation best practice guidelines);
- ensure the supporting documents contain adequate information to verify the consumer's expenses (described in documentation best practice guidelines);
- check each document and consider whether there is any reason to suspect that it may not be genuine;
- make notes setting out how you calculated the expenses from the supporting documents and why that calculation method is appropriate. You must have a reasonable basis for the method that you have used to calculate expenses; and
- you must also keep adequate records to demonstrate the inquiries and verification that you have undertaken. You should save these records in Chief.

There are two categories of expenses which must be reviewed and verified:

- fixed expenses; and
- living expenses.

If you receive financial institution statements (e.g. to verify income deposits) you must consider them in their entirety as part of your inquiries about the consumer's financial situation.

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### Fixed Expenses

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Fixed expenses are expenses that are not discretionary in nature (such as rent, repayment of existing debts and child support). These have already been described in documentation on best practice guidelines.

Adequate documentation must be obtained to assist you to review and verify the consumer's fixed expenses.

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### Living Expenses

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Living expenses form an important part of the consumer's financial situation. They vary from household to household and it is essential that inquiries are made to determine the consumer's *actual* living expenses and that these inquiries are verified.

To assist you to meet the obligation to make reasonable inquiries about a consumer's financial situation, you must complete a budget worksheet during the fact find stage. When completing a budget worksheet you should:

- record a response for each of the living expense categories listed in Table 4 (if the consumer has no expenses in a particular category e.g. there are no childcare costs because the consumer does not have children, a “0” is to be recorded);
- provide an explanation for any responses with a zero or unusually low expenditure;
- prepare one budget worksheet per household;
- ensure that the budget worksheet is signed by all applicants; and
- include the new monthly expenses that will be payable as a result of the proposed loan proceeding (this may include owner occupied expenses, investment property expenses, additional insurances or transport costs).

For investment property applications, lenders need to understand which expenses are attributable to the rental property. For investment property applications you must:

- include the investment property expenses (such as Council Rates) in the total living expenses; and
- in the comments/notes section specify the amount attributable to the investment property expenses.

## Living Expense Categories

Category	Examples
<b>Owner occupied property expenses</b>	utilities, repairs & maintenance, body corporate & strata fees, rates, taxes, levies,
<b>Investment property expenses</b>	utilities, repairs & maintenance, body corporate & strata fees, rates, taxes, levies,
<b>Telephone &amp; Internet</b>	telephone (mobile & home), internet, streaming services (e.g. Stan, Netflix, Spotify, Apple Music), Pay TV
<b>Groceries</b>	food, toiletries, cleaning products
<b>Recreation &amp; Entertainment</b>	alcohol, tobacco, gambling, restaurant meals, take-away food, membership fees, subscriptions, pet care, holidays
<b>Clothing &amp; Personal Care</b>	clothing, footwear, cosmetics, hairdresser, beautician
<b>Medical &amp; Health</b>	doctor, dentist, physiotherapist, optical, pharmaceutical
<b>Transport</b>	public transport, vehicle running costs (fuel, servicing), parking, tolls, vehicle registration
<b>Education</b>	private school fees, school levies and voluntary contributions, books, uniforms, extra-curricular activities, higher education costs
<b>Childcare</b>	childcare centre, after/before school centre, day-care, occasional care, nanny, babysitter
<b>Insurance</b>	health, life, income protection, home & contents, vehicle, landlord
<b>Other</b>	any other material expenses advised by the client or identified during the review and verification process

## Verification of Living Expenses

In an appropriate assessment of living expenses you must review each category listed to ensure that the amounts are reasonable given the size of the household and any other information that you have.

You must record the reasons for any responses with a zero or unusually low expenditure. Where possible you should ask the consumer for documents that would verify an unusually low expenditure.

If you have reason to suspect that information provided by the consumer is incorrect (e.g. based on the number or ages of dependents, the geographical location of the consumer, the age of the consumer, or other factors that you are aware of) you must make further inquiries and document your findings and information sources.

## **Standard living expenses verification:**

Expenses as itemised in MLB Credit Proposal document should be consistent with an appropriate analysis of the three months' transaction account and/or credit card statements provided.

Chief will compare the total living expense figure to the lender's benchmark. If the declared living expenses are materially lower than the lender's benchmark, you must provide a detailed explanation of the reasons for the lower than expected living expenses.

*Where living expense figure declared is lower than is evident from bank statements provided:*

MoneySmart budget planner or similar budget planning calculator should be completed by applicant(s), with clear itemisation of expense categories, plus a written client declaration that they represent their true living expenses.

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## **Other Relevant Factors**

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Other relevant factors that should be considered include:

- potential impact of an unsuitable credit contract – you should make more extensive inquiries where the potential negative impact on the consumer is likely to be relatively serious if the credit contract is unsuitable (e.g. if the size of the loan is large relative to the consumer's capacity to repay the loan);
- complexity of the credit contract – you should make more extensive inquiries where the credit contract has complex terms (e.g. a reverse mortgage will require extensive inquiries including potential impact on Centrelink payments); and
- capacity of the consumer to understand the credit contract – you should make more extensive inquiries if the consumer has limited capacity to understand the credit contract; they have conflicting objectives; they are confused about their objectives; or there is a mismatch between their objectives and the product they are considering.

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## **Serviceability and Substantial Hardship**

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Compare the lower of the Applicant Declared and Lender Calculated Uncommitted Monthly Income (UMI), with the lender's assessed repayment on the product recommendation page. If the lower of the two UMI figures is less than the lender's assessed repayment, your Preliminary Credit Assessment has determined the product may be unsuitable. You must not proceed to submit the application without further investigation.

In some cases, there may be an error in the way the UMI has been calculated in Chief, or there may be other factors that will affect whether the credit contract is unsuitable. Before proceeding you must include a detailed explanation of why the credit contract is not unsuitable despite the UMI calculation. You must keep adequate records of this explanation, provide a copy of the reasons to the consumer. You should also save this information in Chief (together with a copy of the lender's serviceability calculator showing serviceability).

In addition to ensuring that the lender's serviceability requirements are met you must also separately and independently consider whether the repayments will result in substantial hardship for the consumer. If this is the case, the credit contract will be unsuitable and you must not recommend or assist the consumer to apply for that product.

## Risk Protection

An imperative conversation that supports the responsible lending obligations with regards to the clients affordability and capacity to pay is the requirement to discuss risk protection options. Although there is no legislative requirement in place within the NCCP Act on the specific requirements around insurance conversations, MLB and many industry bodies believe a mortgage broker has a duty of care to raise the issue of risk protection opportunities that are available

Mortgage Brokers can talk in general terms about the risks of not having appropriate insurance. The conversation should ideally highlight the types of insurance that a client may consider including Life insurance, Income Protection Insurance, Total/ Permanent Disability Insurance and Trauma Insurance. At no stage should the mortgage broker engage in conversation about a specific insurance product.

Unless you hold an AFS licence or have been appointed as an authorised representative of an AFS licensee, you must not provide advice about financial products. "Advice" is a recommendation or a statement of opinion which is intended (or could reasonably be regarded as being intended) to influence a person in making a decision in relation to a financial product, e.g. purchasing insurance, endorsing a policy, increasing sums insured etc.

A number of tasks in relation to financial products are not categorised as "advice". These include providing customers with factual information, disclosure documents or brochures prepared by an AFS licensee and even a quotation for the cost of a financial product.

You can provide these services without holding an AFS licence or being an authorised representative of an AFS licensee, but care must be taken to ensure that no advice is given.

Mortgage brokers are able to offer bundled consumer credit insurance (CCI) products (i.e. consumer credit insurance that includes a life component) provided an AFS license holder authorises you to do so in writing.

The conversation on insurance options should be recorded and acknowledged by the client(s) and may look something like the following

### **Personal Insurance Information**

To ensure we have taken the appropriate duty of care when arranging finance on your behalf, we must make you aware of the need to protect yourself and your family from the possible financial hardship caused by personal trauma, sickness, disability or death.

If you do not have adequate risk insurance in place, you may not be able to make the repayments on your loan(s) if you had an accident or illness that stopped you working, or in the event of permanent disability or death. It's important that you understand the risks of not maintaining sufficient

# MY LOCAL BROKER

My Local Broker Pty Ltd Australian Credit License Number 481374 Broker Handbook  
insurance to protect your loan and your assets.

## Insurance Declaration

- I / we acknowledge that the broker has brought this to our attention
- I / we understand that insurance is not compulsory and is not a condition of the loan being approved.
- I / we have considered the risks and are satisfied with the current level of personal insurance protection or have made our own arrangements.
- OR  
I / we have considered the risks and would like to discuss the insurance options with someone recommended by our broker



## General Conduct Obligations

### Obligations under NCCP Act 2009 for Licensees

s47(1) determines that the licensee must demonstrate they have adequate arrangements to:

- supervise and monitor the activities of any representatives and ensure that any breaches are identified and remedied; and
- ensure that any representatives are adequately trained, and are competent, to engage in the credit activities covered by the Australian Credit License.

### ASIC Policy

ASIC Regulatory Guide 206 – *Credit Licensing: Competence and Training* ('**RG 206**') contains guidance on a licensee's compliance measures in relation to training, supervision and organizational competence of an Australian Credit Licence. RG 206 states that the ACL must be able to demonstrate that they can comply with the obligations and have measures in place to ensure the licensee maintains organisational competence at all times.

To this end, MLB expect member licensees to have a program in place that allows them to assess their own license requirements and to assess the competency of the Credit Representatives.

### ACTION

Licensees members of MLB will be able to meet their ACL general conduct obligations by engaging in the MLB Complifast program for ACL holders.

### Representative Competence

MLB, in accordance with RG 206, understand that although ASIC have not set specific training and competence requirements for Representatives, we have an obligation to:

- a) determine what is appropriate initial and ongoing training to ensure our compliance with the representative training obligation; and
- b) embed this in our recruitment and training systems.

MLB also understand that Representatives who provide third-party home loan credit assistance must:

- a) Have at least a Certificate IV in Finance and Mortgage Broking.
- b) Need to undertake at least 20 hours of CPD per year.

MLB also acknowledge and accept the guidelines of the industry bodies which may set higher expectations than what ASIC hold with respect to educations and ongoing competence / training requirements.

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## Continuing Education Requirements

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To maintain their education, skills and experience as a credit representative, MLB's CRs must complete 20 hours of Continuing Professional Development training per annum. MLB understand that ASIC expect MLB to ensure that the training course(s) selected for our representatives is one that is endorsed by their industry body.

### Types of activities that will be recognised in ongoing training

The following activities may be counted towards CPD:

- a) attendance at relevant professional seminars or conferences;
- b) preparation time for presenting at relevant professional seminars or conferences;
- c) publication of journal articles relevant to the credit industry;
- d) viewing DVDs of recent (within the last year) professional seminars or conferences (up to a maximum of 10 hours per year);
- e) completion of online tutorials and/or quizzes on recent (within the last year) regulatory, technical or professional developments in the industry; and
- f) internal training on systems, procedures and policies relevant to the responsible manager's role (although activities in this category should not make up the majority of CPD hours).

MLB expects that Credit Representatives will attend at least 10 hours of ongoing professional development per annum that is hosted by MLB. This can include:

- State Based Professional Development Days
- National Professional Development Days
- MLB hosted technology training
- MLB hosted compliance training
- MLB hosted product training

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## Record keeping by Credit Representatives

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Each broker has the obligation to ensure the accuracy of the training register in respect of their training. Each broker will be responsible for submission of relevant training attended via the relevant portal as determined by the National Compliance Manager and the Compliance Committee.

Each broker has an obligation to maintain a training file to ensure the accuracy of the training register. Broker's must retain and when, so needed, produce all receipts for attendance at conferences, seminars, courses, testing results and the content of the training undertaken outside of the MLB provided training. MLB will maintain records of attendance for all training sessions it provides to its brokers.

**ACTION:**

Mortgage Brokers will be expected to submit, as requested periodically by MLB, a copy of their CPD record that demonstrated their current PD hours. It is expected that the PD hours align with the expectation of the industry body with regards to the type of training that has been attended and the maximum number of hours that are dedicated to a particular training source.

## File Audits

### Competence Assessments of Loan Files

MLB has engaged an independent third party to conduct file audits for brokers. These audits assess up to 5 files for each mortgage broker. The file audit criteria are set by MLB in combination with the third party (QED Risk) and ensures that each loan is assessed against an acceptable standard.

The results of the audit are made know to MLB and the broker. Any corrective actions that are required from the audit are handled by MLB liaison with the mortgage broker.

Licensees will be expected to enrol in the MLB Complifast ACL program and have their Credit Representatives participate in the audits as part of that program.

MLB have mandated that all authorised Credit Representatives will have mandatory audits conducted periodically and no less that annually.

### What Type of Questions Will Be Asked?

The audit criteria and subsequent questions will change periodically based on legislative changes and industry expectations. A sample of questions that have been in previous audits may include the following:

#### Credit Guide & Privacy Statement + Privacy Consent

Has a Credit Guide been given to the client?

Has the Privacy Statement been given to the client?

#### Data Collection & File Notes

- Is there a signed, fully completed source document on file showing needs analysis, fact find or record of interview?
- Are Requirements & Objectives adequately explained and detailed?
- Are loan features adequately detailed?
- Is there sufficient evidence about the clients current income and expenses?
- Is there sufficient evidence on file about the clients current assets and liabilities?
- Have living expenses been itemised?
- Has a lump sum been used?
- Has the area of Financial Security been addressed within the CNA? I.e. Does the client already have adequate insurance in place or does the client require assistance in this area? If insurance in place statement as to arrangement should be detailed.
- If file evidence indicates that a First Home Owners Grant is involved, is a copy of the FHOG on file?
- Are there sufficient emails and/or notes recorded in file to support the data collected?

# MY LOCAL BROKER

My Local Broker Pty Ltd Australian Credit License Number 481374 Broker Handbook

- Have tax file numbers been removed from all documents

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## Audit Preparation

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Each participant will receive notification that they are being audited. It is the broker's responsibility to load the required documentation into the software in preparation for the audit.

Each broker must follow the appropriate processes in loading the information in to the software.

### Symmetry

If using Symmetry ensure your loan files are loaded into the briefcase. When loading documents, use clear naming convention for all documents being loaded. If multiple deals exist for same account, name the file with the deal they apply to.

Symmetry process: Account Overview > Briefcase> Documents (upload)

### Podium

If using Podium 2.0, ensure the loan files are loaded into the correct Application

Podium process: Applications > NCCP Application Checklist (create and save) > then drag and drop into the relevant category (can also click upload button)

### Chief

If using Chief, ensure your loan files are loaded into the documents section of the deal Chief

process: Open the deal > click on the upload files tab

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## Loading Supporting Documentation

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MLB expects that all supporting evidence is loaded into the appropriate software for the purposes of future audits and for the purposes of maintaining a complete and accurate record of the verification that was required in meeting the responsible lending obligations.

All loan supporting documentation must be loaded into the software within 30 days of settlement.

This supporting information requirements include:

### Disclosure Documentation and consents such as:

- Credit Guide
- Preliminary Credit Assessment (this should include Client Needs analysis / Requirements and objectives / living expenses)
- Credit Proposal
- Privacy Consent
- Insurance Disclosure
- Fact Find / data collection tool
- Credit Quote (if you charge a fee for service or have a claw-back policy)

### Identification information such as:

- Verified photographic ID
- Secondary ID sources

### Lender documentation / application information such as:

- Lenders Application form / Lenders consents
- Lenders checklist
- Serviceability Calculator
- Verification of Identity disclosures

### Income Sources such as:

- Payslips
- Company tax returns
- Individual tax returns
- Notice of Assessment
- Payment Summary
- Accountants declaration
- Any other employment evidence or income evidence

### Bank Statements / Accounts such as:

- Saving statements
- Loan statements (where applicable)
- Credit Card statements
- Superannuation statements (if they were required as part of submission)

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## Audit Process

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The audits will generally be conducted over the course of one week.

Each question is ranked according to a set of available static responses. The responses to each question are based on a risk weighting. There are generally 4 responses to select for each question. The responses reflect the evidence that has been reviewed based on the information provided. Where no information is available or where evidence is not available, the risk weighed response indicates that no evidence was found to support the question being raised.

At the conclusion of the audit an algorithm is run to determine the overall risk weighting of the loan. Critical components in the criteria have a higher impact on the overall risk weighting.

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## Corrective Actions

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The results of the audit are made known to MLB and the broker. Any corrective actions that are required from the audit are handled by MLB liaising with the mortgage broker. MLB staff will follow up the broker with corrective actions to ensure they are remedied, rectified or explained.

Brokers will also receive an email that details the file audit results and the corrective actions that need to be addressed for each file. The corrective actions can be loaded into MLB Complifast using the login and password that is generated with invited for the initial audit through MLB Complifast.

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## MLB responsibilities

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### ACTION

Where files are reviewed and there is evidence of misadventure, misrepresentation or possible fraud, MLB will run a wider investigation to assess the brokers conduct. In a situation where a broker is found to be non-compliant with MLB's expectations and has failed to address the corrective actions appropriately, MLB will exercise their right in applying sanctions, suspension and terminations.

The MLB response will be determined by the severity of the non-compliance, but will result in termination where deliberate fraud and misadventure has been determined.



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## Accreditation Standards

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As a determination of competency and capacity to be recognised as a Credit Representative of MLB, all new brokers must hold and maintain accreditations with at least 10 lenders on our lender panel. We expect that at least 2 of those lenders to be either ANZ, CBA, NAB or Westpac. This is a minimal, non-negotiable standard.

MLB CR's have obligations to;

- hold accreditations with a wide variety of panel lenders with whom they are eligible to obtain accreditation with.
- Once accreditations are obtained, do all things necessary to maintain those accreditations
- Abide by the accreditation standards that are set at the lender level
- Abide by the standards that MLB set in accordance with their lender agreements

### ACTION

MLB will consistently monitor accreditations held by brokers and in situations where a broker is unable to meet the minimum accreditation standards, it will be regarded as an inability to meet the minimum compliance obligations of MLB.

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## MLB Licensee Compliance Program

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MLB also has the **MLB Licensee Compliance Program** for members who hold their own ACL. Each ACL member will be required to login into the MLB website every quarter and document your own audit of your Responsible Lending and General Conduct Obligations.

The system is easy to use and a Licensee shouldn't need to spend time working out what, when and how to test their obligations. The MLB Complifast system does most of the process for a broker and ultimately, all the licensees obligations are managed over the year.

The **MLB Licensee Compliance Program** is fast and easy to use with just 4 simple steps:

1. **Education:** Just download and read the quarterly information pack.
2. **Assessment:** Complete the quarterly questionnaire as an overall assessment of the business.
3. **Feedback:** Read the professional and personalised report with recommended corrective action plans.
4. **Easy Access:** The ACL reports safe and secure. Members can access their reports at any time through the secure login. These reports can be used as evidence of maintaining the ACL obligations should ASIC request audit information

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## Licensee File Audits

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Licensees will be also expected to enrol in the MLB Complifast ACL program and have their Credit Representatives participate in the audits as part of that program.

In addition to you managing your compliance obligations, as your Aggregator, we will also independently review 10 of your loan files throughout the year and you'll be able to see the results through the system. Files will be reviewed on a risk-based basis, therefore depending on the risk profile of your results, there may be additional loan files requested.

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## MLB Responsibilities

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Where files are reviewed and there is evidence of misadventure, misrepresentation or possible fraud, MLB will run a wider investigation to assess the brokers conduct. In a situation where a broker is found to be non-compliant with MLB's expectations and has failed to address the corrective actions appropriately, MLB will exercise their right in applying sanctions, suspension and terminations.

The MLB response will be determined by the severity of the non-compliance, but will result in termination where deliberate fraud and misadventure has been determined.

## Marketing

Marketing is an important strategic component of any business because it is the main method by which you obtain your clients. There are many techniques suitable for marketing mortgage and finance assistance services. Some of the most common include:

- Advertising;
- Referrals; and
- Direct marketing through publications and events such as newsletters and seminars, and through personal connection such as telemarketing and door to door sales.

There are many legal requirements and restrictions on marketing activities and you need to be aware of these to ensure that your marketing does not break the law.

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### Misleading and Deceptive Conduct

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When marketing your business and providing services do not mislead or deceive clients (or potential clients) or say or do anything likely to do so.<sup>1</sup>

Misleading someone may include:

- Lying to them;
- Leading them to a wrong conclusion;
- Creating a false impression;
- Leaving out (or hiding) important information; or
- Making false or inaccurate claims.
- Many misleading advertisements are not calculated attempts to deceive; they are often caused by mismanagement, inadvertence or naivety.

Advertising and marketing can be innovative, exciting and competitive; but it must also be honest, balanced and accurate. Following the guidelines in the next table will help you to do this. Seek legal signoff if in doubt.

<p>“Independent” or “Impartial” or “Unbiased” Advice</p>	<p>To use these words, the advice being given must be independent, impartial or unbiased and not influenced by factors other than the client’s best interests.</p> <p>If you receive commissions or other benefits from a lender, there is potential for you to be influenced by factors other than the client’s best interests.</p> <p>Do not use these words unless you and your licensee:</p> <ul style="list-style-type: none"> <li>Rebate all commissions to your clients in full;</li> <li>Do not receive any other gifts or benefits from credit providers that could influence you;</li> <li>Are not restricted in the credit contracts and leases on which you provide services; and</li> <li>Have no conflicts of interest arising from your associations or relationships with credit or lease providers that might influence you.</li> </ul> <p>Possible alternatives for an aggregator might be “professional” or “MFAA-accredited”.</p>
<p>“Financial counsellor” or “Financial counselling</p>	<p>Do not use these or any similar words when providing or offering to provide credit services</p>
<p>Reverse mortgage</p>	<p>Only use this term in relation to true reverse mortgages (as defined in the NCCP Act), i.e. a credit contract (other than a bridging finance contract) and mortgage where:</p> <ul style="list-style-type: none"> <li>The consumers total liability may exceed the maximum amount of credit that may be provided under the contract due to interest, fees and charges; and</li> <li>The consumer is not required to reduce the liability to below the maximum amount of credit.</li> </ul>
<p>The “best” deal</p>	<p>It is impossible in the large and competitive finance market to demonstrate that a deal is the “best” deal at any point of time, so avoid such terminology, and similar expressions like “cheapest” or “lowest rates”.</p> <p>Possible alternatives could be – “We help you find the most suitable loan for you from our panel of over &lt;insert number&gt; lenders”.</p>
<p>“Guaranteed”</p>	<p>This term should be avoided. Only use it if you intend to make a contractually binding promise. Ensure that you specify the precise terms of the promise.</p> <p>Do not use this term in the context of ‘guaranteed acceptance’</p>

<p>“Free”</p>	<p>Only use this term if the product or service you are providing is really free. It will not be free if the client might incur other costs, such as an application or valuation fee, or if the client will give up other benefits.</p> <p>Also, you will receive a commission from the lender which is built into the cost of the loan, so unless you rebate the commission to the borrower, the service is not truly free.</p>
<p>“Subject to conditions”</p>	<p>Use of terms such as “subject to conditions” and similar phrases is unlikely to protect you from misleading your audience if the terms of the loan being promoted are less favourable than the advertising suggests.</p> <p>If an understanding of the terms and conditions is likely to change the perception of the product or service, you probably need to reconsider your advertising strategy.</p> <p>If an attractive offer is subject to conditions that are likely to be unattractive from the client’s perspective, present the conditions as prominently as the offer itself.</p>
<p>Subjective Statements</p>	<p>Avoid subjective statements such as “We believe that interest rates will rise in the next three months” unless you hold the opinion in good faith and you have a reasonable basis for it</p>
<p>Comparative Advertising</p>	<p>Comparative advertising is allowable, but it is essential that the claims being made about competitors’ products and services, as well as your own, are 100% accurate and that relevant information is not omitted.</p> <p>Ensure that you compare like with like. For instance, it is misleading to say that a line of credit or offset account product can be paid off more quickly than a standard product if this result can only be achieved by making larger or more frequent payments</p>

## Interest Rates and Comparison Rates

If an advertised interest rate is only for a honeymoon or other temporary period, then the advertisement must also state the period for which the discount applies.

This information must be just as prominent as the interest rate and must state the rate or fee that applies after the expiry of the interim period- although this need not be shown with equal prominence. More prominent disclosure may be required where there are any unusual features of the discount rate or period, such as if the rate at the expiry of the period is different to the lender's standard variable rate. Advertisements do not need to state the actual discounted rate, except where they emphasise savings without clarifying the savings will not continue after the discount period.

Comparison Rates help consumers to understand the true cost of a loan. They provide the interest rate, fees and charges for a loan, reduced to a single percentage figure.

For this reason, if an interest rate is advertised, a Comparison Rate must be included in the advertisement.

The Comparison Rate must reflect the total cost of credit arising from interest and other specified fees and charges.

If you prepare an advertisement of this type, follow these rules:

If the advertisement states the amount of any repayment - show the annual percentage rate and the comparison rate;

If credit charges and fees are also payable - either say that charges and fees are payable, or specify the amount (or a combination of both)

**Interest rates** – provide a nominal percentage rate per annum or the Comparison Rate calculated in accordance with the statutory formula (whether or not any repayment amount is included)

Comparison Rate– this must be for whichever of the following most closely represents the typical amount of credit and term initially provided for that product

Amount	Term	Other Information
\$250	2 weeks	
\$1,000	6 months	
\$2,500	2 years	
\$10,000	3 years	Secured/unsecured
\$30,000	5 years	Secured/unsecured
\$150,000	25 years	

It must be calculated in accordance with a standard formula that takes into account the amount and term of the loan, repayment frequency, interest rate and fees and charges (other than stamp duty, registration fees and conditional or unascertainable charges), State that it is a Comparison Rate and show it as prominently as the advertised interest rate and the amount of repayments.

A comparison rate will be less prominent if it is smaller or shown in a faded colour as compared to the interest rate, it is in a location that is easy to overlook, or is not in close proximity to the interest rate or, for online advertisements, requires the customer to click through or take some other action;

- Clearly state the name of the product;
- Warn that the comparison rate is only accurate for the example given. The warning must be given in the same manner as the Comparison Rate  
i.e. if the Comparison Rate is disclosed verbally, so must the warning. It may be acceptable to include the warning on a separate page where the Comparison Rate is disclosed in an online banner, provided there is a clear link or reference to the warning, and this is positioned as close to the interest rate as possible; and
- determine whether the Comparison Rates are displayed in text or in spoken form.

## Stationery and Documentation

### Where is the ACN Required on Documentation

Credit service providers must show their credit licence number on all the required disclosure documents i.e. the Credit Guide, Quote, Proposal and Preliminary Assessment. When referring to your credit licence for the first time in a document, make sure to use the full term 'Australian Credit Licence' and not the abbreviated 'ACL'.

Credit representatives need only show their Credit Representative Number in their Credit Guide. Again, do not use the abbreviation 'CR'; use 'Credit Representative Number'.

Lenders must also show their credit licence number on the following documents:

- Printed advertisements relating to the provision of any credit to which the Code applies. These include flyers, billboards, "boxed out" advertisements in newspapers and any words or pictures that are more than a simple listing in the white or yellow pages;
- Any other document that they are required to create, produce, give or publish under the Code; and
- Any document that they lodge with ASIC that relates to the provision of credit to which the Code applies.

### Use of ABN/ACN on Documents

Every company in Australia is issued with an Australian Company Number (ACN) once it is registered by ASIC. The ACN is a unique, nine-digit number that identifies the company and must be set out on all its public documents.

## **Where is the ACN required to appear?**

The ACN must appear on the following types of documents:

- All documents required to be lodged with ASIC;
- Statements of account, including invoices;
- Receipts (which are not machine produced);
- Orders for goods and services;
- Business letterheads (and, by inference, business emails);
- Official company notices;
- Cheques, promissory notes and bills of exchange;
- Written advertisements making a specific offer which is capable of being accepted (such as by the completion of an order form); and Although not technically a “document”, if your company has a common seal, its name and ACN (or ABN) must be set out on the seal.

## **The ACN is not required on the following documents:**

- Packaging and labelling, including envelopes and transport documents;
- Advertisements which do not make a specific offer which is capable of being accepted (such as advertisements promoting the company and its goods or services in general);
- Machine generated receipts, including cash-register receipts;
- Business cards and ‘with compliments’ slips; or
- Items which are not documents (e.g. vehicles, television advertisements).

## **Where must the ACN be located?**

The ACN must appear immediately after the first mention of the company’s full name. Companies may use the words “Australian Company Number”, or an abbreviation, such as “ACN” or “A.C.N.”

For example:

“Company XYZ Pty Ltd ACN 123 456 789”

“Company XYZ Pty Ltd A.C.N. 123 456 789”

“Company XYZ Pty Ltd Australian Company Number 123 456 789”



The Company name and ACN must be set out in full on all of the documents in which it is required to appear. For documents that are longer than a page, the company name and CAN must be shown on the first page. It does not matter where it is on the first page. For example, it would be acceptable if “Acme Brokers Pty Ltd” had “ACME” printed at the top of its letterhead and “Acme Brokers Pty Ltd ACN 123 456 789” at the footer. After the first page, the company name may appear elsewhere, with or without the ACN, and either in full or in an abbreviated form.

There are no specific requirements as to how an ACN should appear on a document. It should be legible to the ordinary reader (a font of 8-point Times Roman or better is acceptable) and make it obvious to which company the ACN relates. So, for example, where a number of separate companies are listed on a letterhead, the ACN of each company should appear immediately after the name of the company to which it relates.

### **Can the ABN be used instead of the ACN?**

If a company has an Australian Business Number (ABN), it may use the ABN instead of the ACN, provided the ABN includes the nine-digit ACN. In other words, if the last nine digits of the ABN are identical to all nine digits of your ACN, the ABN can be used.

It is not necessary to show both the ACN and ABN if this is the case. However, if the last nine-digits of a company’s ABN are different from the ACN, it must use its ACN.