



M01613116

## Infringement notice

section 331 of the Act  
paragraph 40(a) of the Regulations

Date of issue: 17 November 2015

Unique identification code: B1084381

TO: BMW Australia Finance Limited (ACN 007 101 715)  
783 Springvale Road  
Mulgrave VIC 3170

1. I, Timothy Peter Mullaly, give this infringement notice under regulation 39 of the *National Consumer Credit Protection Regulations 2010* (the **Regulations**).
2. I have reasonable grounds to believe that you have contravened the following civil penalty provision:

On 19 November 2014 at Mulgrave in the State of Victoria, you, as a credit provider, in contravention of section 130(1) of the *National Consumer Credit Protection Act 2009* (**National Credit Act**), made an assessment as to whether a credit contract you subsequently entered into with a consumer (Contract No. 1041746) was unsuitable for the consumer for the purposes of section 128(c) of the *National Credit Act*, without first making reasonable inquiries about, and taking reasonable steps to verify, the consumer's financial situation.

### Penalty under this notice

3. The penalty for the alleged offence under this notice is \$8,500 for an individual or \$42,500 for a body corporate.

The applicable penalty in this notice is \$42,500.

This penalty can be paid by (**see attached invoice for payment options**).

4. If you pay the penalty stated in this notice within the time for payment mentioned below then (unless this notice is subsequently withdrawn and any penalty paid refunded):
  - (a) any liability you have for the alleged contravention of the provision will be discharged; and
  - (b) no civil proceedings will be brought against you by the Commonwealth for the alleged contravention; and
  - (c) you will not be taken to have admitted guilt in respect of the alleged contravention; and
  - (d) you will not be taken to have been found guilty of the alleged contravention.

### Consequences of failure to pay penalty under this notice

5. If you do not pay the penalty specified in this notice within the time for payment mentioned below, civil proceedings may be brought against you for the alleged contravention.

6. The maximum penalty that a court may impose for this offence is 2,000 penalty units for an individual [\$340,000] and 10,000 penalty units for a body corporate [\$1,700,000].

#### **Time for payment**

7. The time for payment is:
- (a) within 28 days after the day on which the notice is given to you; or
  - (b) if you apply for a further period of time in which to pay the penalty, and the application is granted — within the further period allowed; or
  - (c) if you apply for a further period of time in which to pay the penalty, and the application is refused or is taken to have been refused — within the later of:
    - (i) 7 days after:
      - (A) the day you receive the notice of refusal; or
      - (B) the application is taken to have been refused; and
    - (ii) 28 days after the day on which the infringement notice was given to you; or
  - (d) if you apply for permission to pay the penalty by instalments, and the permission is granted — in accordance with the permission; or
  - (e) if you apply for permission to pay the penalty by instalments, and the permission is refused or is taken to have been refused — within the later of:
    - (i) 7 days after:
      - (A) the day you receive the notice of refusal; or
      - (B) the application is taken to have been refused; and
    - (ii) 28 days after the day on which the infringement notice was given to you; or
  - (f) if you apply for the notice to be withdrawn, and the application is refused or is taken to have been refused — within the later of:
    - (i) 7 days after:
      - (A) the day you receive the notice of refusal; or
      - (B) the application is taken to have been refused; and
    - (ii) 28 days after the day on which the infringement notice was given to you.

#### **Applying to have this notice withdrawn**

8. Within 28 days after you receive this notice, you may apply to the **Credit Infringement Notice Officer** to have this notice withdrawn.

*(the Credit Infringement Notice Officer is the nominated person)*

#### **Applying for more time to pay the penalty under this notice**

9. Within 28 days after you receive this notice, you may apply to the nominated person for a further period of up to 28 days in which to pay the penalty under this notice.

#### **Applying to pay the penalty under this notice by instalments**

10. Within 28 days after you receive this notice, you may apply to the nominated person for permission to pay the penalty under this notice by instalments.

## **Requirements for applications**

11. An application to have this notice withdrawn, or for more time to pay the penalty under this notice, or for permission to pay the penalty under this notice by instalments:
- (a) must be in writing; and
  - (b) must include the unique identification code set out at the top of this notice; and
  - (c) must include your reasons for making the application; and
  - (d) for an application for permission to pay the penalty under this notice by instalments — include the proposed amount and frequency of instalments; and
  - (e) may be made by forwarding your application to:

**Credit Infringement Notice Officer**

**Australian Securities and Investments Commission**

**GPO Box 9827**

**Melbourne VIC 3001**

**or by facsimile: (03) 9280 3444**

**or by email: [CreditInfringementNotices@asic.gov.au](mailto:CreditInfringementNotices@asic.gov.au)**



Signature of Tim Mullaly

Senior Executive Leader Financial Services Enforcement