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20 May 2019

Fleur Grey
Senior Specialist, Credit Retail Banking and Payments, Financial Services
Australian Securities and Investments Commission
By email: responsible.lending@asic.gov.au

Dear Ms Grey,

Consultation Paper 309 - *Update to RG 209: Credit licensing: Responsible lending conduct* ("the Paper")

AHL Investments Pty Ltd ("Aussie"), Australian Credit Licence 246786, welcomes the opportunity to provide comment on the Paper issued by the Australian Securities and Investments Commission ("ASIC"). Aussie strongly supports and is committed to responsible lending principles and practices and continuing to provide a valuable service to all our customers which is consistent with such principles and practices. This comment letter is prepared by Aussie as a credit assistance provider.

Aussie believes that updated guidance on responsible lending for consumer credit is desirable and may lead to more consistency in the understanding and application of key responsible lending requirements by all stakeholders in the Australian consumer lending sector. In particular, Aussie would welcome more guidance on inquiry and verification requirements and how they pertain to both preliminary assessments and final assessments. Aussie's view is that any updated guidance should reflect that responsible lending can be complex and there are always likely to be situations where it may be difficult to be certain of meeting regulatory requirements, particularly in relation to inquiry and verification steps.

Aussie believes that updated guidance should be made with a view to ensuring that there are no unintended consequences in relation to consumer outcomes or competition, specifically guidance should not result in unnecessarily onerous obligations for consumers, licensees or types of licensee.

Aussie provides comments on the Paper by way of:

- general observations and comments contained in this cover letter; and
- Appendix 1 to this letter containing responses to ASIC's specific questions set out in the Paper.

GENERAL OBSERVATIONS AND COMMENTS ON CP 309

1. Financial and other impact of proposals in the Paper

Regarding ASIC's requests for comments on financial and other impacts of the proposal, Aussie is unable to provide detailed qualitative or quantitative information at this time. When draft guidance or policy is issued, Aussie will be more able to consider such impacts. Based on the Paper, Aussie is able to make the following general but preliminary comments:

i) Likely compliance costs:
Aussie anticipates that there may be increased compliance costs although these may be partially offset by potential clarity of requirements and scalability and what licensees need to do to meet

obligations in relation to particular consumers.

ii) Likely effect on competition:
Aussie believes that this needs to be a key factor in ASIC's consideration of changes to, or additional guidance.

From a consumer outcome perspective, Aussie's view is that it is important that the consumer has choice, particularly of channel, and that the outcomes for consumers are not different depending on the channel they choose. For example, Aussie has empirical experience of consumers being offered a product directly by a credit provider after Aussie, as a credit assistance provider, had assessed the product as "unsuitable". This cannot be consistent with there being "statutory norms of conduct" as was intended by Chapter 3 of the legislation nor can it be consistent with concepts of scalability. Aussie's view is that good consumer outcomes consistent with the legislative intent and competition will be enhanced by clearer guidance and consistent processes and requirements, particularly as between credit assistance providers and credit providers.

Aussie encourages ASIC to consider the future impact of comprehensive credit reporting and open banking data. Aussie believes that it is important for guidance to acknowledge that different licensees (for example, credit assistance providers as distinct from credit providers) will have different ease and scope of access to such data and any updates to RG 209 should not create a competitive disadvantage for licensees who may not have full access to such data, particularly in relation to inquiry and verification.

iii) Other impacts, costs and benefits:
Aussie believes that enhanced and additional guidance may promote consistency of inquiry, verification and assessment practices both intra licensee type and inter licensee type.

As referred to above, Aussie's empirical experience of consumers passing through the gate of a "final assessment" but failing to pass through the gate of "preliminary assessment" suggests disparate approaches to inquiries, verification and assessment which are perverse and potentially productive of poor consumer outcomes.

Aussie's view is that the approach to updated responsible lending guidance should consider potential impacts on consumers and be weighed against the risk of a poor responsible lending decision (see Scalability below). Aussie seeks to ensure that responsible lending is achieved with the best possible consumer experience in every scenario. If updated guidance were to result in significantly more onerous obligations on licensees, access to credit could become harder and more expensive, and the effort required by consumers may further reduce their ability or desire to seek or re-negotiate credit.

Another potential benefit of updated guidance may be better consumer understanding of what is required of them, why it is required, and how it is with the ultimate aim of ensuring the right outcome for them.

2. Scalability

Aussie welcomes ASIC's comments in paragraph 15 of the Paper regarding scalability and consideration of whether readily identifiable circumstances may drive the extent of inquiry and verification steps to be undertaken. Aussie believes that additional guidance regarding these circumstances may be beneficial and could, for example, include factors such as:

- the consumer's debt to income ratio;
- loan to valuation ratio (for secured lending, including home loans);
- the consumer's financial literacy and previous borrowing experience; and
- for refinances, the consumer's recent and current servicing experience versus any actual or expected change to their financial situation.

Aussie believes that there are a number of situations where the inquiries and verification of a consumer's financial situation could be significantly reduced with no significant risk to the consumer of a poor responsible lending decision.

Aussie is also of a view that additional guidance is required in relation to scalability as between credit assistance providers for the purposes of a preliminary assessment and credit providers for the purposes of a final assessment. It would be perverse to suggest that the standard of reasonableness of inquiries, verification and assessment for merely "suggesting" an application to a credit provider is identical to, or more onerous than, the inquiries, verification and assessment required to "offer a credit contract". Accordingly, Aussie is of the view that the guidance should take into account:

- the sequential structure of the legislation itself (preliminary followed by final assessment);
- the diseconomies of duplication; and
- the often more extensive systems and capabilities of credit providers.

3. Inquiry

Aussie observes, in the current consumer lending environment, there is often inconsistency and different requirements by licensees in relation to information to be gathered through inquiry of consumers. Examples of inconsistency include:

- Breakdown of living expense categories to facilitate inquiries of consumers in relation to their financial situation.
- Information required in relation to the requirements and objectives of a consumer. While Aussie has built a lender-developed Broker Interview Guide into its processes, we also note that not all credit providers have adopted this guide, or that it has been inconsistently adopted. Aussie therefore welcome's ASIC's proposal, per paragraph 30 of the Paper, to provide additional guidance about the matters that should be recorded by licensees and included in the written assessment of whether a particular contract is unsuitable for a consumer.

Furthermore, and linked to the above comments on scalability, Aussie believes that guidance may consider where the extent of inquiries may be reduced. For example, for a financially-astute consumer with high income, a low debt to income ratio and a low loan to valuation ratio, a more high-level inquiry may enable a licensee to make a well-informed responsible lending assessment without the need for detailed, granular inquiry (for example, a breakdown of living expenses).

4. **Verification**

Aussie is of the view that the concept of "reasonable steps" to be taken to verify a consumer's financial situation should be retained. Aussie believes that additional guidance regarding what constitutes reasonable steps would be of benefit to licensees and may result in an improved consumer experience.

Guidance on verification should likely include the impact of developments (and future developments) such as comprehensive credit reporting and open banking which may allow for a vastly improved consumer experience, particularly in relation to verification of their financial situation. However, consideration needs to be given to different levels of access to this data by different licensees.

Aussie welcomes the proposed sources of verifying information as set out in Appendix 1 to the Paper, although we would request that any guidance treats this in a "one source or another" manner rather than requiring multiple sources of verification for one aspect of information.

Aussie believes that updated guidance should continue to allow the use of appropriate benchmarks, for example, expenditure benchmarks. Updated guidance may include how these can be used, and how a licensee may apply the correct benchmark appropriately buffered for key factors such as income bands. At least for the purposes of a preliminary assessment, Aussie believes that comparison to a benchmark is one way to assess whether a data point provided by a consumer, through inquiry, may be relied upon for the purposes of that preliminary assessment, or whether further inquiries or verification steps need to be taken. There are also particular scenarios where Aussie believes that application of a benchmark may be appropriate. For example, for the reasonably-common situation of a first home buyer who has been living with parents (often free of rent and associated expenses), it is difficult for them to estimate what their future expenses are likely to be. In such cases, use of an appropriate benchmark, in Aussie's view, is a valid best-estimate of likely expense levels.

Aussie notes ASIC's comments that a licensee should be considered to be on notice for information contained in documents it holds. Remaining with the topic of expenses, Aussie notes that licensees often obtain bank statements from consumers. Aussie also notes, however, that the banking arrangements of a consumer often involve a number of accounts (transactional, savings, mortgage, credit cards) and several months of bank statements may be voluminous and convoluted. Aussie believes that a requirement to critically or forensically evaluate such statements for the purpose of verifying information provided by a consumer may be overly onerous and complex, and may result in a poor consumer experience, for example through intrusion of privacy or by determination that a consumer cannot afford a loan when, in reality, they can. Aussie's view is that licensees would find guidance for such cases as beneficial, particularly on how a licensee may analyse information that it holds and ensure completeness of documentation provided by the consumer.

Still on the subject of expenses, where a licensee takes reasonable steps to verify a living expense amount that is below an applied benchmark, the licensee should, in Aussie's opinion, be permitted to use the verified lower amount for the purposes of assessing the consumer's financial situation.

5. **Assessment that a loan is not unsuitable**

Aussie would welcome more guidance on the definition of substantial hardship. In particular, there is mixed practice by licensees in the treatment and consideration of genuine discretionary expenses and how a credit assistance provider can verify a consumer's assertion that certain expenses will not continue. It

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would therefore be beneficial to have guidance regarding what ASIC considers to be substantial hardship. Guidance on reasonable reliance on a consumer's intention to change spending habits would also be of benefit, particularly for home lending.

Aussie also believes it is important that updates to RG 209 reflect that inquiries of consumers and verification of their responses relate to a point-in-time position. Most cases of home loan defaults and hardship relate to matters that emerge after application for and settlement of a loan. These are often life events such as divorce or separation, job loss, illness and perhaps even failure by a consumer to adhere to their commitments to curtail discretionary expenses. Aussie believes that a licensee should not be considered responsible for poor responsible lending practices for such events unless they should reasonably have been aware of their likely occurrence.

Aussie observes that there are often situations where different aspects of a consumer's requirements and objectives may clash, or there may not be products available that meet every one of a consumer's requirements. Any updated guidance on this matter would assist licensees to determine how to consider the relative importance of different requirements, and how to determine that a particular loan is not unsuitable if there are such conflicts.

In respect of considering a consumer's existing debt and their ability to meet the repayments of a new loan contract, Aussie believes further guidance is required regarding the treatment of existing unsecured liabilities. Recent guidance has been to factor repayment of the facility limit over a 3 year period into servicing calculations. For credit cards, as one example, this does not consider the balance on the card at the time of assessment, or the history of the manner in which the consumer used the card. Aussie believes that updates to RG 209 should provide further guidance on this, particularly for cases where there is history of a consumer fully repaying their credit cards on a monthly basis (and where expenses paid by card are included in living expenses) or where a consumer does not use their facility limit.

Aussie is aware that there is mixed practice by credit assistance providers in relation to using their own serviceability calculator when conducting a servicing assessment or using the calculator of the lender when conducting a servicing assessment. Aussie believes that the revised RG 209 should clarify that it is reasonable for a credit assistance provider to base their 'not unsuitable' test on a correctly completed lender serviceability calculator.

6. The consumer's role in responsible lending and, in particular, inquiry and verification (responsible borrowing)

Aussie's view is that guidance could be improved in relation to reflecting the consumer's role in responsible lending and, in particular, their responsibility in relation to their responses to inquiries, and the information and support they provide for verification purposes. Aussie believes that a licensee who has exercised due care and skill, and has taken reasonable steps to verify information provided by a consumer, should in no way be liable for not detecting non-disclosure or false, fraudulent or misleading information or documentation provided by the consumer.

Aussie is also of the view that there is certain information a consumer may provide by way of inquiry that cannot be verified. Consistent with the point made above, if a consumer states that they plan to reduce their levels of discretionary spend, Aussie believes that a licensee should be able to rely on such statements provided they have assessed it to be reasonable. Similarly, as examples, if a consumer states that they do not anticipate any changes to their financial situation; or that they have a certain number of dependents; or they have a pre-determined exit strategy for a loan (especially a home loan), a licensee should be able to rely on such statements.

Aussie believes that guidance should recommend that consumers be asked to confirm that the information they have provided is true and correct and can be relied upon for the purpose it has been provided. This could be in the form of a consumer signing the Example assessment set out in Appendix 2 to the Paper.

RESPONSE TO THE SPECIFIC QUESTIONS SET OUT IN CP 309

In addition to the above general comments, Aussie provides responses to each of the questions set out in CP 309 in Appendix 1 to this letter.

Aussie also saw a draft the comment letter provided by the Mortgage and Finance Association of Australia and broadly supports their views.

Aussie would again like to take the opportunity to thank ASIC for the opportunity to provide comments on CP 309. We re-emphasise our commitment to Australian consumers and to ensuring that we continue to provide the best possible service and the right outcomes for our customers.

Yours sincerely,

Don Campbell

Head of Risk and Compliance

APPENDIX 1

B1 We are considering whether to identify particular inquiries and verification steps in RG 209 that we think would generally be reasonable to provide greater certainty to licensees about complying with their obligations.	
Your feedback	**Aussie comments**
B1Q1 Would it be useful for licensees if ASIC were to identify the inquiries and verification steps that we consider should be taken? Why or why not?	Yes, this would be useful. It would promote consistency across the industry for both credit providers and credit assistance providers and provide clarity on what is required. For home loans, ASIC may like to consider work done by certain banks in establishing the ***Broker Interview Guide*** outlining standard inquiries of many credit providers. Any such specification or identification of inquiries should be formulated with an eye on scalability and the very real differences between credit assistance providers and credit providers. For example, credit providers may require credit assistance providers to collect information for the purposes of a "final assessment" which may not be required for the credit assistance provider's "preliminary assessment". Take expenses as a specific example. Credit assistance providers may be required to collect bank statements for provision to credit providers but review of the bank statements may not be required as part of the "preliminary assessment". Scalability may make it appropriate for the credit assistance provider to make inquiries in relation to idiosyncratic expenses or expenses particularly referrable to the individual (liabilities under existing facilities, alimony, child maintenance etc.) but to rely on benchmarks for basic expenses. Accordingly, scalability might be based on a simple matrix of type of credit services provided as well as type of product or other consumer indicia such as debt to income ratio (this ratio as a proxy for the risk of substantial hardship). Scalability may also consider inquiry and verification steps for re-financing of loans where the consumer has been meeting existing repayments, their position is improved by the refinance, and they have confirmed no changes to their future financial situation. Specification or identification of verification steps also need to be designed with an eye on scalability and the differences between credit assistance providers and credit providers. For example, obtaining bank statements from customers is often quoted in CP 309 as a means of verifying living expenses without consideration of the difference between credit assistance providers and credit providers and the potential for duplication. Inquiry and verification steps need to be reasonable and not overly-complex or onerous. For example, obtaining bank statements from customers is often quoted in CP 309 as a means of verifying living expenses. However, in reality, customers often have multiple accounts and it can be difficult to ascertain ongoing living expenses with accuracy. Furthermore, spend prior to a loan application may include discretionary expenses (in some cases significant) and there has to be some reliance, where reasonable, on what a customer states their position to be.

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Your feedback	**Aussie comments**
B1Q2 If there are particular examples of industry practice that you consider should be reflected in any guidance, please provide details of those practices.	ASIC may like to consider whether the lender ***Broker Interview Guide*** for home lending covers all aspects of inquiries that ASIC would expect to be made by credit providers and which of those inquiries are also appropriate to a credit assistance provider's preliminary assessment (as opposed to those to be collected on behalf of the credit provider for the purposes of a final assessment). The use of comprehensive credit reporting information and open banking data should be considered in the guidance, but consideration would need to be given to how this may impact different industry participants - for example, credit providers may have more ready access to open banking data. In addition, consideration needs to be given to the timing of full implementation of comprehensive credit reporting and open banking. Data aggregation services may be a source of information and verification for credit assistance providers. ASIC may consider providing guidance on alternative means of verifying expenses for credit assistance providers. For example: (a) verifying declared expenses by reference to benchmarks and, if declared below the benchmarks, using the benchmarks plus idiosyncratic expenses specific to the individual for the purposes of serviceability calculations; or (b) verifying declared expenses by reference to benchmarks and, if declared below the benchmarks, back solving monthly expenses, over a period (say 3 months) by calculation based on after tax income and additions to savings or repayment of existing debt ahead of minimum required repayments.
B1Q3 Are there any kinds of credit products, consumers or circumstances for which you consider it may be reasonable to undertake fewer inquiries and verification steps? Please identify the kinds of products, consumers and circumstances and particular features you think are relevant.	See above comments on scalability of requirements. Scalability may be based on product type, customer specifics (e.g. debt to income ratio), but also on the type of application. For example, for a refinance resulting in a lower monthly repayment, a streamlined assessment might be based on demonstrating: - the consumer has met repayment obligations on the existing loan - updated inquiries of requirements and objectives - confirmation from the consumer that their financial situation has not changed.
B1Q4 In your view, what aspects of the consumer's financial situation would a licensee need to inquire about in all circumstances? If you think some aspects of the consumer's financial situation do not need to be inquired about, please explain why.	For credit assistance providers - income, expenses inherently idiosyncratic or referrable to the individual consumer (such as existing facility liabilities, child maintenance, private tuition), available funds and any anticipated changes in financial situation.
B1Q5 In your view, what aspects of the consumer's financial situation would a licensee need to verify in all circumstances? If you think some aspects of the consumer's financial situation do not need to be verified, please explain why.	Assuming verification means by reference to primary documents, then for credit assistance provides: - income; - idiosyncratic expenses; and - savings or gifts. For credit assistance providers, there should be no requirement for direct verification of employment with the individual consumer's employer, unless verification is not possible by reference to primary documents (credit providers typically conduct this step). Regarding expense inquiries, a licensee is likely not able to verify a consumer's assertion that certain discretionary expenses will not be ongoing, or that they anticipate no change to their financial situation, and a licensee should be able to rely on the consumer's assertion regarding such inquiries.

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Your feedback	**Aussie comments**
B1Q6 What would be the effect on consumers of ASIC identifying particular inquiries and verification steps? For example, what would be the effect on access to and cost of credit for consumers?	ASIC's updated guidance should, to the extent possible, avoid unnecessary additional burden on consumers. In the current environment, there is a large volume of information and documentation required from consumers - clear guidance has the potential to improve the consumer experience especially if it results in requests that are consistent across the industry and between different licensees. However, specified minimum inquiry and verification steps without appropriate scalability may reduce flexibility and make some simple and safe consumer interaction overly complex and time consuming.
B1Q7 What would be the effect on business costs of ASIC identifying particular inquiries and verification steps? Please provide details of the effect on compliance costs for the licensee, and any factors that are likely to affect the level of cost or cost savings.	This would need to be assessed based on the identified inquiry and verification steps. It is not possible to determine the effect on compliance costs/savings until ASIC's proposed steps are understood.
B1Q8 In your view, what would be the effect (either positive or negative) on competition between licensees? Please provide details.	While difficult to predict or quantitatively estimate at this time, the per unit cost of additional compliance measures, specified minimum requirements etc., may be higher for non-major credit providers than for major credit providers. This would give major credit providers a competitive advantage and may ultimately lessen competition and increase barriers to entry. In addition, the per unit costs would be higher on credit assistance providers than credit providers. Again, this would give credit providers (particular those with a retail distribution channel/footprint) a competitive advantage and may ultimately lessen competition. This reinforces the importance of scalability between requirements for credit assistance providers (for a preliminary assessment) and credit providers (for a final assessment) and the avoidance of duplication and the pushing down of those costs to credit assistance providers by credit providers delegating compliance down the value chain.

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C1 We propose to amend the current guidance in RG 209 on forms of verification to: (a) clarify our guidance on kinds of information that could be used for verification of the consumer’s financial situation, and provide a list of forms of verification that we consider is readily available in common circumstances; and (b) clearly state that views on what are ‘reasonable steps’ will change over time, as different forms or sources of verifying information become available. For example, developments in open banking and data aggregation services will assist licensees to efficiently confirm the financial situation of a consumer (including allowing simultaneous inquiry about and verification of some information).	
Your feedback	**Aussie comments**
C1Q1 Please provide details of any particular types of information that you consider should be reflected in the guidance as being appropriate and readily available forms of verification?	CP309 Appendix 1 broadly covers types of information that should be covered. Aussie believes that another source of verification could be signed customer declaration regarding the information that they have provided. Bank Statements should not be seen as a panacea to verifying expenses. A consumer can have multiple bank accounts, a large number of transactions etc. and it can be difficult for any sense to be made of them without detailed and time-consuming consideration. Also expenditure may contain levels of discretionary spend that will not continue. Per comments on B1Q5, Aussie believes that updated guidance should cover what steps a licensee needs to take to confirm a consumer's attestation that discretionary expenses will not continue. Current industry practice is to assume that such expenses will continue and, in many cases, this may result in a poor outcome for a consumer who is able to manage expenditure levels by curtailing discretionary spend. There are also often issues with seasonal spend - for example, bank statements over December/January for most consumers show higher level of spend than other times of the year.

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Your feedback	**Aussie comments**
C1Q2 Do you consider that the examples included in Appendix 1 are appropriate? Why or why not?	Yes, broadly supported. The examples should be on an "or" basis, not an "and" basis. In other words, if something is verified by one of the listed examples, a licensee should not need to refer to other listed examples for that item (e.g. if income is verified using payslips, there should be no need to also obtain bank statements to verify income). Income - examples appropriate. Existing debt - if credit reports are required to be collected, this should be stated so that there is consistency across the industry. If this is the case, Aussie recommends that this be a requirement of credit providers for the purposes of their final assessment only, to avoid duplication and unnecessary additional cost of also requiring such reports for preliminary assessments. From a consumer impact perspective, access seeker enquiries should be encouraged where credit assistance is being provided so that credit checks do not leave a footprint on the consumer's credit record. It may be some time until comprehensive credit reporting will result in all existing liabilities being disclosed in a credit report. Living expenses - per point above, bank statements can be voluminous and difficult to interpret - Credit assistance providers should not be expected to audit expenses. There could be consumer impact if invoices/statements or other verification is required for individual expense items. Suggest that reference to an applicable benchmark (perhaps with a buffer if appropriate) should be considered as verification if the amount declared by the customer is less than the benchmark. Data aggregation reports in a reliable form may be some way away. Appendix 1 does not seem to cover verification of assets - for example those to support settlement and funds to complete (savings etc.).

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Your feedback	**Aussie comments**
C1Q3 Are there particular issues with using data aggregation services that you consider should be raised in our guidance? Please provide details of those issues, and information that you consider should be included in our guidance. For example, would it be useful to include specific guidance on matters the licensee could, or should, raise with the consumer before obtaining the consumer’s consent to use this kind of service?	Data aggregation services are not currently of a uniformly reliable/consistent nature. It is difficult to respond to this question in the current environment, but Aussie would support use of such services when reliable and secure, to assist in verifying much of the information provided by a customer. This may negate the need to collect many of the supporting documents set out in Appendix 1. Currently available data aggregation services sometimes result in a consumer breaching their bank's terms and conditions if they provide a 3rd party with their log in details to access such services. Aussie believes that the use of data aggregation services may be a viable option for credit assistance providers who may not have full and easy access to Comprehensive Credit Reporting and Open Banking data. However, this may be a longer term matter that needs to be considered and resolved seperately to updated responsible lending guidance.

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C2 We propose to expand our guidance on what are reasonable steps to verify the financial situation of a consumer by:

(a) more clearly stating that it is not sufficient merely to obtain verifying information but not have regard to it, or to use a source of information to verify only one aspect of the consumer's financial situation if it contains other (potentially inconsistent) information about other aspects of the consumer's financial situation; and

(b) including an 'if not, why not?' approach— that is, if a licensee decides not to obtain or refer to forms of verifying information that are readily available, they should be able to explain why it was not reasonable to obtain or refer to those forms of verification in the circumstances of the particular consumer involved.

Your feedback	Aussie comments
C2Q1 Do you consider that the proposed clarification of guidance on reasonable verification steps would be useful? Are there any other aspects of our guidance on verification that you consider would be useful?	One of the proposals is "if information is received (e.g. bank statements), the licensee is on notice of all information in those documents". In Aussie's experience, a consumer's bank statements (all accounts and credit cards) covering more than one month commonly results in large volumes of data. Furthermore, spend on bank statements is impacted by seasonal spend or income, one-off purchases and fully discretionary spend that may not continue. While some aspects of a consumer's financial situation can be readily obtained from bank statements (e.g. salary) others (e.g. expenses) can be much harder to verify from the bank statements. In addition, credit assistance provides may obtain bank statements outside the process of performing a preliminary assessment, for example, 3 months of bank statements may be obtained by the credit provider after the preliminary assessment for the purposes of complying with credit provider application requirements only. In these circumstances, it is not appropriate or reasonable to deem the credit assistance provider to have knowledge or notice of any information in the bank statements obtained after the credit assistance provider made its preliminary assessment and its suggestion of a particular credit contract. If this proposal is to proceed (which Aussie does not support): (a) consideration ought to be given to limiting its application to to credit providers, not to credit assistance providers who may not have the same skill, systems and capacity to analyse such information in detail; and (b) guidance should include information on what steps a licensee is expected to take regarding this information that it is "on notice" for. Aussie also expects that with the advent of open banking, credit providers are likely to have access to data that is not available to credit assistance providers. Detailed analysis and review of bank statements by licensees may have a negative consumer impact - e.g. intrusion on privacy, different interpretation/analysis by different licensees (e.g. broker, aggregator, lender) leading to multiple requests for explanation or additional evidence. On introduction of the ***Broker Interview Guide*** and the expanded expense categories it was Aussie's empirical experience that: (a) customer complaints about intrusion of privacy and the level of questioning about items appearing in a bank statement being unwarranted increased; and (b) customers indicated that they did not experience the same level of inquiry if they approach the credit provider directly. Any new guidance may, therefore, benefit from considering reasonable "simple" verification steps for credit assistance providers. As an example, a consumer's expenses could be verified by back-solving using, say, income (easily verified) and increased savings or repayments of existing debt ahead of schedule (also easily verified) over a specified (say 3 month) period. i.e. if after tax income was $3000 per month, and the consumer increased savings by $1000 per month, then their expenses could have been no more than $2000 per month. This could be used as a basis for verifying expenses.

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C2 We propose to expand our guidance on what are reasonable steps to verify the financial situation of a consumer by: (a) more clearly stating that it is not sufficient merely to obtain verifying information but not have regard to it, or to use a source of information to verify only one aspect of the consumer's financial situation if it contains other (potentially inconsistent) information about other aspects of the consumer's financial situation; and (b) including an 'if not, why not?' approach— that is, if a licensee decides not to obtain or refer to forms of verifying information that are readily available, they should be able to explain why it was not reasonable to obtain or refer to those forms of verification in the circumstances of the particular consumer involved.	
Your feedback	**Aussie comments**
C2Q2 Would an 'if not, why not' approach encourage improvements to current verification practices? Why or why not?	Aussie believes that if ASIC's guidance specifies what information should be obtained, there should be an explanation as to why such information Is not obtained. The important thing will be for the base documentation requirements not to be too onerous for consumers and/or licensees. The "why not" should be the exception rather than the norm.
C2Q3 What are the benefits, risks and costs for consumers in this approach (including any effect on access to and cost of credit for consumers)?	If guidance were to result in the need for significantly more inquiry and/or verification steps, this may result in a poor outcome for consumers, in particular if: (a) there was duplication of inquiry/verification at "preliminary assessment" and "final assessment" stage; and (b) the inquiry/verification requirements did not occur at the most appropriate stage/point in the value chain, e.g. if they were pushed down to credit assistance providers without due consideration to the ultimate responsibility for the decision to offer a credit contract or the superior capability/systems of the credit provider. In recent years, the information and documentation required from consumers has increased and clear revised guidance may result in improved experience. However, if revised guidance results in more onerous requirements for consumers, this would likely result in poor consumer experience with little improvement in responsible lending outcomes, and access to credit may become more difficult and onerous for the consumer
C2Q4 What additional business costs would be involved in this approach?	Difficult to determine at this stage without seeing detailed guidance.
C2Q5 In your view, what would be the effect (either positive or negative) on competition between licensees? Please provide details.	The per unit cost of additional compliance steps is typically higher for non-major credit providers and credit assistance providers than it is for major credit providers. So any additional compliance steps necessary to meet updated guidance comes with the risk of lessening competition in the residential lending market and increased barriers to entry.

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C3 We propose to clarify our guidance in RG 209 on the use of benchmarks as follows:

(a) A benchmark figure does not provide any positive confirmation of what a particular consumer's income and expenses actually are. However, we consider that benchmarks can be a useful tool to help determine whether information provided by the consumer is plausible (i.e. whether it is more or less likely to be true and able to be relied upon).

(b) If a benchmark figure is used to test expense information, licensees should generally take the following kinds of steps:
(i) ensure that the benchmark figure that is being used is a realistic figure, that is adjusted for variables such as different income ranges, dependants and geographic location, and that is not merely reflective of 'low budget' spending;
(ii) if the benchmark figure being referred to is more reflective of 'low budget' spending (such as the Household Expenditure Measure), apply a reasonable buffer amount that reflects the likelihood that many consumers would have a higher level of expenses; and
(iii) periodically review the expense figures being relied upon across the licensee's portfolio—if there is a high proportion of consumers recorded as having expenses that are at or near the benchmark figure, rather than demonstrating the kind of spread in expenses that is predicted by the methodology underlying the benchmark calculation, this may be an indication that the licensee's inquiries are not being effective to elicit accurate information about the consumer's expenses.

Your feedback	Aussie comments
C3Q1 Do you consider that the proposed clarification of guidance about use of benchmarks would be useful? Why or why not?	Aussie is of the view that guidance needs to be clear as to when use of a benchmark is an appropriate check of the reasonableness of data provided by a consumer, without any other steps being taken. If a benchmark indicates that an amount, for example Customer Declared Living Expenses, is reasonable and plausible, it may result in a poor consumer experience if further validation is required. Different licensees apply different benchmark measures, different adjustments and different buffers. Aussie would encourage guidance that supports a consistent use of benchmarks across the industry. Benchmarks are, in many cases, a valuable tool. An example would be assessing the likely expenditure of a first home buyer who has lived with parents until the time of purchase. It is difficult for such consumers to estimate their ongoing expenditure level, and it is not possible to verify it. So the use of an appropriate benchmark seems appropriate.
C3Q2 Please provide information on what buffer amounts you currently apply, or would otherwise consider to be reasonable.	Aussie does not currently apply a buffer to benchmarks applied. However, alternative verification steps are taken where benchmarks suggest that declared expenses may be too low. Servicing calculators include other buffers (e.g. interest rate) and are naturally conservative. If expenses are verified at a lower amount than the respective benchmark, then the higher benchmark is still used for servicing assessment.
C3Q3 What are the benefits, risks and costs for consumers in this approach (including any effect on access to and cost of credit for consumers)?	All operating costs are socialised by credit providers into the costs of credit to the consumer. Obtaining credit may become more onerous and expensive for consumers if verification steps are too detailed and prescriptive. In addition, as the per unit costs is higher for non-major lenders, the constriction on the specialist lending market may be more pronounced which would impact availability of credit to consumers with specialist needs. Aussie supports ASIC's comments on a scalable approach subject to previous comments around scalability guidance not being overly complex. Reference to detailed verification documentation may also be problematic where consumers have high levels of discretionary spend that they say will not continue. There is no way to verify that such expenses will not continue and it may lead to a poor consumer experience if their position is challenged in this regard. Licensees should be permitted to make reasonable reliance on consumer attestations.

APPENDIX 1

C3 We propose to clarify our guidance in RG 209 on the use of benchmarks as follows: (a) A benchmark figure does not provide any positive confirmation of what a particular consumer's income and expenses actually are. However, we consider that benchmarks can be a useful tool to help determine whether information provided by the consumer is plausible (i.e. whether it is more or less likely to be true and able to be relied upon). (b) If a benchmark figure is used to test expense information, licensees should generally take the following kinds of steps: (i) ensure that the benchmark figure that is being used is a realistic figure, that is adjusted for variables such as different income ranges, dependants and geographic location, and that is not merely reflective of 'low budget' spending; (ii) if the benchmark figure being referred to is more reflective of 'low budget' spending (such as the Household Expenditure Measure), apply a reasonable buffer amount that reflects the likelihood that many consumers would have a higher level of expenses; and (iii) periodically review the expense figures being relied upon across the licensee's portfolio—if there is a high proportion of consumers recorded as having expenses that are at or near the benchmark figure, rather than demonstrating the kind of spread in expenses that is predicted by the methodology underlying the benchmark calculation, this may be an indication that the licensee's inquiries are not being effective to elicit accurate information about the consumer's expenses.	
Your feedback	**Aussie comments**
C3Q4 What additional business costs would be involved in this approach?	Unable to determine until detailed guidance is understood but there would likely be significant time (and therefore cost) implications if detailed review and analysis of documents such as bank statements is required. This is also likely to result in significantly increased risk of a licensee missing some relevant information and being liable for this - potentially increased professional indemnity insurance costs as a result.

APPENDIX 1

C4 We propose to update the current guidance in RG 209 on reasonable inquiries about the consumer's requirements and objectives to reflect the findings and guidance in Report 493 Review of interest-only home loans: Mortgage brokers' inquiries into consumers' requirements and objectives (REP 493).	
Your feedback	**Aussie comments for ASIC**
C4Q1 Do you consider that the proposed clarification of guidance about understanding the consumer’s requirements and objectives would be useful? Why or why not?	Aussie agrees with the proposals in principle. Aussie believes that ASIC should have regard to work done by lenders in establishing the home lending ***Broker Interview Guide*** . In any event clarity about what inquiries should be made would be well received - especially if it is in a form that can easily be built into processes and fact finds. Aussie would also recommend guidance that states that a consumer should acknowledge their own requirements and objectives - for example, by signing a fact find document to acknowledge that the information contained therein matches what they have discussed with or provided to the licensee.
C4Q2 What are the benefits, risks and costs for consumers in this approach (including any effect on access to and cost of credit for consumers)?	Aussie believes that a credit licensee who has made required inquiries and has taken reasonable steps to meet required verification standards, the current "not unsuitable" test in RG 209 should be retained. As has been previously stated in this comment letter, a consumer may have conflicting requirements and any measure other than "not unsuitable" may result in products that meet the majority (but not all) of the consumer's requirements and objectives being automatically discounted when access to these products may result in a good outcome for that consumer..
C4Q3 What additional business costs would be involved in this approach?	Business costs in changing systems to reflect guidance. These cannot be estimated reliably at this time.

APPENDIX 1

D1 We propose to include new guidance in RG 209 on the areas where the responsible lending obligations do not apply.	
Your feedback	**Aussie comments for ASIC**
D1Q1 Are there any forms of lending where the responsible lending obligations are being used by licensees in situations where the law does not require the responsible lending obligations in the National Credit Act to apply? Please describe the situations where this takes place.	None that we are aware of.
D1Q2 Are there any forms of small business lending where licensees are unsure about whether the responsible lending obligations in the National Credit Act apply? Please describe the situations which give rise to this uncertainty.	None that we are aware of.

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D2 We propose to include new guidance in RG 209 on:
(a) the role of the responsible lending obligations, and in particular the obligation to take reasonable steps to verify information provided about the consumer's financial situation, in mitigating risks involved in loan fraud; and
(b) risk factors that might indicate that additional verification steps should be taken.

Your feedback	**Aussie comments for ASIC**
D2Q1 Would specific guidance about loan fraud and the impact on responsible lending obligations of the licensee be useful? Would guidance encourage broader improvements in processes for identifying fraud and reduce the risk of consumers entering unsuitable credit contracts as a result of fraud? Why or why not?	Aussie would appreciate guidance on this. Aussie notes that loan application fraud is often very difficult to detect. Fraud, by its nature, can be hard to identify, prove or control. Some licensees (e.g. credit providers) are more able to detect fraud - e.g. by comparison to transaction data that they hold and through their networks with other credit licensees. Aussie remains committed to trying to reduce levels of loan application fraud and to continually enhance its own detection capability and would welcome guidance on this. The advent of open banking may also assist in this regard.
D2Q2 Please provide details of any risk factors that you consider it would be useful to identify, and additional verifying steps you consider to be reasonable in those circumstances.	Not aware of any.
D2Q3 What are the benefits, risks and costs for consumers in this approach (including any effect on access to and cost of credit for consumers)?	Likely benefits to consumers - if there is less loan application fraud, risk is reduced, and access to and pricing of credit may improve.
D2Q4 What additional business costs would be involved in this approach?	No significant increase expected but this would be dependent on the specifics of the guidance provided.

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D3 We propose to include guidance in RG 209 to clarify how repayment history information may be used, including that: (a) the occurrence of repayment difficulties on one product will not necessarily mean that a new credit product will in all cases be unsuitable for that consumer; and (b) this information should instead trigger the licensee to make more inquiries to enable it to understand those repayment difficulties, and the likelihood that the circumstances of the consumer leading to those difficulties will mean that the consumer would also be unable to meet financial obligations under the new product being considered.	
Your feedback	**Aussie comments for ASIC**
D3Q1 Would guidance about use of negative repayment history information and hardship indicators reduce the risk that credit providers consider it necessary to refuse applications for further credit products that may in fact be affordable for the consumer? Why or why not?	No comment. Aussie is not a credit provider.
D3Q2 What are the benefits, risks and costs for consumers in this approach (including any effect on access to and cost of credit for consumers)?	No comment. Aussie is not a credit provider.
D3Q3 What additional business costs would be involved in this approach?	No comment. Aussie is not a credit provider.

APPENDIX 1

D4 We propose to include new guidance in RG 209 about maintaining records of the inquiries made and verification steps taken by the licensee, reflecting our findings and recommendations on good recording practices included in REP 493.	
Your feedback	**Aussie comments for ASIC**
D4Q1 Do you consider that guidance on industry best practice for recording the inquiries and verification steps that have been undertaken would be useful for licensees? Why or why not?	Yes it would be useful. Aussie has comprehensive record keeping requirements but it would be useful to benchmark this to guidance on ASIC's expectations. As with many other areas, industry consistency is important and likely to result in a better consumer experience and higher levels of compliance between licensees.
D4Q2 Please provide any comments on the particular recording practices identified as ‘best practice’ by ASIC, and whether you consider those practices are generally appropriate for licensees.	Aussie does not have an issue with ASIC's best practice guidance. Aussie agrees that there should be full documentation of all responsible lending steps taken, including inquiry and verification. Aussie believes it would be of benefit if ASIC describes of provides examples of the concise narrative summary to demonstrate why the credit product meets the consumer's requirements and objectives. There may be benefit in there being an industry template of this.
D4Q3 What are the benefits, risks and costs for consumers in this approach (including any effect on access to and cost of credit for consumers)?	No significant change.
D4Q4 What additional business costs would be involved in this approach?	Potentially some system enhancement costs.

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D5 We propose to provide additional guidance in RG 209 on what information we think should be included in a written assessment.	
Your feedback	**Aussie comments for ASIC**
D5Q1 Would it be useful for ASIC to provide an example of a written assessment to illustrate the level of information that we think should be included? Why or why not?	Aussie believes that an example of a written assessment would be useful to enhance consistency of practice across licensees, and to benchmark against. Aussie is unsure of what "written assessment" CP 309 is referring to. The example in Appendix 2 appears to contain the information that Aussie's fact find (needs analysis) contains. This is provided to all consumers prior to application and on request.
D5Q2 Please provide any comments on the example set out in Appendix 2.	The example appears comprehensive.
D5Q3 What are the benefits, risks and costs for consumers in this approach (including any effect on access to and cost of credit for consumers)?	No change.
D5Q4 What additional business costs would be involved in this approach?	Potentially some system change costs if ASIC's template differs from Aussie's.