



**ASIC**

Australian Securities & Investments Commission

## REGULATORY GUIDE 165

# Licensing: Internal and external dispute resolution

April 2011

### **About this guide**

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

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

## About ASIC regulatory documents

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

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

**Regulatory guides:** give guidance to regulated entities by:

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

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

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

## Document history

This version was issued on 20 April 2011 and is based on legislation and regulations as at 20 April 2011.

Previous versions:

- Superseded Regulatory Guide 165, issued 18 May 2009, reissued 7 May 2010, 6 July 2010 and 16 February 2011
- Superseded Policy Statement 165, issued 28 November 2001 and rebadged as a regulatory guide 5 July 2007

## Disclaimer

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

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

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## A Overview—Dispute resolution requirements

### Key points

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

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

Persons registered to engage in credit activities are also required to be members of an EDR scheme approved by ASIC.

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

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

## Dispute resolution in the Australian financial system

### Dispute resolution under the Corporations Act

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

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

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

RG 165.2 This dispute resolution system must consist of:

- (a) IDR procedures that:
  - (i) comply with the standards and requirements made or approved by ASIC; and
  - (ii) cover complaints made by retail clients in relation to the financial services provided; and

- (b) membership of one or more ASIC-approved EDR schemes that covers—or together cover—complaints made by retail clients in relation to the financial services provided (other than complaints that may be dealt with by the Superannuation Complaints Tribunal (SCT)).

Note: See RG 139 for further guidance on EDR schemes.

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

### **Trustee companies providing traditional services**

RG 165.4 If you are a trustee company providing traditional trustee company services (traditional services), you must:

- (a) hold an AFS licence that covers the provision of traditional services; or
- (b) if you are operating under the transitional arrangements for companies that did not hold an AFS licence on 6 May 2010, apply to us for an AFS licence.

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

RG 165.5 From 1 January 2012, all trustee companies that provide traditional services must have a dispute resolution system available for their retail clients.

Note: See Class Order [CO 11/261] *Trustee companies providing traditional trustee company services—deferral of start date for dispute resolution requirements*.

RG 165.6 Some complaints relating to traditional services you provide to individuals who cannot make their own decisions about financial matters because of mental incapacity will continue to be addressed under existing state and territory guardianship law complaint mechanisms (i.e. state or territory courts, tribunals and guardianship boards).

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

### **Superannuation Complaints Tribunal**

RG 165.7 As the SCT is a statutory tribunal, established under the *Superannuation (Resolution of Complaints) Act 1993*, it operates differently to ASIC-approved EDR schemes in that:

- (a) the SCT is not subject to ASIC's approval and thus RG 139 does not apply to it; and

- (b) AFS licensees, unlicensed product issuers and unlicensed secondary sellers are not required to be members of the SCT in the same way as an ASIC-approved EDR scheme because the SCT has jurisdiction to handle certain types of superannuation-related complaints by virtue of the relevant provisions of the legislation.
- RG 165.8 The requirement to be a member of an ASIC-approved EDR scheme does not apply in relation to complaints made by retail clients that may be dealt with by the SCT: see s912A(2)(b)(ii) and 1017G(2)(b)(ii), Corporations Act.
- RG 165.9 So, where the SCT can deal with *all* retail client complaints about the financial products and services you provide, you will not need to join an ASIC-approved EDR scheme.
- RG 165.10 However, if the SCT cannot deal with complaints about *all* the financial products and services you provide, you must belong to an ASIC-approved EDR scheme that can deal with those complaints that fall outside the SCT's jurisdiction.
- RG 165.11 As the SCT does not have jurisdiction to deal with complaints about other (non-superannuation) products or services that do not relate to a decision of a trustee in relation to the fund, where you are a trustee who gives advice about products that are available outside your superannuation fund (i.e. banking products or post-retirement products), membership of an ASIC-approved EDR scheme will be required.
- RG 165.12 It should be noted that, in handling a complaint, the SCT may refer the whole or part of a complaint to an ASIC-approved EDR scheme: s22A, *Superannuation (Resolution of Complaints) Act 1993*.

## Dispute resolution under the National Credit Act and Transitional Act

### Registered persons, credit licensees and credit representatives

- RG 165.13 Under item 16, Sch 2 of the *National Consumer Credit Protection (Transitional and Consequential Provisions) Act 2009* (Transitional Act), a registered person has an ongoing obligation to be a member of an EDR scheme approved by ASIC.

Note: See Regulatory Guide 202 *Credit registration and transition* (RG 202) for more information about who must register for a credit licence.

- RG 165.14 Under s47 of the *National Consumer Credit Protection Act 2009* (National Credit Act), if you are a credit licensee, you must have a dispute resolution system that consists of:

- (a) IDR procedures that comply with the standards and requirements made or approved by ASIC, and that cover disputes in relation to the credit activities engaged in by you or your credit representatives; and
- (b) membership of one or more EDR schemes approved by ASIC.

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

RG 165.15 If you are a credit representative of a registered person or a credit licensee, you must also be a separate member of an ASIC-approved EDR scheme, in addition to the membership of the registered person or credit licensee you represent: s64 and 65, National Credit Act. However, you will not need to be a separate member of an ASIC-approved EDR scheme if you have been sub-authorised under s65(1) of the National Credit Act and you are an employee or director of the body corporate that gave you the sub-authorisation: reg 16, *National Consumer Credit Protection Regulations 2010* (National Credit Regulations).

RG 165.16 Credit representatives do not need to provide their own IDR procedures that meet ASIC's requirements and approved standards. This is because a credit licensee's IDR procedures must cover disputes relating to its credit representatives.

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

RG 165.17 If you are a registered person or credit licensee who acts on behalf of a securitisation body, additional obligations may apply to you under the Transitional Act and National Credit Act: see RG 165.26–RG 165.34.

### Unlicensed COI lenders

RG 165.18 The National Credit Act will apply differently to you if you ceased to offer new credit contracts or consumer leases before 1 July 2010 but continue to be a credit provider or lessor in relation to credit contracts or consumer leases entered into by you before 1 July 2010. If you are in this category, you are a carried over instrument lender (COI lender) and specific rules apply to you.

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

RG 165.19 If you are a COI lender, you may either elect to:

- (a) be registered with us and apply for a credit licence and be regulated as a credit licensee; or

- (b) not be licensed under the National Credit Act and instead be regulated as an unlicensed COI lender, in which case you will be subject to a modified statutory regime.

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

RG 165.20 If you are an unlicensed COI lender, you must have IDR procedures that:

- (a) meet our requirements and approved standards; and
- (b) cover disputes in relation to the credit activities you engage in with respect to your carried over instruments.

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

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

RG 165.21 The obligation in RG 165.20 also applies to prescribed unlicensed COI lenders.

Note: A prescribed unlicensed COI lender is an unlicensed COI lender who fails to meet certain probity requirements and who has restrictions placed on their conduct in relation to their carried over instruments. A prescribed unlicensed COI lender must not engage in credit activities with respect to their carried over instruments. They must instead appoint a credit licensee or registered person as 'representative' to engage in credit activities on their behalf with respect to their carried over instruments: see RG 202.148–RG 202.151.

RG 165.22 If, as a prescribed unlicensed COI lender, you appoint a credit licensee or registered person as your representative as required, and notify us of this appointment, you may arrange for this representative's dispute resolution system to cover disputes with respect to your carried over instruments. However, you will remain responsible for ensuring that requirements and standards in this regulatory guide for IDR procedures are met: see RG 165.88 and RG 165.89.

RG 165.23 If you are an unlicensed COI lender, you may choose to become a member of an ASIC-approved EDR scheme.

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

RG 165.24 If you are an unlicensed COI lender and you choose not to join an EDR scheme, under Sch 2 the National Credit Regulations, you must keep a register of each of the following:

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

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

RG 165.25 If you make arrangements for a third party provider or your representative's dispute resolution system to cover disputes relating to your carried over instruments under RG 165.22 and you are not a member of an EDR scheme, you will still be required to meet the register requirements in RG 165.24.

### **Registered persons, credit licensees and securitisation bodies**

RG 165.26 If you make (or buy) loans or leases and repackage them as investment products to sell to investors, you are a securitisation body and a modified regulatory regime applies to you under the Transitional Act and National Credit Act.

Note: See s10(1)(a) of the National Credit Act and RG 203.39–RG 203.40.

RG 165.27 Under this modified regulatory regime, you may elect to be:

- (a) registered with us and apply for a credit licence to be regulated as a credit licensee; or
- (b) exempt from having to be licensed, as long as you:
  - (i) enter into a servicing agreement with a registered person or credit licensee under which that registered person or credit licensee acts on your behalf; and
  - (ii) are a member of an ASIC-approved EDR scheme from 1 April 2011.

Note: See regs 14B and 14C of the National Consumer Credit Protection (Transitional and Consequential Provisions) Regulations 2010 (Transitional Regulations), regs 23B and 23C of the National Credit Regulations, and Class Order [CO 10/907] *Exempted special purpose funding entities—deferral of start date for EDR scheme membership*.

RG 165.28 If you are a registered person or credit licensee who acts on behalf of a securitisation body—sometimes known as a 'mortgage manager'—you must notify us:

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

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

RG 165.29 The tailored regime for securitisation bodies is based on the credit licensee engaging in credit activities on behalf of the securitisation body. As IDR is generally a necessary first step in the dispute resolution process before going to EDR, credit licensees should take reasonable steps to ensure their IDR procedures cover both their own and the securitisation body's activities.

RG 165.30 The IDR procedures of the credit licensee should cover:

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

RG 165.31 We expect that the servicing agreement between the credit licensee and the securitisation body will facilitate the licensee being able to change credit contracts or consumer leases where appropriate for the resolution of disputes in IDR (e.g. by setting out how the licensee can arrange for the credit contract or consumer lease to be changed, including varied or set aside when necessary).

RG 165.32 Where the credit licensee is unable to resolve a dispute relating to a change in the credit contract or consumer lease between the consumer and the securitisation body, we expect the licensee to either:

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

Note: RG 139.206–RG 139.210 sets out a process for how disputes at EDR should be handled between a credit licensee's scheme and a securitisation body's scheme (if different).

RG 165.33 So consumers are able to access a credit licensee's IDR procedures, a securitisation body must, if it is asked by a consumer who their credit licensee is, respond with the name and contact details of their credit licensee.

RG 165.34 To ensure that IDR procedures are effective and the consumer has an opportunity to complain to EDR, credit licensees and securitisation bodies should refrain from commencing or continuing any legal action, or other enforcement action (e.g. debt collection activity), while a dispute is being handled by the IDR procedures of the credit licensee and for a reasonable time thereafter.

## IDR procedures

- RG 165.35 Under regs 7.6.02(1) and 7.9.77(1) of the Corporations Regulations, ASIC must take into account:
- (a) Australian Standard AS ISO 10002–2006 *Customer satisfaction—Guidelines for complaints handling in organizations* (ISO 10002:2004 MOD), published by SAI Global Limited on 5 April 2006 (AS ISO 10002–2006); and
  - (b) any other matter we consider relevant,
- when considering whether to make or approve standards or requirements relating to IDR.
- RG 165.36 We may also:
- (a) vary or revoke a standard or requirement that we have made in relation to an IDR procedure; and
  - (b) vary or revoke the operation of a standard or requirement that we have approved in its application to an IDR procedure (see regs 7.6.02(2) and 7.9.77(2), Corporations Regulations).
- RG 165.37 Under reg 10 and Sch 2 of the National Credit Regulations, we must take into account:
- (a) AS ISO 10002–2006; and
  - (b) any other matter we consider relevant,
- when considering whether to make or approve standards or requirements relating to IDR.
- RG 165.38 We may also:
- (a) vary or revoke a standard or requirement that we have made in relation to an IDR procedure; and
  - (b) vary or revoke the operation of a standard or requirement that we have approved in its application to an IDR procedure (see regs 10(a) and 10(b) and Sch 2, National Credit Regulations).
- RG 165.39 This regulatory guide addresses our requirements for IDR, having regard to AS ISO 10002–2006 and any other matter we consider relevant.
- RG 165.40 Our guidelines for compliant IDR procedures are set out at Section B.

## External dispute resolution

- RG 165.41 Our guidelines about membership of ASIC-approved EDR schemes are set out at Section C.
- RG 165.42 See RG 139 for information on how we approve and oversee EDR schemes.

## ASIC's role

- RG 165.43 The objectives of Ch 7 of the Corporations Act are to promote:
- (a) the confident and informed participation of consumers and investors in the Australian financial system (also an objective of ASIC under s1 of the *Australian Securities and Investments Commission Act 2001* (ASIC Act));
  - (b) fairness, honesty and professionalism by those who provide financial services;
  - (c) fair, orderly and transparent markets; and
  - (d) the reduction of systemic risks.

Note: See s760A, Corporations Act.

- RG 165.44 One of the reasons the Australian Government decided to extend the dispute resolution framework to cover credit and margin lending financial services was to ensure access to timely, independent and cost-effective dispute resolution when things go wrong for consumers of these types of products and services.

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

- RG 165.45 Within this framework, ASIC is responsible for:
- (a) setting or approving standards for IDR procedures; and
  - (b) approving and overseeing the effective operation of EDR schemes.
- RG 165.46 In respect of complaints resolution, we are mindful of the need to ensure that consumers and investors are treated fairly and consistently by the relevant complaints or disputes handling procedures. We also need to ensure that financial service providers, credit providers, credit service providers and unlicensed COI lenders, regardless of their size or business, are able to handle complaints or disputes internally in an efficient, timely and effective manner.
- RG 165.47 We consider IDR to be an important and necessary first step in the complaints/disputes handling process, as it gives the financial service provider, credit provider, credit service provider and unlicensed COI lender the

opportunity to hear client concerns and expressions of dissatisfaction and address them genuinely, efficiently and effectively. Addressing complaints or disputes at IDR in this way can also assist in improving business systems and products/services, which is integral to growing a successful business.

RG 165.48 Independent research commissioned by ASIC also indicates that the timely resolution of complaints or disputes, particularly at IDR, can be instrumental in consumers and investors being satisfied with the complaints handling process.

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

RG 165.49 We also consider it important that IDR systems of financial service providers, credit providers, credit service providers and unlicensed COI lenders (where they voluntarily join an ASIC-approved EDR scheme) interface smoothly with the EDR scheme processes and those of the SCT to ensure that the overall dispute resolution system is working effectively.

RG 165.50 We believe that industry-supported EDR schemes play a vital role in the broader financial services regulatory system. The existence of these schemes provides:

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

RG 165.51 As a result of continuing law reform, an increasing number of industry participants will be, or are likely to be, required to have IDR processes that meet the requirements of this regulatory guide and be required to join an ASIC-approved EDR scheme as a condition of carrying on their business.

RG 165.52 In light of this, we consider it necessary that financial service providers, credit providers and credit service providers have reference to a common set of guidelines for IDR and EDR requirements.

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

RG 165.53 These guidelines and RG 139 set out our dispute resolution requirements.

## AFS licensees

- RG 165.54 If you wish to become, or already are, an AFS licensee, you must ensure that you have a dispute resolution system that meets the requirements of this regulatory guide. The steps you can take to ensure this include:
- (a) reviewing your IDR procedures against the requirements discussed at Section B; and
  - (b) assessing whether you meet the EDR scheme membership requirements discussed at Section C.

## Unlicensed secondary sellers and unlicensed product issuers

- RG 165.55 If you are an unlicensed secondary seller or unlicensed product issuer, you must ensure that you have a dispute resolution system that meets the requirements of this regulatory guide. The steps you can take to ensure this include:
- (a) reviewing your IDR procedures against the requirements discussed at Section B;
  - (b) assessing whether you meet the EDR scheme membership requirements discussed at Section C; and
  - (c) ensuring that you self-certify when you first lodge a Product Disclosure Statement (PDS) or give notice that a PDS is in use with ASIC.

## Registered persons, credit licensees and credit representatives

- RG 165.56 If you are a registered person, credit licensee or credit representative, you must ensure that you have a dispute resolution system that meets the requirements in this regulatory guide. The steps you can take to ensure this include:
- (a) for credit licensees—reviewing your IDR procedures against the requirements discussed at Section B; and
  - (b) for registered persons, credit licensees and credit representatives—assessing whether you meet the EDR scheme membership requirements discussed at Section C.

## Unlicensed COI lenders

RG 165.57 If you elect to be an unlicensed COI lender, you must ensure that you have a dispute resolution system that meets the requirements in this regulatory guide. The steps you can take to ensure this include:

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

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

## Securitisation bodies

RG 165.58 If you elect to be an unlicensed securitisation body, you must ensure that you have a dispute resolution system that meets the requirements in this regulatory guide. The steps you can take to ensure this include meeting the EDR scheme membership requirements discussed at Section C.

## B Guidelines for IDR procedures

### Key points

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

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

### Interpreting these guidelines

RG 165.59 Table 1 summarises the principles and requirements discussed in this regulatory guide and highlights whether financial service providers, registered persons, credit licensees, credit representatives or unlicensed COI lenders are responsible for meeting a particular requirement or aspect of a requirement.

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

**Table 1: IDR requirements in this guide**

IDR requirements	Reference in this regulatory guide	Persons responsible for meeting the requirements
Transitional arrangements for registered persons	RG 165.62–RG 165.65	Registered persons and unlicensed COI lenders
Transitional arrangements for trustee companies providing traditional services	RG 165.66–RG 165.68	Financial service providers (traditional services)
Tailoring IDR procedures	RG 165.80	Financial service providers, credit licensees and unlicensed COI lenders
Coverage and benefit of IDR procedures	RG 165.81–RG 165.87	Financial service providers, credit licensees and unlicensed COI lenders
Outsourcing	RG 165.88–RG 165.89	Financial service providers, credit licensees and unlicensed COI lenders
AS ISO 10002–2006	RG 165.90–RG 165.97	Financial service providers, credit licensees and unlicensed COI lenders

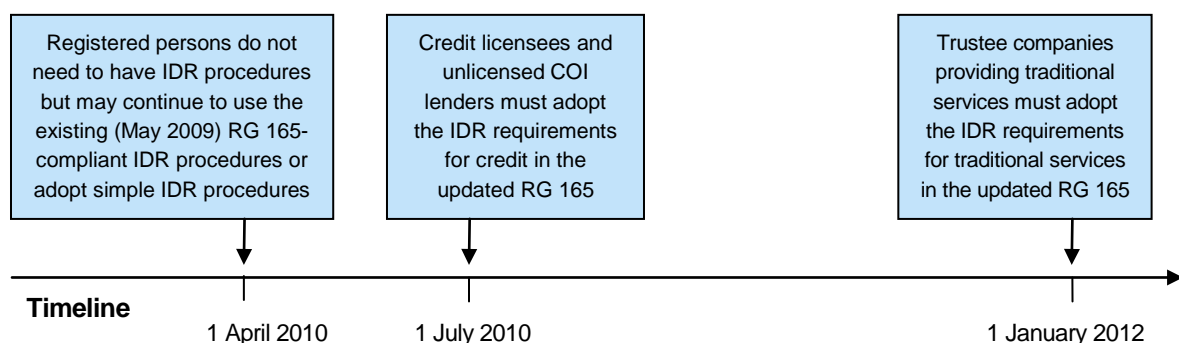
IDR requirements	Reference in this regulatory guide	Persons responsible for meeting the requirements
IDR timeframes <ul style="list-style-type: none"> <li>• Maximum timeframes at IDR</li> <li>• Timeframes for certain types of credit disputes</li> </ul>	RG 165.98–RG 165.113  RG 165.114–RG 165.130	Financial service providers, credit licensees and unlicensed COI lenders  Credit licensees and unlicensed COI lenders
Multi-tiered IDR procedures	RG 165.131–RG 165.133	Financial service providers, credit licensees and unlicensed COI lenders
Other matters—Documenting IDR procedures	RG 165.136–RG 165.139	Financial service providers, credit licensees and unlicensed COI lenders
Other matters—Links between IDR procedures and EDR schemes	RG 165.140–RG 165.142	Financial service providers, credit licensees and unlicensed COI lenders who have joined an EDR scheme
Compliant IDR procedures—Self-certification	RG 165.143–RG 165.147	Financial service providers, credit licensees and unlicensed COI lenders

## Timeframes for adopting the IDR requirements for credit and traditional services

RG 165.60 The timeframes for adopting the IDR requirements for credit and traditional services are summarised at Figure 1.

RG 165.61 We encourage credit licensees and trustee companies providing traditional services to adopt the IDR requirements earlier, where possible.

**Figure 1: Summary of timeframes for adopting the IDR requirements for credit and traditional services**



### **Transitional arrangements for registered persons**

- RG 165.62 Registered persons are not required to have IDR procedures for credit disputes.
- RG 165.63 So that EDR can work effectively, registered persons, who already have existing IDR procedures that comply with our requirements (as set out in the May 2009 version of RG 165), may continue to maintain their IDR procedures for credit until they obtain a credit licence.
- RG 165.64 We encourage registered persons that do not already have IDR procedures to start to put in place, where possible, simple IDR procedures.
- RG 165.65 RG 139 provides that EDR schemes may have processes in place to clarify whether a scheme member has compliant IDR procedures or simpler IDR procedures and, where the scheme member has no IDR procedures, the scheme may directly handle the dispute if considered appropriate.

### **Transitional arrangements for trustee companies providing traditional services**

- RG 165.66 The dispute resolution requirements for trustee companies providing traditional services will commence on 1 January 2012.
- RG 165.67 During the transitional period, we encourage trustee companies providing traditional services that do not already have IDR procedures to start to put in place, where possible, simple IDR procedures. These simple IDR procedures should include informing the complainant of the right to complain to EDR from 1 January 2012.
- RG 165.68 We also encourage trustee companies who have joined an EDR scheme before 1 January 2012 to continue with their membership.

## **Our requirements for IDR procedures**

- RG 165.69 Under the dispute resolution provisions:
- (a) financial service providers subject to the dispute resolution requirements must have IDR procedures that comply with our requirements. These requirements are made by us in accordance with the Corporations Regulations and are set out in this regulatory guide: see RG 165.1–RG 165.6, RG 165.35–RG 165.36 and Section B;
  - (b) credit providers (i.e. lenders, lessors and those who take credit contracts on assignment) and credit service providers (i.e. non-lenders such as brokers and other intermediaries) must have IDR procedures that comply with our requirements and cover disputes relating to the credit activities engaged in by the credit licensee or its credit representatives.

These requirements are made by us in accordance with the National Credit Regulations and are set out in this regulatory guide: see RG 165.13–RG 165.17, RG 165.26–RG 165.34, RG 165.37–RG 165.38 and Section B; and

Note: See RG 203 (at RG 203.39–RG 203.40 and RG 203.62) for more information on licensing for debt collectors.

- (c) unlicensed COI lenders must have IDR procedures that comply with our requirements and cover disputes in relation to the credit activities the lender engages in with respect to their carried over instruments. These requirements are made by us in accordance with the National Credit Regulations and are set out in this regulatory guide: see RG 165.18–RG 165.25, RG 165.37–RG 165.38 and Section B.

RG 165.70 Both the Corporations Regulations and National Credit Regulations provide that, when making or approving standards or requirements for IDR procedures, we must take into account AS ISO 10002–2006, as well as any other matter we consider relevant: see regs 7.6.02(1) and 7.9.77(1), Corporations Regulations, and regs 10(a) and 10(b) and Sch 2, National Credit Regulations.

RG 165.71 Under both the Corporations Regulations and National Credit Regulations, we also have the power, in relation to IDR procedures, to:

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

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

RG 165.72 We note that AS ISO 10002–2006 does not apply exclusively to financial services or credit and has been drafted broadly so that it can:

- (a) apply to any industry in which consumers participate; and
- (b) be implemented by a business of any size.

RG 165.73 This guide provides guidance on the application of AS ISO 10002–2006 to the financial services and credit industries, as well as outlining other matters we consider necessary for IDR procedures to be compliant.

RG 165.74 Our key requirements for IDR procedures are that you:

- (a) adopt the definition of ‘complaint’ in AS ISO 10002–2006 (see RG 165.90);
- (b) satisfy the Guiding Principles at Section 4 of AS ISO 10002–2006, and follow Section 5.1—Commitment, Section 6.4—Resources, Section 8.1—Collection of Information, and Section 8.2—Analysis and evaluation of complaints in AS ISO 10002–2006 (see RG 165.94–RG 165.97); and

- (c) have a system for informing complainants or disputants about the availability and accessibility of the relevant EDR scheme (see RG 165.140), unless you are an unlicensed COI lender and have not joined an EDR scheme.
- RG 165.75 In adopting the definition of ‘complaint’ in AS ISO 10002–2006, we clarify that for credit licensees, where the National Credit Act and National Credit Regulations refer to a ‘dispute’, we consider this to have the same meaning as ‘complaint’ under the Corporations Act and Corporations Regulations.
- RG 165.76 Given the difference in terminology, throughout this regulatory guide we generally refer to a ‘complaint’ and ‘complainant’ where our IDR requirements apply to a financial service provider and ‘dispute’ and ‘disputant’ where our IDR requirements apply to a credit licensee.
- RG 165.77 Our requirements for IDR procedures are also reflected in:
- (a) Class Order [CO 09/339] *Internal dispute resolution procedures*;
  - (b) Class Order [CO 10/250] *Internal dispute resolution procedures (credit)*; and
  - (c) Class Order [CO 10/517] *Internal dispute resolution procedures (credit—unlicensed COI lenders)*.
- RG 165.78 We will review our requirements, having regard to AS ISO 10002–2006, in this section of the regulatory guide in consultation with industry, consumer representatives and other interested stakeholders.
- RG 165.79 We will update this regulatory guide to reflect any further changes to the National Credit Act or National Credit Regulations.

## Tailoring IDR procedures

- RG 165.80 Whether you are reviewing your existing IDR procedures, or establishing new IDR procedures, it is appropriate to take into account:
- (a) the size of your business (including the number of representatives or credit representatives you have authorised, or for unlicensed COI lenders, the number of carried over instruments you or your appointed representative will administer);
  - (b) the range of financial products or services or credit products or services you offer;
  - (c) the nature of your customer base; and
  - (d) the likely number and complexity of complaints or disputes.

## Coverage and benefits of IDR procedures

- RG 165.81 The majority of complaints or disputes that your clients make about you will be dealt with under your IDR procedures. We believe that it is essential for you to have effective IDR procedures in place so that complaints or disputes are dealt with genuinely, promptly, fairly and consistently.
- RG 165.82 IDR procedures can be used to deal effectively with, and monitor, all forms of consumer inquiry, complaint or dispute. The benefits of effective IDR procedures with broad coverage include:
- (a) the opportunity to resolve complaints or disputes quickly and directly;
  - (b) the ability to identify and address recurring or systemic problems (which can then lead to product or service improvements);
  - (c) the capacity to provide solutions to problems rather than have remedies imposed by an external body; and
  - (d) the chance to improve levels of customer and investor confidence and satisfaction.
- RG 165.83 Wherever possible, you should seek to resolve complaints or disputes directly with your clients through your IDR procedures. It is better for all parties if a complaint or dispute is dealt with at the earliest possible stage because it:
- (a) prevents complaints or disputes from becoming entrenched;
  - (b) preserves customer relationships;
  - (c) is often the most efficient and cost-effective way for an organisation to deal with complaints or disputes; and
  - (d) may improve customer satisfaction.
- RG 165.84 As a minimum, any IDR procedure for financial service providers must be able to deal with complaints made by ‘retail clients’, as defined in s761G of the Corporations Act and its related regulations, and this includes small businesses. A ‘small business’ is defined in s761G as a business employing fewer than:
- (a) 100 people (if the business manufactures goods or includes the manufacture of goods); or
  - (b) 20 people (otherwise).
- RG 165.85 IDR procedures for trustee companies providing traditional services must be able to deal with complaints made by retail clients. For traditional services, these specifically include:
- (a) individuals and small businesses who *directly* engage a trustee company to provide traditional services (e.g. to prepare a will, trust instrument, power of attorney or agency arrangement); and

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

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

Note 2: An 'information return' must include certain information about the trust, including information about income earned on the trust's assets, expenses and the net value of the trust's assets: see s601RAC1(e) of the Corporations Act and regs 5D.2.01, 5D.2.02 and 7.1.28A of the Corporations Regulations.

RG 165.86 As a minimum, any IDR procedure for credit must be able to handle disputes made in relation to the credit activities engaged in by the credit licensee or its credit representatives, or an unlicensed COI lender: s47(1)(h), National Credit Act and Sch 2, National Credit Regulations. This will involve covering disputes made by consumers of credit, borrowers and guarantors under the National Credit Act.

RG 165.87 We encourage you to develop IDR procedures that have broader coverage than outlined at RG 165.84–RG 165.86, and that are consistent with the nature of your business and your dealings with consumers and investors.

## Outsourcing

RG 165.88 A financial service provider, credit provider, credit service provider or unlicensed COI lender that outsources its IDR procedures to a third party service provider remains responsible for ensuring that its IDR procedures comply with the requirements in this regulatory guide.

RG 165.89 This includes where a prescribed unlicensed COI lender arranges for its appointed credit licensee's or registered person's IDR procedures to cover disputes with respect to its carried over instruments.

## AS ISO 10002–2006

### Definition of ‘complaint’ and ‘dispute’

RG 165.90 As part of our IDR requirements, you will be required to adopt the following definition of ‘complaint’ in AS ISO 10002–2006 when handling ‘complaints’ under the Corporations Act or ‘disputes’ under the Transitional Act and National Credit Act:

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

Note: See RG 165.75–RG 165.76 for further information on why the definition of complaint is adopted for ‘disputes’ for credit.

RG 165.91 This definition of complaint will promote consistent treatment of complaints and disputes. It will also help in the identification of complaints and disputes earlier in the complaints/disputes handling process.

RG 165.92 We recognise that applying this definition may result in increased administrative burdens and compliance costs in relation to capturing and maintaining records of minor expressions of dissatisfaction. Therefore, where a complaint or dispute (except for a complaint or dispute relating to hardship, a declined insurance claim, or the value of an insurance claim) is resolved to the customer’s complete satisfaction *by the end of the fifth business day* after the complaint or dispute was received, you will not be required to apply the full IDR process—that is, to capture and record the complaint or dispute, as set out at Appendix 1 under ‘Section 8.1—Collection of information’.

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

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

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

Note 3: If you are an unlicensed COI lender and have chosen not to join an EDR scheme, you must record all disputes: see RG 165.154(a).

RG 165.93 Where possible, we encourage the adoption of the full IDR process, because having accurate and complete complaints and disputes data can be invaluable to improving products, services and business systems.

## Guiding Principles and Sections 5.1, 6.4, 8.1 and 8.2

- RG 165.94 Section 4 of AS ISO 10002–2006 sets out the Guiding Principles that your IDR procedures must satisfy. We also require that your IDR procedures comply with the following sections in AS ISO 10002–2006:
- (a) Section 5.1—Commitment;
  - (b) Section 6.4—Resources;
  - (c) Section 8.1—Collection of information; and
  - (d) Section 8.2—Analysis and evaluation of complaints.
- RG 165.95 To give context to our IDR requirements, please refer to AS ISO 10002–2006.
- RG 165.96 At Appendix 1, we provide guidance on how we consider the Guiding Principles and Sections 5.1, 6.4, 8.1 and 8.2 of AS ISO 10002–2006 apply. Our guidance at Appendix 1 also gives scaled guidance, where possible, so that micro to small businesses, compared with medium to large sized businesses, can better understand how the Guiding Principles and Sections 5.1, 6.4, 8.1 and 8.2 of AS ISO 10002–2006 apply.
- RG 165.97 At Appendix 2, we also set out some questions for you to consider when establishing or updating your dispute resolution system to ensure it meets the requirements in this regulatory guide for credit, margin lending financial services and traditional services.

## IDR timeframes

### Maximum timeframes at IDR

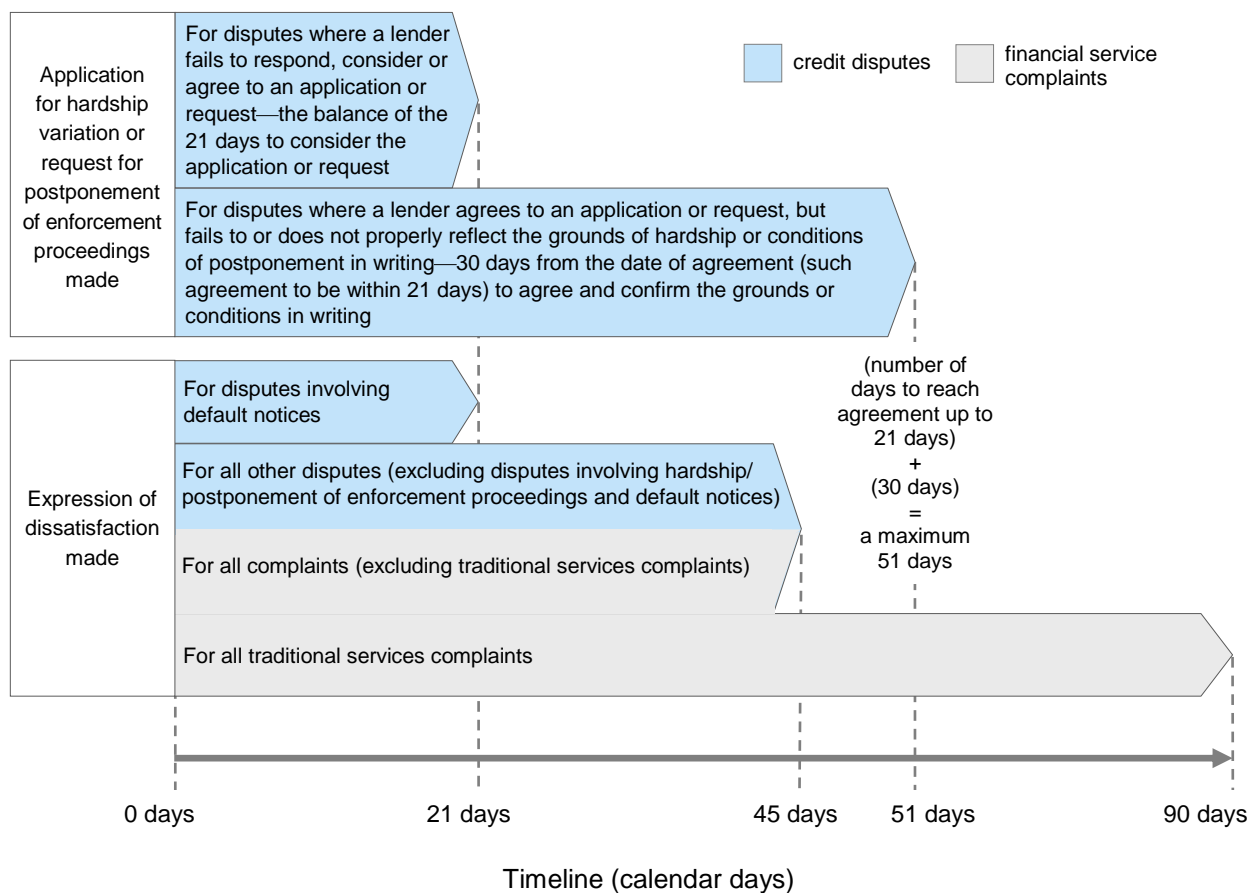
- RG 165.98 Timeliness in responding to complaints and disputes is a key element of successful internal complaints handling.
- RG 165.99 Figure 2 summarises the maximum IDR timeframes for handling complaints and disputes.
- RG 165.100 If you are a financial service provider, credit provider, credit service provider or unlicensed COI lender:
- (a) in accordance with the Guiding Principle of ‘responsiveness’ in AS ISO 10002–2006, you should immediately acknowledge the receipt of complaints or disputes and address them promptly in accordance with their degree of urgency; and
  - (b) if you are required to be a member of an ASIC-approved EDR scheme, or you are an unlicensed COI lender, you must provide a final response to a complainant or disputant within a maximum of 45 days—unless a different timeframe applies to traditional services complaints (see RG

165.107–RG 165.113) or to certain types of credit disputes (see RG 165.114–RG 165.130).

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

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

**Figure 2: Maximum IDR timeframes**



RG 165.101 The pursuit of ‘best practice’ procedures should result in timeframes shorter than 45 days regularly being achieved.

RG 165.102 A ‘final response’ requires that you must write to the complainant or disputant within 45 days, informing them of:

- (a) the final outcome of their complaint or dispute at IDR;
- (b) their right to take their complaint or dispute to EDR; and

- (c) the name and contact details of the relevant EDR scheme to which they can take their complaint or dispute.

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

RG 165.103 You do not need to provide a final response when a complaint or dispute (except for a complaint or dispute relating to hardship, a declined insurance claim, or the value of an insurance claim) is resolved to the complainant's or disputant's complete satisfaction *by the end of the fifth business day* after the complaint or dispute was received and the complainant or disputant has not requested a response in writing.

RG 165.104 If you are required to be a member of an ASIC-approved EDR scheme, or you are an unlicensed COI lender and have joined an EDR scheme, and you are unable to respond to a complaint or dispute within 45 days—or any shorter timeframe, as detailed in the EDR scheme's Terms of Reference or under an applicable industry code of conduct or practice—you must, before the end of that period:

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

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

RG 165.105 The 45-day timeframe to provide a final response:

- (a) does not recommence where new information is provided in respect of the complaint or dispute. We consider that this will encourage financial service providers, credit providers and credit service providers to ensure they have sufficient facts and information to handle the complaint or dispute at an early stage of the IDR process;
- (b) does not affect shorter timeframes for IDR required under applicable industry codes of conduct or practice; and
- (c) does not affect the maximum 90-day time limit applicable to complaints about superannuation where either s101 of the *Superannuation Industry (Supervision) Act 1993* or s47 of the *Retirement Savings Accounts Act 1997* apply.

RG 165.106 We also encourage you to consider ways of improving your handling of complex complaints or disputes within the 45-day timeframe, so errors in complaints or disputes handling can be avoided.

**Traditional services complaints**

- RG 165.107 A trustee company providing traditional services must give a final response to a complainant within a maximum of 90 days.
- RG 165.108 A ‘final response’ requires that you must write to the complainant within 90 days, informing them of:
- (a) the final outcome of their complaint at IDR;
  - (b) their right to take their complaint to EDR; and
  - (c) the name and contact details of the relevant EDR scheme to which they can take their complaint.
- RG 165.109 You do not need to provide a final response when a traditional services complaint (except for a complaint relating to hardship) is resolved to the complainant’s complete satisfaction *by the end of the fifth business day* after the complaint was received and the complainant has not requested a response in writing.
- RG 165.110 Where you are unable to respond to a traditional services complaint within 90 days—or any shorter timeframe, as detailed in the EDR scheme’s Terms of Reference or under an applicable industry code of practice—you must, before the end of that period:
- (a) inform the complainant of the reasons for the delay;
  - (b) advise the complainant of their right to complain to EDR; and
  - (c) provide the complainant with the name and contact details of the relevant EDR scheme to which they can complain.
- RG 165.111 During the 90 days, you must:
- (a) on receipt of a traditional services complaint, use your best endeavours to identify and notify other persons who may request an information return (e.g. other beneficiaries) and who may reasonably have an interest in the outcome of the complaint. We encourage you to do this as quickly as possible;
  - (b) where relevant to the efficient and fair handling of the complaint at IDR, consider the views of those identified at RG 165.111(a); and
  - (c) keep those identified at RG 165.111(a) informed of the progress of the traditional services complaint at key stages of the IDR process, including when a final response or notification of delay is given under RG 165.108 or RG 165.110.
- RG 165.112 Under the 90-day deadline at IDR, time stops running when:
- (i) another person commences legal proceedings to be included as a beneficiary and the outcome would affect the handling of the complaint at IDR; or

- (ii) the trustee company applies for an opinion, advice or direction from a court to reasonably handle the complaint at IDR (e.g. where the trustee company is acting as a manager or administrator of the trust property).

RG 165.113 Time starts to run again, under the 90-day deadline, once the court determines whether the other person should be included as a beneficiary, or provides an opinion, advice or otherwise gives a direction, and the time to lodge an appeal (if relevant) has passed.

## Timeframes for certain types of credit disputes

### Disputes involving default notices

RG 165.114 Under s88 of the National Credit Code, a lender must give a borrower a 'default notice' before commencing enforcement proceedings to recover money or take possession of or sell property. The default notice must inform the borrower that they must remedy the default within 30 days and must also substantially meet the pro forma notice requirements in Form 12, National Credit Regulations.

Note: See s208, National Credit Code; reg 6 and Form 12, National Credit Regulations.

- RG 165.115 A dispute may involve a default notice where, for example:
- (a) there is an allegation that the default notice was not served;
  - (b) the borrower disputes the amount specified in the default notice or whether the default was rectified; or
  - (c) there is a dispute about the lender's communications leading up to the issue of the default notice.
- RG 165.116 Where the dispute involves a 'default notice', the timeframe for handling a complaint or dispute at IDR under RG 165.100(b) does not apply.
- RG 165.117 Instead, you must give a final response to the disputant within a maximum of 21 days (unless the dispute relates to an application for a hardship variation or a request for postponement of enforcement proceedings, which was previously sought and rejected or not considered, as described at RG 165.130, in which case the disputant may have their dispute handled directly at EDR once the timeframes in the National Credit Code have passed).
- RG 165.118 A 'final response' requires that you must write to the disputant within 21 days, informing them of:
- (a) the final outcome of their dispute at IDR;
  - (b) their right to take their dispute to EDR; and
  - (c) the name and contact details of the relevant EDR scheme to which they can take their dispute.

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

RG 165.119 You do not need to provide a final response when a dispute (except for a dispute relating to hardship) is resolved to the disputant's complete satisfaction *by the end of the fifth business day* after the dispute was received and the disputant has not requested a response in writing.

RG 165.120 If you are required to be a member of an ASIC-approved EDR scheme, or you are an unlicensed COI lender and have joined an EDR scheme, and you are unable to give a final response within 21 days, you must, before the end of the 21 days:

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

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

RG 165.121 While the dispute is being handled at IDR during the 21 days, and for a reasonable time thereafter, credit providers (including debt collectors), credit service providers, their credit representatives and unlicensed COI lenders must refrain from commencing or continuing with legal proceedings or any other enforcement action (i.e. debt collection activity), unless the statute of limitations is about to expire.

Note: We also expect industry participants to refrain from commencing or continuing with legal proceedings or any other enforcement action (i.e. debt collection activity), unless the statute of limitations is about to expire, while an application for hardship or request for postponement of enforcement proceedings is being addressed under RG 165.128.

RG 165.122 This will enable the dispute to be genuinely handled at IDR and also allow the disputant a reasonable opportunity to lodge their dispute with an EDR scheme if the dispute cannot be successfully resolved at IDR.

RG 165.123 We expect that a sufficient timeframe 'thereafter' for a disputant to complain to EDR will be at least 14 days from giving a 'final response' at IDR under RG 165.117 and RG 165.118, but may be longer, depending on the particular circumstances of the dispute (e.g. if the disputant needs more time to lodge a dispute at EDR because they have reading and writing difficulties).

### Urgent credit disputes involving applications for hardship variation or requests for postponement of enforcement proceedings

- RG 165.124 Under the National Credit Code, a borrower or guarantor may make a hardship application or request for postponement of enforcement proceedings.
- RG 165.125 Credit providers must have a dedicated telephone number and, where possible, a fax number, postal address and email address to accept and handle hardship applications.
- RG 165.126 Credit providers, credit service providers and unlicensed COI lenders must treat disputes involving hardship applications or postponement of enforcement proceedings as urgent matters.
- RG 165.127 We expect that credit providers, credit service providers and unlicensed COI lenders will have systems in place to easily identify a dispute involving hardship or postponement of enforcement proceedings.
- RG 165.128 Where a dispute relates to an application for hardship variation or request for postponement of enforcement proceedings, the following maximum timeframes at IDR will apply:
- (a) where an application for hardship variation or request for postponement of enforcement proceedings has been made, the credit provider has 21 days under s72 of the National Credit Code to consider and agree to a hardship application, or 21 days under s94 of the Code to consider and agree to a request for a postponement of enforcement proceedings. *There will be no further time at IDR to handle the dispute (unless RG 165.128(b) applies) and the disputant should be referred to the relevant EDR scheme that can directly handle the dispute. We confirm in RG 139 that the Terms of Reference of the EDR scheme may allow the scheme a discretion to refer the dispute back to IDR for a maximum of 14 days where it may be appropriate to do so, when no agreement is reached within the 21 days; and*
  - (b) where an application for hardship variation or request for postponement of enforcement proceedings has been made, and agreement has been reached under s72 or 94 of the National Credit Code, the credit provider has a further 30 days under s73 of the Code to confirm in writing the grounds of variation to the credit contract, or a further 30 days under s95 of the Code to confirm in writing the conditions of postponement of enforcement proceedings (i.e. a maximum of 51 consecutive days from when a hardship application or request for postponement of enforcement proceedings has been made). *There will be no further time at IDR to handle the dispute and the disputant should be referred to the relevant EDR scheme that can directly handle the dispute.*

- RG 165.129 The disputant must be informed of the right to complain to EDR and the name and contact details of the relevant EDR scheme when:
- (a) the disputant is advised in writing within 21 days whether their application for hardship variation or request for postponement of enforcement proceedings has been agreed to; or
  - (b) an application or request has been agreed to, the disputant is notified in writing of the grounds of hardship variation or conditions of postponement within a further 30 days from when agreement is reached (if reached within 21 days).

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

- RG 165.130 We recognise that disputes involving hardship applications or postponement of enforcement proceedings may also involve issues relating to default notices. We clarify that a disputant may lodge their dispute directly with an EDR scheme where the dispute involves a default notice, issued after a credit provider or credit service provider has considered and/or rejected an application for hardship or postponement of enforcement proceedings. Where this is the case, RG 165.128 will apply.

## Multi-tiered IDR procedures

- RG 165.131 The timeframe of 45 days discussed at RG 165.100–RG 165.106, or 90 days discussed at RG 165.107–RG 165.113, also applies to financial service providers that operate multi-tiered IDR procedures—that is, IDR procedures that include internal appeals or escalation mechanisms.
- RG 165.132 The timeframe of 45 days, unless different timeframes apply for certain types of credit disputes, discussed at RG 165.100–RG 165.130 also applies to credit licensees and unlicensed COI lenders that operate multi-tiered IDR procedures.
- RG 165.133 We believe that complainants and disputants should have the same rights to access EDR whether or not the financial services provider, credit provider, credit service provider or unlicensed COI lender they complain to uses a multi-tiered complaints or disputes procedure.

## Other matters

- RG 165.134 The regulations also expressly state that we may have regard to any other matter we consider relevant when making requirements for IDR procedures: see regs 7.6.02(1)(b) and 7.9.77(1)(b), Corporations Regulations, and reg 10(1)(b) and Sch 2, National Credit Regulations.

RG 165.135 After reviewing AS ISO 10002–2006 for the purposes of this guide, we believe that there are two other specific requirements with which your IDR procedures must comply.

### **Documenting IDR procedures**

RG 165.136 IDR procedures need to be documented to:

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

RG 165.137 The need to document IDR procedures and the process for doing so also ensures that effective procedures are properly thought out and established.

RG 165.138 The requirement to document IDR procedures includes setting out in writing:

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

RG 165.139 You should provide a copy of the procedures to all relevant staff. A simple and easy-to-use guide to the procedures should also be made available to consumers, either on request or when they want to make a complaint or dispute.

### **Links between IDR procedures and EDR schemes**

RG 165.140 For a dispute resolution system to be fully effective, you need to establish appropriate links between individual IDR procedures and the relevant EDR scheme for those complaints or disputes that you cannot resolve directly.

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

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

RG 165.141 You are also required to provide details about how a consumer can access the relevant EDR scheme in any:

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

RG 165.142 If you are a securitisation body, you must ensure that a Credit Guide is given to a consumer as soon as you become aware that you will enter into a credit contract or consumer lease: see reg 25G and Sch 3, National Credit Regulations. Informing consumers and investors about the availability of the EDR scheme in this way ensures that they know what further steps they may take to pursue an unresolved complaint or dispute.

Note: Unlicensed COI lenders who have not joined an ASIC-approved EDR scheme do not need to establish appropriate links between IDR procedures and EDR schemes. However, where unlicensed COI lenders have joined an EDR scheme, we encourage the development of IDR procedures with appropriate links to EDR. This can be achieved by meeting the requirements in RG 165.140.

## Applying for an AFS licence or credit licence—Self-certification

RG 165.143 To obtain an AFS licence or credit licence, an entity that is subject to the dispute resolution provisions must self-certify that its IDR procedures comply with our requirements.

RG 165.144 You will also need to provide us with details of the position within your organisation that is responsible for the operation of the IDR procedures.

RG 165.145 To self-certify you will have to answer a series of questions about your IDR procedures and about how you have satisfied yourself that your IDR procedures comply with our requirements.

RG 165.146 The self-certification and further information will be obtained:

- (a) from licensees during the licence application process; and
- (b) from unlicensed product issuers and unlicensed secondary sellers either when they lodge a PDS under s1015B or give notice that a PDS is in use under s1015D.

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

RG 165.147 You may have existing IDR procedures that you rely on to meet current licensee obligations or industry standards. If so, you should review these procedures against this guide before you provide us with your self-certification.

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

### Key points

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

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

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

Securitisation bodies must become a member of an ASIC-approved EDR scheme from 1 April 2011 to be exempt from having to hold a credit licence.

Trustee companies providing traditional services must become a member of an ASIC-approved EDR scheme by 1 January 2012.

## EDR scheme membership

### EDR scheme membership under the Corporations Act

RG 165.148 If you are an AFS licensee, unlicensed product issuer or unlicensed secondary seller, you are required to be a member of one or more ASIC-approved EDR schemes that covers, or together cover, complaints made by retail clients in relation to the financial services provided (other than complaints that may be dealt with by the SCT): see s912A(2)(b) and 1017G, Corporations Act.

Note 1: See RG 165.7–RG 165.12 for further information on the jurisdiction of the SCT.

Note 2: For trustee companies providing traditional services, the requirement to be a member of an EDR scheme commences from 1 January 2012.

RG 165.149 Unlicensed product issuers and unlicensed secondary sellers are also required to notify us of their EDR scheme membership details at the time they lodge a copy of their first PDS with us (see s1015B, Corporations Act) or at the time they issue their first PDS (see s1015D, Corporations Act).

## EDR scheme membership under the National Credit Act

### Transitional arrangements—Credit registration

RG 165.150 If you are a registered person, you are required to be a member of one or more ASIC-approved EDR schemes that covers, or together cover, disputes made in relation to the credit activities you and your credit representatives engage in.

Note: See s16, Transitional Act and RG 202.

### Credit licensees and credit representatives

RG 165.151 Credit licensees must be a member of one or more ASIC-approved EDR schemes that covers, or together cover, disputes in relation to the credit activities engaged in by the licensee and its credit representatives: see s11 and 47, National Credit Act.

RG 165.152 In addition to their credit licensee's EDR scheme membership, credit representatives must also be a separate member of an EDR scheme to remain authorised to act on behalf of their credit licensee: see s64 and 65, National Credit Act. However, employees or directors of a credit representative who is a body corporate, that have been sub-authorised by that body corporate as credit representatives under s65(1) of the National Credit Act, will not need to be a separate member of an ASIC-approved EDR scheme: see reg 16, National Credit Regulations.

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

### Unlicensed COI lenders

RG 165.153 If you are an unlicensed COI lender, you are not required to be a member of an ASIC-approved EDR scheme, but may choose to become a member.

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

RG 165.154 If you are an unlicensed COI lender and you choose not to become a member of an EDR scheme, you must keep a register of each of the following:

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

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

Note 2: The specific information that must be kept on the disputes register, including the name of the disputant, the date of the dispute, the details of the substance of the dispute and the details of the outcome of the dispute, is in addition to the requirement at Section B that unlicensed COI lenders have IDR procedures that incorporate Section 8.1—Collection of information in AS ISO 10002–2006: see RG 165.94 and Appendix 1.

### Securitisation bodies

RG 165.155 If you are a securitisation body, you may be exempt from having to hold a credit licence if you:

- (a) enter into a servicing agreement with a registered person or credit licensee under which the registered person or credit licensee acts on your behalf; and
- (b) are a member of an ASIC-approved EDR scheme from 1 April 2011.

Note: See regs 14B and 14C of the Transitional Regulations, regs 23B and 23C of the National Credit Regulations, and [CO 10/907].

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

RG 165.156 Some EDR schemes are limited in coverage to a particular industry or industries. This means that an entity that is subject to the dispute resolution provisions and that provides a broad range of financial or credit products or services, may need to join more than one scheme to meet its EDR obligations.

## Confirming EDR scheme membership

### AFS licensees

RG 165.157 If you are an AFS licensee, you must show us that you are a member of an ASIC-approved EDR scheme or schemes, as required under the dispute resolution provisions. This means that, when applying for an AFS licence, you will need to provide us with:

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

## Unlicensed product issuers and unlicensed secondary sellers

RG 165.158 If you are an unlicensed product issuer or an unlicensed secondary seller, you must show us that you are a member of an approved EDR scheme or schemes, as required under the dispute resolution provisions. This means that, when you first issue a PDS, you will need to provide us with:

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

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

## Credit licensees

RG 165.159 If you are a credit licensee, you must show us that you are a member of an ASIC-approved EDR scheme or schemes. This means that, when applying for a credit licence with us, you will need to include in your application:

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

Note: See RG 203.

RG 165.160 We expect that you will have processes in place to know when your credit representatives change their EDR scheme membership or cease to be members of an EDR scheme.

## Credit representatives

RG 165.161 Registered persons, credit licensees and credit representatives who have sub-authorised a person, other than an employee or director under s65 of the National Credit Act, must ensure that the person to whom they give an authorisation under s64 or 65 of the National Credit Act (credit representative) is a separate member of an ASIC-approved EDR scheme. If you are a credit representative, you must be a member of an ASIC-approved EDR scheme from 1 July 2010.

RG 165.162 If you are not a member of an ASIC-approved EDR scheme at the time of your purported authorisation, your authorisation will not have effect: s64(4)(a) & (5)(c) and 65(5)(c) & (6)(c), National Credit Act.

- RG 165.163 You must also continue to be a member of an ASIC-approved EDR scheme for your authorisation to remain valid. If your membership of an ASIC-approved EDR scheme ceases, your authorisation will also cease to have effect: s64(4)(b) & (5)(c) and 65(5)(b) & (6)(c), National Credit Act.
- RG 165.164 If you have been given an authorisation and it is of no effect because you cease to be a member of a scheme, the registered person, credit licensee or body corporate credit representative who authorised you may have committed an offence: s69, National Credit Act.
- RG 165.165 The person who authorised you must also revoke your authorisation: s70, National Credit Act. When your authorisation is revoked, the registered person, credit licensee or body corporate representative who authorised you must notify us of the name of the EDR scheme of which you were a member and the date on which you ceased to be an authorised representative.

### **Unlicensed COI lenders**

- RG 165.166 If you intend to be an unlicensed COI lender from 1 July 2010 and you choose to join an EDR scheme, you must notify ASIC of your EDR scheme membership and the name of the EDR scheme you have joined: see Form COI1 *Notice of carried over instruments*.

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

### **Securitisation bodies**

- RG 165.167 If you are a securitisation body, the registered person or credit licensee who acts on your behalf must notify us when they enter into a servicing agreement with you. In that notice, they must tell us the EDR scheme that you have joined: see Form CL13.

## **Changes to EDR scheme membership—Notification and consequences**

### **AFS licensees and credit licensees**

- RG 165.168 If your membership of an approved EDR scheme is not renewed, or is terminated, and you are not a member of an alternative ASIC-approved EDR scheme that can deal with all relevant complaints or disputes, you will fail to comply with one of your licensee obligations or registration obligations and, in the case of a credit representative, will no longer be authorised to act on behalf of your credit licensee. We may consider taking action against you.

- RG 165.169 If you are an AFS licensee or a credit licensee, you must provide us with a written report as soon as practicable, and no later than three business days, after becoming aware that the status of your EDR scheme membership has changed. This may arise when:
- (a) you fail to renew your membership of an ASIC-approved EDR scheme or schemes;
  - (b) you change your membership from one ASIC-approved EDR scheme to another; or
  - (c) your membership of an approved EDR scheme is terminated because of non-compliance with the Terms of Reference or a decision of that scheme.

The written report should set out the reasons for the circumstances in RG 165.169(a), (b) or (c) above.

Note: See Condition 33, Pro Forma 209 *Australian financial services licence conditions* (PF 209); and the 'External dispute resolution requirements' condition at paragraph 16, Pro Forma 224 *Australian credit licence conditions* (PF 224).

- RG 165.170 If you are a registered person, you must notify us within 10 business days if you fail to renew your membership of an EDR scheme, change your membership, or your membership is terminated: reg 9(2), National Credit Regulations.
- RG 165.171 Under s71 of the National Credit Act, you must notify us whenever the status of your credit representatives' EDR scheme membership changes, including:
- (a) when you authorise new credit representatives—you must inform us of the ASIC-approved EDR scheme or schemes to which your credit representative belongs, including the date they became a member. You must notify us in writing within 15 business days of your credit representative's authorisation; and
  - (b) when your credit representative changes their EDR scheme membership or you revoke authorisation of a credit representative—you must notify us within 10 business days of the change in EDR scheme membership or revocation.

Note: See RG 205.

- RG 165.172 If you are an unlicensed COI lender, and you have joined an EDR scheme, you must notify us of changes to your EDR scheme membership.

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

- RG 165.173 It is a condition of approval of an EDR scheme that the operators of the scheme inform us of any non-compliance by a scheme member and of any membership that is terminated. Under RG 139, operators of the scheme must

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

RG 165.174 We want to prevent a member whose membership has been terminated from one scheme from simply joining another scheme without our knowledge. On being informed that a member has:

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

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

### **Unlicensed product issuers and unlicensed secondary sellers**

RG 165.175 If you are an unlicensed product issuer or an unlicensed secondary seller, you must make sure that you have a dispute resolution system in place, as required under the dispute resolution provisions, at the time that you first issue a PDS: see RG 165.149. Failure to have such a system in place for your retail clients is an offence.

### **Securitisation body**

RG 165.176 If you are a securitisation body, and you have not elected to be regulated as a credit licensee, you must be a member of an ASIC-approved EDR scheme (from 1 April 2011) and have a servicing agreement with a registered person or credit licensee who acts on your behalf.

Note: If you are not a member of an ASIC-approved EDR scheme from 1 April 2011, you will be committing an offence: s29 of the National Credit Act.

## Appendix 1: IDR procedures and the standards

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

Table 2 shows:

- the Guiding Principles of Section 4; and
- Section 5.1—Commitment, Section 6.4—Resources, Section 8.1—Collection of information, and Section 8.2—Analysis and evaluation of complaints,

of the Australian Standard on Complaints Handling (AS ISO 10002–2006).

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

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

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

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

AS ISO 10002–2006  
reference

## More detailed guidance

Guiding Principle 4.4  
(Responsiveness)

Your IDR procedures should include clear response times for dealing with a complaint or dispute and the complainant or disputant should be made aware of these response times.

As a general rule, you should aim to acknowledge receipt of a complaint or dispute immediately.

Where immediately acknowledging receipt of a complaint or dispute is not possible, acknowledgement should be made as soon as practicable.

You must respond to complaints or disputes promptly in accordance with the urgency of the complaint or dispute. This involves prioritising complaints and disputes.

We consider that you must provide a final response to a complaint or dispute within a maximum of 45 days (or 21 days for disputes involving default notices; or 90 days for traditional services complaints).

Note: The time limit of 45 days will not apply in those instances where either s101 of the *Superannuation Industry (Supervision) Act 1993* or s47 of the *Retirement Savings Accounts Act 1997* applies. Each of these provisions allows a maximum time limit of 90 days for responding to a complaint or inquiry.

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

If you cannot provide a final response to the complainant or disputant within 45 days (or 21 days for disputes involving default notices; or 90 days for traditional services complaints), you must inform the complainant or disputant of the status of the complaint or dispute, the reasons for the delay, the right to complain to an ASIC-approved EDR scheme and provide the name and contact details of the relevant scheme. By providing a final response to a complaint or dispute, we mean that you must accept the complaint or dispute and, where appropriate, offer redress that will be the final result at IDR.

Note: If you are an unlicensed COI lender or prescribed unlicensed COI lender and you have not joined an EDR scheme, you will not need to inform the disputant of the right to complain to an ASIC-approved EDR scheme and the name and contact details of the relevant scheme.

Where the dispute involves an application for hardship variation or request for postponement of enforcement proceedings, you must:

- when you inform the disputant whether their application/request has been agreed to within 21 days under the National Credit Code, inform the disputant in writing of the right to complain to an ASIC-approved EDR scheme and provide the name and contact details of the relevant scheme; and
- when you write to the disputant confirming the grounds of hardship variation or conditions of postponement of enforcement proceedings within the further 30 days after agreement is reached (if agreement is reached within 21 days)—inform the disputant in writing of the right to complain to an ASIC-approved EDR scheme and provide the name and contact details of the relevant scheme.

Note: If you are an unlicensed COI lender or prescribed unlicensed COI lender and you have not joined an EDR scheme, you will not need to inform the disputant of the right to complain to an ASIC-approved EDR scheme and the name and contact details of the relevant scheme.

AS ISO 10002–2006 reference	More detailed guidance
<b>Guiding Principle 4.4 (Responsiveness)</b> <i>cont.</i>	<p>It is important that consumers and investors are kept informed of the progress of their complaints or disputes, and progress of their hardship application or request for postponement of enforcement proceedings.</p> <p>For traditional services complaints, it is also important that other persons who may request an information return, and who may reasonably have an interest in the outcome of a traditional services complaint (e.g. other beneficiaries), are kept informed of the progress of the complaint at key stages in the IDR process.</p> <p>It may be reasonable for you to consider shorter timeframes:</p> <ul style="list-style-type: none"> <li>• for different types of complaints or disputes (e.g. administrative complaints or disputes, performance-related complaints or disputes, or advice-related complaints or disputes); and</li> <li>• depending on the size of your organisation, the client base and the types of products and services offered under the AFS licence or credit licence.</li> </ul> <p>You should also take into account any timeframes for responding to complaints or disputes, as set out in relevant industry codes of conduct (where shorter).</p> <p>Where the complaint or dispute is resolved to the complainant or disputant's complete satisfaction <i>by the end of the fifth business day</i> after the complaint or dispute was received, you will not be required to apply the full IDR process (i.e. in terms of capturing and recording complaints or disputes).</p> <p style="margin-left: 40px;">Note: If you are an unlicensed COI lender and have chosen not to join an EDR scheme, you must still capture and record details of the dispute: see RG 165.154(a).</p>
<b>Guiding Principle 4.5 (Objectivity)</b>	<p>Each complaint or dispute should be addressed in an equitable, objective and unbiased manner through the complaints or disputes handling process.</p> <p>This requires that:</p> <ul style="list-style-type: none"> <li>• IDR procedures should allow adequate opportunity for each party to make their case (and where a credit dispute involves a credit representative, for the credit representative to provide relevant information to its registered person or credit licensee).</li> <li>• IDR procedures should allow for other persons who may request an information return (e.g. beneficiaries), and who may reasonably have an interest in the outcome of a traditional services complaint, to be identified, notified and their views considered, where relevant to the efficient and fair handling of the complaint.</li> <li>• Wherever possible, a complaint or dispute should be investigated by staff not involved in the subject matter of the complaint or dispute. We recognise that this will not always be possible for a small–micro sized business.</li> </ul> <p>In responding to complaints or disputes, you should give reasons for reaching a decision on the complaint or dispute and adequately address the issues that were raised in the initial complaint or dispute. We consider that, where practicable, reasons for a decision should be in writing and should refer to applicable provisions in legislation, codes, standards or procedures.</p>
<b>Guiding Principle 4.6 (Charges)</b>	<p>We consider that:</p> <ul style="list-style-type: none"> <li>• material explaining IDR procedures should be provided free of charge to complainants or disputants; and</li> <li>• complainants or disputants should not have to pay to access the complaints or disputes handling process.</li> </ul>

AS ISO 10002–2006 reference	More detailed guidance
<b>Guiding Principle 4.7 (Confidentiality)</b>	<p>Personally identifiable information concerning the complaint or dispute should not be disclosed, unless it is needed for the purposes of addressing the complaint or dispute. This type of information should be actively protected from disclosure.</p> <p>Disclosure can only otherwise be made if the customer, complainant or disputant expressly gives their consent.</p>
<b>Guiding Principle 4.8 (Customer-focused approach)</b>	<p>The organisation should adopt a customer-focused approach (including being helpful, user-friendly and communicating in plain English), be open to feedback and show commitment to resolving complaints or disputes by its actions.</p> <p>For credit licensees, this is particularly important where disputes involve default notices and applications for hardship variation or requests for postponement of enforcement proceedings.</p>
<b>Guiding Principle 4.9 (Accountability)</b>	<p>Reports about complaints or disputes should be prepared for the top management of your organisation. These reports should also include the actions taken and decisions made in respect of complaints or disputes.</p> <p>Data about your complaints or disputes, including the actions taken and decisions made, should also be available for inspection by us in certain situations—for example, during surveillance.</p>
<b>Guiding Principle 4.10 (Continual improvement)</b>	<p>The continual improvement of the complaints or disputes handling process and the quality of products and services should be an ongoing objective of the organisation.</p> <p>This involves conducting regular reviews of IDR procedures to identify areas for improvement. The frequency of reviews may vary according to the size of the organisation and its complaints or disputes volumes. We consider that reviews should be conducted at least every 2–3 years to ensure that the complaints or disputes system is operating effectively. We consider that a larger organisation might benefit from an independent review.</p> <p>We also consider that for credit licensees with credit representatives, regular reviews should be conducted on how efficiently and effectively the IDR procedures are covering disputes involving credit representatives. We consider that an initial review should be conducted within the first year of holding a credit licence and may be conducted less frequently thereafter—for example, every 2–3 years or to align with other general reviews.</p>
<b>Section 5.1—Commitment</b>	<p>The organisation should be actively committed to effective and efficient complaints or disputes handling.</p> <p>It is particularly important that commitment be shown by, and promoted from, the organisation’s top management.</p> <p>Such commitment should be reflected in the definition, adoption and dissemination of complaints handling policies and procedures.</p> <p>Management commitment should be shown by the provision of adequate resources, including training.</p> <p>This commitment can be demonstrated by:</p> <ul style="list-style-type: none"> <li>• ensuring all relevant staff are aware of, and educated about, IDR procedures;</li> <li>• ensuring that adequate resources are allocated to IDR (see Section 6.4—Resources); and</li> </ul>

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

AS ISO 10002–2006 reference	More detailed guidance
<b>Section 8.1—Collection of information</b>	<p>You should establish a recording system for managing complaints or disputes, while protecting personal information and ensuring complainant or disputant confidentiality.</p> <p>The system should specify the steps for identifying, gathering, maintaining, storing and disposing of records.</p> <p>You should record your complaints or disputes handling and take the utmost care in maintaining and preserving such items as electronic files and magnetic recording media. Complaints or disputes handling data is a useful means of tracking compliance issues or risks. We may require you to produce complaints or disputes data in certain circumstances. You should, therefore, keep this data in an accessible form.</p>
<b>Section 8.2—Analysis and evaluation of complaints</b>	<p>All complaints or disputes should be classified and then analysed to identify systemic, recurring and single incident problems and trends. This will help eliminate the underlying causes of complaints or disputes.</p> <p>To do this, it will be important to be able to analyse complaints or disputes according to categories, such as type of complainant, subject of complaint, outcome of complaint, and timeliness of response.</p>

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

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

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

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

**Table 3: Questions to consider**

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

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

## Key terms

Term	Meaning in this document
AFS licence	An Australian financial services licence under s913B of the Corporations Act that authorises a person who carries out a financial services business to provide financial services <p>Note: This is a definition contained in s761A of the Corporations Act.</p>
AFS licensee	A person who holds an Australian financial services licence under s913B of the Corporations Act <p>Note: This is a definition contained in s761A of the Corporations Act.</p>
AS ISO 10002–2006	Australian Standard AS ISO 10002–2006 <i>Customer satisfaction—Guidelines for complaints handling in organizations</i> (ISO 10002:2004, MOD)
ASIC	Australian Securities and Investments Commission
ASIC Act	<i>Australian Securities and Investments Commission Act 2001</i>
beneficiary	Means: <ul style="list-style-type: none"> <li>• a beneficiary under a deceased's will;</li> <li>• where a person has died without a will, a person who has an entitlement or interest in the deceased's estate under a state or territory law;</li> <li>• a person who has commenced a proceeding in a court under a state or territory law to be included as a beneficiary of a deceased's estate; and</li> <li>• a beneficiary of a trust (excluding charitable trusts)</li> </ul> <p>Note: See regs 7.1.28A and 5D.2.01 of the Corporations Regulations.</p>
carried over instrument	Has the meaning given in s4 of the Transitional Act
[CO 10/907] (for example)	An ASIC class order (in this example numbered 10/907)
COI lender	A credit provider or lessor who only has a closed pool of carried over instruments as at 1 July 2010 and will not offer new credit contracts or consumer leases from 1 July 2010

Term	Meaning in this document
complainant	A person or company who at any time has: <ul style="list-style-type: none"> <li>made a complaint to an AFS licensee, credit licensee, unlicensed product issuer, unlicensed secondary seller, unlicensed COI lender or any other person or business who must have IDR procedures that meet ASIC's approved standards and requirements; or</li> <li>lodged a complaint with a scheme about a scheme member that falls within the scheme's Terms of Reference or Rules</li> </ul>
complaint	Has the meaning given in AS ISO 10002–2006
Corporations Act	<i>Corporations Act 2001</i> , including regulations made for the purposes of that Act
Corporations Regulations	Corporations Regulations 2001
credit	Credit to which the National Credit Code applies Note: See s3 and 5–6 of the National Credit Code.
credit activity (or credit activities)	Has the meaning given in s6 of the National Credit Act
credit contract	Has the meaning in s4 of the National Credit Code
Credit Guide	A document that must be provided to a consumer by a credit provider, credit service provider, credit representative or debt collector under the National Credit Act
credit licence	An Australian credit licence under s35 of the National Credit Act that authorises a licensee to engage in particular credit activities
credit licensee	A person who holds an Australian credit licence under s35 of the National Credit Act
credit provider	Has the meaning given in s5 of the National Credit Act
credit representative	A person authorised to engage in specified credit activities on behalf of a credit licensee or registered person under s64(2) or s65(2) of the National Credit Act
credit service	Has the meaning given in s7 of the National Credit Act
credit service provider	A person who provides credit services
declined insurance claim	This includes where an insured person (the retail client) makes a claim on an insurance policy and: <ul style="list-style-type: none"> <li>the insurer declines or does not accept the claim; or</li> <li>the insurer does not determine the claim within 10 business days of receiving all the information necessary to do so</li> </ul>

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

Term	Meaning in this document
information return	<p>A trustee company providing traditional services must give certain information to beneficiaries, settlors of trusts, and certain other parties within 30 days of a request.</p> <p>Such information must include:</p> <ul style="list-style-type: none"> <li>• the income earned on the trust's assets;</li> <li>• the expenses of the trust, including remuneration, commission or other benefits received by the trustee company; and</li> <li>• the net value of the trust's assets</li> </ul> <p>Note: See s601RAC1(e) of the Corporations Act and regs 5D.2.01, 5D.2.02 and 7.1.28A of the Corporations Regulations.</p>
licensee	An AFS licensee or a credit licensee
licensee obligations	The obligations of an AFS licensee as set out in s912A and 912B of the Corporations Act and the requirement to be of good fame and character as included in s913B of the Corporations Act; and the obligations of a credit licensee as set out in s47 and 48 of the National Credit Act
margin lending financial service	<p>A margin lending financial service is:</p> <ul style="list-style-type: none"> <li>• a dealing in a margin lending facility; or</li> <li>• the provision of financial product advice in relation to a margin lending facility</li> </ul>
multi-tiered IDR procedures	IDR procedures that include internal appeals or escalation mechanisms
National Credit Act	<i>National Consumer Credit Protection Act 2009</i>
National Credit Code	National Credit Code at Sch 1 of the National Credit Act
National Credit Regulations	National Consumer Credit Protection Regulations 2010
old Credit Code	Has the meaning given in s4 of the Transitional Act
PDS	Product Disclosure Statement
prescribed unlicensed COI lender	<p>Has the meaning given in modified s5A of the National Credit Act, as inserted by item 2.5 of Sch 2 of the National Credit Regulations</p> <p>Note: In general terms, a prescribed unlicensed COI lender is an unlicensed COI lender who fails to meet certain probity requirements and who has restrictions placed on their conduct in relation to their carried over instruments. A prescribed unlicensed COI lender must not engage in credit activities with respect to their carried over instruments. They must instead appoint a credit licensee or registered person as 'representative' to engage in credit activities on their behalf with respect to their carried over instruments.</p>

Term	Meaning in this document
Product Disclosure Statement (PDS)	A document that must be given to a retail client in relation to the offer or issue of a financial product in accordance with Div 2 of Pt 7.9 of the Corporations Act Note: See s761A for the exact definition.
reg 16 (for example)	A regulation of a set of regulations as specified (in this example numbered 16)
registered	Registered to engage in credit activities under item 12 of Sch 2 of the Transitional Act
registered person	A person who is registered
registered person's obligations	The obligations of a registered person under s16 of the Transitional Act
registration	Registration to engage in credit activities granted under item 12 of Sch 2 of the Transitional Act
retail client	A client as defined in s761G of the Corporations Act and Ch 7, Pt 7.1, Div 2 of the Corporations Regulations
RG 139 (for example)	An ASIC regulatory guide (in this example numbered 139)
s64 (for example)	A section of an Act or Code as specified (in this example numbered 64)
SCT	Superannuation Complaints Tribunal, established under the <i>Superannuation (Resolution of Complaints) Act 1993</i>
securitisation body	Means a 'special purpose funding entity' (credit), which includes both: <ul style="list-style-type: none"> <li>• a securitisation entity; and</li> <li>• a fundraising special purpose entity,</li> </ul> as defined by s5 of the National Credit Act
servicing agreement	An agreement between a securitisation body and a registered person or credit licensee as defined in s5 of the National Credit Act
small business	A small business as defined in s761G of the Corporations Act
sole beneficiary	Means the only beneficiary under a will, the only person who has an entitlement or interest in the deceased's estate under a state or territory law or the only beneficiary of a trust (excluding charitable trusts)
Terms of Reference	The document that sets out an EDR scheme's jurisdiction and procedures, and to which scheme members agree to be bound. In some circumstances, it might also be referred to as the scheme's 'Rules'

Term	Meaning in this document
traditional services	Means traditional trustee company services as defined by s601RAC of the Corporations Act
Transitional Act	<i>National Consumer Credit Protection (Transitional and Consequential Provisions) Act 2009</i>
Transitional Regulations	National Consumer Credit Protection (Transitional and Consequential Provisions) Regulations 2010
unlicensed COI lender	Has the meaning given in s5 of the National Credit Act, as modified by item 2.4 of Sch 2 of the National Credit Regulations
unlicensed product issuer	An issuer of a financial product who is not an AFS licensee
unlicensed secondary seller	A person who offers the secondary sale of a financial product under s1012C(5), (6) or (8) of the Corporations Act and who is not an AFS licensee
value of an insurance claim	Means the monetary amount or value to be paid out to an insured person (the retail client) under an insurance policy, once the insured person has made a claim on the policy.

## Related information

### Headnotes

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

### Class orders and pro formas

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

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

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

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

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

[CO 10/907] *Exempted special purpose funding entities—deferral of start date for EDR scheme membership*

[CO 11/261] *Trustee companies providing traditional trustee company services—deferral of start date for dispute resolution requirements*

PF 209 *Australian financial services licence conditions*

PF 224 *Australian credit licence conditions*

### Regulatory guides

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

RG 202 *Credit registration and transition*

RG 203 *Do I need a credit licence?*

RG 204 *Applying for and varying a credit licence*

RG 205 *Credit licensing: General conduct obligations*

RG 206 *Credit licensing: Competence and training*

RG 207 *Credit licensing: Financial requirements*

## Information sheets

INFO 110 *Lenders with carried over instruments*

## Legislation

ASIC Act, s1, 33

Corporations Act, 601RAB, 601RAC, s760A, 761G, 766A(1A), 912A, 912B, 912D, 915C(2), 942B(2)(h), 942C(2)(i), 1013D(1)(g), 1015B, 1015D, 1017G; Corporations Regulations, regs 5D.2.01, 7.1.17C, 7.1.28A, 7.6.02, 7.9.77 and Sch 8AC.

National Credit Act, Ch 2, s11, 47, 54, 55, 64, 65, 69, 70, 71, 109, 113, 126, 127, 136, 149, 150, 158 and 160; National Credit Code, s72, 73, 88, 94, 95 and 208; National Credit Regulations, regs 6, 9(2), 10, 16, 23B, 23C, Sch 2 and Form 12; Transitional Act, items 12, 16 and 41(3)(d) of Sch 2; Transitional Regulations, regs 14B and 14C.

*Retirement Savings Accounts Act 1997*, s47

*Superannuation Industry (Supervision) Act 1993*, s101

*Superannuation (Resolution of Complaints) Act 1993*, s22A

## Cases

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

## Consultation papers and reports

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

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

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

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

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

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

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

### **ASIC forms**

CL13 *Notice in relation to special purpose funding entities*

COI1 *Notice of carried over instruments*

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

### **Media and information releases**

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

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

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

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

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