



14 January 2021

Consultation Paper 333: Reference Checking and Information Sharing  
Australian Securities & Investments Commission (ASIC)

## To whom it may concern

As one of the leading specialist mortgage brokerages in Australia, Home Loan Experts welcomes the opportunity to provide a written submission to Australian Securities & Investments Commission (ASIC) in response to the consultation paper 333 on reference checking and information sharing.

Being a specialist mortgage broker, we focus on assisting good borrowers who for whatever reason are not well-serviced by our industry. Typically, this is because their situation is complicated and requires more expertise or because the major lenders don't work with that type of customer.

This requires us to deal with a broader range of lenders than other brokers. As such, we're required to keep our finger on the pulse when it comes to changes in our industry and the impact that these changes will have on our customers and other mortgage brokers. We've written this submission to give ASIC our point of view as it relates to the mortgage broking industry.

We strongly support the spirit behind ASIC's proposals. We as a business already follow a stringent recruitment process including speaking to referees, so do most of the well-established brokerages. Nonetheless, we welcome the introduction of an official information-sharing protocol and requirements for reference checking.

However, we believe the current proposals may not be broad enough. To that effect, we would like to make three key recommendations for ASIC to consider:

1. Disqualified Brokers/Staff acting as referrers
2. Expand the scope of the legislation to include reference checks beyond licensees
3. Additional considerations

Our mortgage brokers are specialists in lending to [Australian expats](#), people with [unusual employment](#) situations, [doctors](#), the [self-employed](#), [property investors](#), [first home buyers](#) and many other good people who are unable to get the finance they need.



## 1. Disqualified Brokers/Staff acting as referrers

When a mortgage broker or a bank manager does something wrong and is terminated by the licensee or the bank, they may start being a referrer for another bank or mortgage broker. They receive commissions, but since they are not an accredited credit representative or employee, they avoid all reference checks.

Effectively, they are still part of the customer journey and maybe providing illicit credit assistance; however, they don't show up in the system anywhere.

We believe this contributes to the problem of so-called 'rolling bad apples' which the current ASIC's proposed legislative instrument hopes to address. ASIC needs to consider what legislation can be formulated to stop former credit licensees or credit representatives with adverse conduct from working as referrers.

As a credit licensee, we are required to maintain an in-house referral registration list. However, the list is not reviewed by an authority neither does an information sharing protocol exist for such a list. One possible solution could be to strengthen the current referral registration system.

## 2. Expanding the scope of referees

There exists a perennial ambiguity around why a mortgage broker was let go in the first place. It could be that an aggregator or credit licensee has let a credit representative go due to compliance issues or potential wrongdoing. Or it could simply mean that they were not a good fit. The point being that just because a mortgage broker was let go due to personal differences or performance shouldn't preclude them from getting another job.

To that effect, the prescribed proposal for reference checking and information sharing doesn't help.

In our own hirings, in addition to the proposed steps, we also talk to aggregators and Business Development Managers at banks that the mortgage broker has worked with in the past.

Our mortgage brokers are specialists in lending to [Australian expats](#), people with [unusual employment](#) situations, [doctors](#), the [self-employed](#), [property investors](#), [first home buyers](#) and many other good people who are unable to get the finance they need.



Therefore, we recommend that the scope of the legislation is expanded to include reference checks with aggregators and BDMs. Although, doing so will not resolve this issue entirely, but it will go some way to bring some more clarity for the recruiting licensee.

### 3. Additional considerations

There are a few other considerations that we would like to ASIC consider:

- Enable digital delivery. We recommend that all the current proposal obligations be made available to be discharged electronically and not just using paper-based forms.
- Under the current proposal, a licensee seeking appointment as a representative of another licensee can provide a reference for themselves. This is unlikely to serve much benefit other than to make them liable for providing false information if they do not provide a truthful reference.
- Where the representative has no adverse issues to report, we believe a licensee should be able to provide a simple declaration that they have no adverse issues to notify rather than completing a questionnaire where all of the answers will be 'No' or 'NA'.
- Reduce obligations on the referee licensee. Both the licensee giving the reference (refer licensee) and the licensee recruiting the representative (recruiting licensee) have obligations under the reference checking rules. Most of the obligations should sit with the recruiting licensee. For example, the proposal currently considers imposing an obligation on a referee licensee to update a reference if unresolved compliance audit issues or complaints are identified in the reference, and they are subsequently resolved after a reference is given. The recruiting licensee has more to gain from following up on this information, and we see this as an obligation that should reside with the recruiting licensee.

Our mortgage brokers are specialists in lending to [Australian expats](#), people with [unusual employment](#) situations, [doctors](#), the [self-employed](#), [property investors](#), [first home buyers](#) and many other good people who are unable to get the finance they need.



In conclusion, our hope is that the proposed changes intended to implement the Royal Commission's recommendations are done so after wider consultation with mortgage broking industry bodies such as the Finance Brokers Association of Australia (FBAA) and Mortgage and Finance Association of Australia (MFAA).

Sincerely,

Alan Hemmings  
Chief Executive Officer  
[Home Loan Experts](#)

Our mortgage brokers are specialists in lending to [Australian expats](#), people with [unusual employment](#) situations, [doctors](#), the [self-employed](#), [property investors](#), [first home buyers](#) and many other good people who are unable to get the finance they need.