



**ASIC**  
Australian Securities &  
Investments Commission

Attachment to Media Release (21-094MR): Information Sheet 254

## Debt management services: Applying for a credit licence or variation

This information sheet (INFO 254) is for anyone who provides debt management services.

These services were previously not regulated under the *National Consumer Credit Protection Act 2009* (National Credit Act) and persons who provided these services were not required to hold an Australian credit licence (credit licence).

The Government has introduced new laws requiring providers of debt management services to hold a credit licence with an authorisation to provide these services (referred to in this information sheet as a 'debt management authorisation').

From 1 July 2021, subject to transitional arrangements, providers of debt management services must hold a credit licence with a debt management authorisation. The transitional arrangements allow for the continued provision of these services while a provider is actively taking steps to be covered by a credit licence.

Under the transitional arrangements, if you intend to provide debt management services from 1 July 2021, you will need to by **30 June 2021**:

- have applied for a credit licence (or variation to an existing licence) with a debt management authorisation *or* have arrangements in place to act as a representative of a provider that has applied for a credit licence to cover this activity, and
- be a member of the Australian Financial Complaints Authority (AFCA).

This information sheet explains:

- what is a debt management service
- transitional arrangements for providers of debt management services
- how to apply for a credit licence (or variation) with a debt management authorisation
- our specific guidance for providers of debt management services
- your obligations as a credit licensee, and
- how you can provide these services as an authorised credit representative.

If you are applying for a new credit licence (or variation of an existing licence) to have a debt management authorisation, this information sheet will help you understand what information you will need to provide in your application to demonstrate that you can comply with your obligations as a credit licensee.

For more information about the new laws, see the [National Consumer Credit Protection Amendment \(Debt Management Services\) Regulations 2021](#) (Debt Management Services Regulations) and [Explanatory Statement](#).

## What is a debt management service?

For the purposes of the National Credit Act and the credit licensing requirements, a 'debt management service' broadly covers the kinds of activities listed in Table 1, provided:

- the activity is in relation to consumer credit contracts, and
- a fee, charge or other amount is paid or payable by or on behalf of the consumer in relation to the service.

**Table 1: Activities related to consumer credit contracts**

Activity	Description
<b>Debt management assistance</b>	Suggesting and/or helping a consumer to: <ul style="list-style-type: none"><li>• apply for a change to a credit contract for which the consumer is a debtor</li><li>• apply for a postponement of enforcement proceedings</li><li>• make a complaint or claim to a credit provider, AFCA, ASIC or the Information Commissioner</li></ul>
<b>Credit reporting assistance</b>	Suggesting and/or helping a consumer to apply for a change to information collected by a credit reporting body about a credit contract for which the consumer is a debtor

The activities described in Table 1 will also be considered to be a 'debt management service' if they are provided to consumers who have given a guarantee to support a consumer credit contract.

For the full definition of what constitutes a 'debt management service', 'debt management assistance' and 'credit reporting assistance', see section 6 of the National Credit Act (as inserted by regulations 4B and 4C of the Debt Management Services Regulations).

## Who provides debt management services?

Debt management services may be provided by businesses that do not engage in any other kind of credit activity. They may also be provided by businesses that provide other kinds of credit activities and already hold a credit licence.

A credit licensee who provides debt management services that are ancillary to other credit services will be required to vary their licence. Under the transitional arrangements, a credit licensee will need to apply for a variation by 30 June 2021, in order to provide debt management services from 1 July 2021.

## Examples of debt management services

Some services are likely to be debt management services for the purposes of the National Credit Act if a fee, charge or other amount is paid or payable by or on behalf of the consumer in relation to the service. These are described in Table 2 (this list is not exhaustive).

**Table 2: Services that are likely to be debt management services**

Service	Description
<b>'Credit repair' services</b>	Offering to 'repair', 'clean' or 'fix' entries in a consumer's credit report that relate to a consumer credit contract
<b>'Debt negotiation' services</b>	Offering to help a consumer negotiate repayment arrangements or changes to a debt under a consumer credit contract with the credit provider
<b>Dispute lodgement assistance</b>	Helping a consumer lodge a dispute with a credit provider or AFCA in relation to the consumer's credit contract
<b>Hardship notice assistance</b>	Helping a consumer give a hardship notice to a credit provider where they are having difficulties meeting their repayment obligations under their credit contract

Some providers of debt management services may also provide very similar services for other debts that do not relate to consumer credit contracts, such as debts under utilities contracts, business loans or consumer leases.

These services are not credit activities and you do not need a credit licence to provide these services.

Financial counselling agencies may provide services that are very similar to debt management services. These services are not treated as credit activities under the National Credit Act because there is no payment by or on behalf of the consumer for the financial counselling services.

## Lawyers and debt management services

Lawyers are permitted, in some circumstances, to engage in credit activities (including the provision of debt management services) in the ordinary course of their activities as a lawyer without needing to hold a credit licence: see the exemption in regulation 24 of the National Consumer Credit Protection Regulations 2010.

Under the laws, if you are a lawyer and you hold out or advertise to consumers that you are able to provide debt management services, you will not be able to rely on this exemption. From 1 July 2021, you will need to hold a credit licence to engage in such activities (unless you comply with the requirements under the transitional arrangements).

## What are the transitional arrangements?

If you intend to provide debt management services from **1 July 2021**, you will need to **by 30 June 2021**:

- have *applied* for a credit licence (or variation to an existing licence) authorising you to provide debt management services, and
- be a member of AFCA.

Alternatively, if you intend to provide debt management services as an authorised credit representative, there are transitional arrangements in place that you will need to meet (see 'Being authorised as a credit representative').

If you comply with these requirements, you will be able to continue to provide debt management services until:

- ASIC deals with the licence application, by either granting or refusing to grant the credit licence (or variation), or
- you become a credit representative of a credit licensee who is authorised to provide debt management services (see 'Being authorised as a credit representative').

If you do not comply with these requirements and continue to provide debt management services from 1 July 2021, you will likely be engaging in credit activities while unlicensed. This is an offence under section 29 of the National Credit Act.

ASIC may reject an application for lodgement if it is incomplete: see section 218(1) of the National Credit Act. If you lodge your application after 1 June 2021, you risk losing the benefit of the transitional arrangements if the application is not complete and ASIC does not accept it for lodgement by 30 June 2021.

If you submit an incomplete application which is rejected for lodgement and you do not resubmit a complete application by 30 June 2021, you cannot provide debt management services until you either have a credit licence or become a credit representative of a credit licensee who is authorised to engage in debt management services.

## How to apply for a credit licence or variation with a debt management authorisation

You can apply for a credit licence (or to vary a credit licence) online using our [eLicensing system](#).

### Applying for a credit licence

In your application, you will be asked 'What type(s) of credit activities does the applicant want ASIC to authorise under its Australian credit licence?'.

You will be prompted to first select whether you wish to be authorised for any credit activities *other* than debt management services. If you are applying for a credit licence to only be authorised to provide debt management services, you should select 'None of the above'.

You will then be prompted to respond to the question 'Are you applying for an authorisation for debt management services?'. To be authorised to provide debt management services, you should select 'Yes' in reply to this question.

### Varying a credit licence

The online application for a variation to your credit licence will be pre-filled with your current authorisation. You will be asked to make changes to this authorisation.

To be authorised to provide debt management services, when you are asked 'Are you applying for an authorisation for debt management services?' you should select 'Yes' in reply to this question.

### Lodging your application

To be granted a credit licence, you must complete an application, lodge it with ASIC and pay the application fee.

You are not automatically entitled to a credit licence. You will need to meet the requirements for a credit licensee, which include:

- being able to comply with the general conduct obligations under the National Credit Act (see 'What are the obligations of a credit licensee?'), and
- being a 'fit and proper person' to engage in credit activities.

You will be asked to provide supporting information with your application, including a 'business description'.

We may request further details or information from you.

ASIC seeks to assess all licensing applications in a timely manner. However, assessment times vary for each application and we cannot provide you with an indication of how long your application may take.

For more information about applying for or varying a credit licence, see Regulatory Guide 204 *Applying for or varying a credit licence* ([RG 204](#)).

## Fit and proper person

You must be a fit and proper person to engage in credit activities. In determining whether you meet this requirement, we will have regard to whether each of the people involved in managing and controlling your credit business are fit and proper persons to perform that role.

The fit and proper person assessment is made for:

- any officer of a body corporate applicant, regardless of whether they perform duties in relation to credit
- where the applicant is a partnership or the multiple trustees of a trust – any partner, trustee and senior manager of the partnership or multiple trustees
- any controller of the applicant
- if a controller is a body corporate, any officer of the controller
- if a controller is a partnership, any partner or senior managers of the partnership
- if the controller is the multiple trustees of a trust, any trustees or senior managers of the trust, and
- persons nominated by the applicant as its responsible managers.

For more information about what is required of you to demonstrate that you are a fit and proper person to engage in credit activities, see 'Organisational competence' in this information sheet, Section D of [RG 204](#), and Information Sheet 244 *Credit licence applications: Providing information for fit and proper people* ([INFO 244](#)).

## Business description

As part of your application for a credit licence (or variation), you will need to attach a document with a business description to your application.

This document is an overview of what your business will involve and how you will operate it in practice. There is no prescribed template for your business description.

So that we can understand the nature and scale of the credit activities involved in your business, the business description should include the following information:

- an overview of the debt management services you will provide
- an indication of whether you will also provide other services that are not debt management services (e.g. similar services in relation to other debts for which a credit licence is not required)
- details of how you will distribute and promote your services (e.g. referral arrangements, telephone calls (inbound/outbound), advertising on websites, social media, mail-outs)
- an overview of the size, or the expected size, of the business, including:
  - the number of employees

- the number of consumers who have engaged your services (debt management services) over the last 12 months, and
- how many offices you have and how geographically diverse your business is
- details of any representatives you intend to authorise to provide debt management services
- details of how staff providing debt management services will be remunerated
- an overview of your fee arrangements for debt management services (e.g. whether you charge up-front fees or deferred fees)
- details of how you will ensure that your services are tailored to the needs of consumers who are experiencing vulnerability, and that you are flexible and understanding towards these consumers, and
- if you will outsource functions, who you will outsource your functions to, where the outsourced service provider is located, how you will decide whether they are an appropriate person to provide these functions for you, and how you will supervise them.

## Specific guidance for providers of debt management services

This section provides specific guidance on two of your obligations as a credit licensee as they relate to debt management services. For more information about all your obligations, see 'What are the obligations of a credit licensee?'.

### Providing services efficiently, honestly and fairly

As a credit licensee, you must do all things necessary to ensure that the credit activities authorised by your licence are engaged in efficiently, honestly and fairly.

To satisfy this obligation, you will generally need to provide debt management services to consumers:

- fairly and transparently
- in a manner that delivers good consumer outcomes, and
- in a way that supports consumers, particularly those experiencing vulnerability or financial hardship.

Table 3 provides other information that we consider is relevant. As set out in the National Credit Act, you must have adequate arrangements and systems in place to ensure compliance with your obligations, and a written plan that documents those arrangements and systems.

**Table 3: Engaging in services efficiently, honestly and fairly**

Aspect	What it means
<b>Fairly and transparently</b>	<p>You should avoid high-pressure selling tactics.</p> <p>You should ensure that your services are promoted in a manner that does not create unrealistic expectations about the benefits or costs associated with your services.</p> <p>You should ensure consumers know (before engaging your services):</p> <ul style="list-style-type: none"> <li>• of all costs associated with your services, and what they can expect to pay in total</li> <li>• the availability of free alternatives, including that if they are having difficulties managing their debts they can seek the assistance of the National Debt Helpline</li> <li>• what they can expect from you and how you will deliver the services, and</li> <li>• of their right to make a complaint if they are not happy with the services provided and how they can access external dispute resolution.</li> </ul>
<b>Deliver good outcomes for consumers</b>	<p>The services you provide should be tailored to each consumer's individual circumstances.</p> <p>You should be able to demonstrate that your services provide tangible benefits for consumers.</p> <p>Services should be provided in a timely and efficient manner, recognising that there may be adverse effects on consumers if there are unnecessary delays.</p> <p>If you are aware, or ought to be aware, that the consumer does not have reasonable grounds to support the lodgement of a complaint in relation to their credit contract or a related debt, you should not offer to make or help the consumer to make a complaint.</p>
<b>Consumers experiencing vulnerability</b>	<p>Consumers seeking debt management services will likely be experiencing vulnerability due to their financial circumstances and/or other personal circumstances.</p> <p>A person's vulnerability may come from a range of factors including age, disability, mental health, physical health, family violence, language barriers, literacy, cultural background, Aboriginal or Torres Strait Islander status, remote location or financial distress.</p> <p>You should ensure that your services are tailored to the needs of consumers who are experiencing vulnerability, and that you are flexible and understanding towards these consumers.</p>



## Organisational competence

If you hold a credit licence, you must maintain the competence to engage in the credit activities authorised by your credit licence. Your competence is demonstrated through your knowledge and experience relevant to engaging in credit activities.

For licensees who are not natural persons (e.g. companies), competence is shown by having people with relevant knowledge and experience involved in the day-to-day decisions about the licensee's credit business. These people are referred to as the licensee's 'responsible managers'.

You must be able to show that you can comply with the organisational competence obligation from the time you are granted a licence, and on an ongoing basis.

At a minimum, your responsible managers must have at least two years of relevant problem-free experience and either:

- a credit industry qualification to at least the Certificate IV level, or
- another general higher level qualification (e.g. a diploma or university degree) in a relevant discipline.

## Qualifications

As set out in [RG 206](#), qualifications ought to be appropriate for the particular roles of the responsible managers within the licensee's credit business. However, we appreciate that for many parts of the credit industry, relevant industry-specific courses may not exist.

In your application, you should explain how the responsible manager's qualifications are relevant to debt management services and their ability to meet the compliance obligations under a credit licence.

We understand that you (or your responsible managers) may not have had sufficient time to complete a relevant qualification before submitting an application for a credit licence by 30 June 2021. If this is the case, you can still apply for a credit licence, but as part of your application you must provide evidence that you or your responsible manager (or managers) have enrolled in a relevant qualification that is to be completed before **1 January 2022**.

If you have not provided ASIC with this evidence, ASIC may refuse to grant a licence. If this occurs, you must cease providing debt management services.

## Experience

We also expect your responsible managers to have at least two years of relevant experience that is not marred by significant non-compliance issues.

You will need to outline the experience of your responsible managers in your licence application, including any significant non-compliance issues you are aware of.

Our guidance in [RG 206](#) states that, ideally, the full two years of experience should be gained in a licensed business engaging in similar credit activities to those for which the applicant wishes to be licensed.

As debt management services have not previously been regulated, we understand that it may be difficult for some responsible managers to supply evidence of experience gained in a licensed business. To meet the necessary experience requirements, we expect responsible managers will be able to demonstrate at least two years of relevant industry experience (i.e. working in debt management services). Where experience has been gained in a licenced business (e.g. a mortgage or finance broker or credit provider), this should be included in your application.

## What are the obligations of a credit licensee?

### General conduct obligations

As a credit licensee, you must comply with the obligations in section 47(1) of the National Credit Act to:

- do all things necessary to ensure that the credit activities covered by the credit licence are provided efficiently, honestly and fairly (see 'Providing services efficiently, honestly and fairly')
- have adequate arrangements in place to manage your conflicts of interest
- comply with your credit licence conditions
- comply with the credit legislation
- take reasonable steps to ensure your representatives comply with the credit legislation
- have available adequate resources (financial, human and technological)
- maintain the competence to provide the credit activities authorised by the licence
- adequately train your representatives and ensure they are competent to provide the credit activities
- have an internal dispute resolution system that satisfies standards from ASIC
- be a member of AFCA
- have adequate risk management systems, and
- have compensation arrangements for losses suffered by customers where you contravene the National Credit Act.

You will need to demonstrate that you can meet these obligations when applying for or varying a credit licence to authorise you to provide debt management services.

### Other obligations

As a credit licensee, you have obligations under sections 50–53B of the National Credit Act to:

- provide a statement or obtain an audit report if directed by ASIC
- provide ASIC with assistance if reasonably requested

- cite your credit licence number in documents
- lodge annual compliance certificates
- notify ASIC of a change in control, and
- notify ASIC if you do not engage in credit activities within six months of being granted the licence.

Recent reforms to the National Credit Act have introduced breach reporting obligations for credit licensees. These obligations will commence on 1 October 2021.

ASIC can take regulatory or enforcement action if you breach your obligations as a credit licensee. This includes cancelling or suspending your credit licence, imposing conditions on your licence, and/or taking court-based action to seek civil or criminal penalties.

## Where to find guidance

Table 4 explains where you can find our guidance on the general conduct obligations and how you can demonstrate that you will meet those obligations.

**Table 4: Guidance on the general conduct obligations of credit licensees**

Area	What you must do	Where to find our guidance
<b>Your broad compliance obligations</b>	<p>You must:</p> <ul style="list-style-type: none"> <li>• engage in credit activities efficiently, honestly and fairly</li> <li>• comply with the conditions of your licence, and</li> <li>• comply with the credit legislation.</li> </ul>	<p>See Section C of <a href="#">RG 205</a> and Information Sheet 97 <i>Guidance for small credit businesses</i> (<a href="#">INFO 97</a>)</p> <p>See also 'Providing services efficiently, honestly and fairly' under 'Specific guidance for providers of debt management services' in this information sheet</p>
<b>Your internal systems</b>	<p>You must:</p> <ul style="list-style-type: none"> <li>• have risk management systems in place (if you are not regulated by the Australian Prudential Regulation Authority (APRA))</li> <li>• have arrangements for ensuring that clients are not disadvantaged by conflicts of interest, and</li> <li>• have dispute resolution systems in place.</li> </ul>	<p>See Section D of <a href="#">RG 205</a> and Regulatory Guide 271 <i>Internal dispute resolution</i> (<a href="#">RG 271</a>)</p> <p><b>Note:</b> RG 271 comes into effect on 5 October 2021. For complaints received before that date, Regulatory Guide 165 <i>Licensing: Internal and external dispute resolution</i> (<a href="#">RG 165</a>) applies. We will withdraw RG 165 on 5 October 2022.</p>

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<b>Your people</b>	<p>You must:</p> <ul style="list-style-type: none"><li>• ensure your representatives comply with the credit legislation</li><li>• ensure your representatives are adequately trained and are competent, and</li><li>• maintain the competence to engage in credit activities.</li></ul>	<p>See Section E of <a href="#">RG 205</a> and <a href="#">RG 206</a></p> <p>See also 'Organisational competence' under 'Specific guidance for providers of debt management services' in this information sheet</p>
<b>Your resources</b>	<p>You must:</p> <ul style="list-style-type: none"><li>• have adequate human and technological resources (if you are not regulated by APRA), and</li><li>• have adequate financial resources (if you are not regulated by APRA).</li></ul>	<p>See Section F of <a href="#">RG 205</a> and Regulatory Guide 207 <i>Credit licensing: Financial requirements</i> (<a href="#">RG 207</a>)</p>
<b>Compensation</b>	<p>You must have compensation arrangements in place.</p>	<p>See Regulatory Guide 210 <i>Compensation and insurance arrangements for credit licensees</i> (<a href="#">RG 210</a>)</p>

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## Being authorised as a credit representative

Credit representatives are authorised to engage in specified credit activities on behalf of a credit licensee. They can be authorised to engage in some or all of the activities authorised by the licensee's credit licence.

If you are currently providing debt management services and intend to provide debt management services from **1 July 2021** as a representative of another person (the applicant) who is applying for a licence, you will also have the benefit of transitional arrangements.

To rely on the transitional arrangements for representatives, you will need to **by 30 June 2021**:

- have written arrangements in place with a person who has applied for a credit licence (or variation of an existing licence) to provide debt management services setting out the applicant's intention to authorise you as a credit representative, and
- be a member of AFCA.

## Requirements for a written arrangement

The requirements for authorising a person as a credit representative are set out in sections 64 and 65 of the National Credit Act. These include some eligibility requirements. In particular, a valid authorisation can only be given if the person being authorised is a 'fit and proper person' to engage in credit activities.

Under the transitional arrangements set out in the Debt Management Services Regulations, the written arrangements will only enable you to continue to operate from 1 July 2021 if you meet these eligibility requirements. This means that the applicant who will be giving the authorisation will need to make some inquiries to be satisfied that you meet the eligibility requirements before providing the written arrangements.

Where written arrangements are in place that set out the applicant's intention to authorise you as a credit representative, you should confirm that the applicant's licence application has been accepted for lodgement by ASIC by 30 June 2021.

The written arrangements are only valid for the transition period. After the applicant's licence has been granted, you will need to be authorised by the licensee as a credit representative, and ASIC must be notified of those authorisations, in accordance with the ordinary requirements in Division 2 of Part 2-3 of the National Credit Act.

If the applicant is refused a licence, you will no longer be able to rely on the transitional arrangements and you must cease providing debt management services until you are covered by a credit licence with the required authorisation.

## Where can you get more information?

For more information on complying with your obligations as a credit licensee, see the following regulatory guides and information sheets:

- [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*
- [RG 209](#) *Credit licensing: Responsible lending conduct*
- [RG 210](#) *Compensation and insurance arrangements for credit licensees*
- [RG 271](#) *Internal dispute resolution*
- [INFO 103](#) *FAQs: Getting a credit licence*
- [INFO 104](#) *FAQs: Complying with your credit obligations*
- [INFO 105](#) *FAQs: Dealing with consumers and credit*
- [INFO 108](#) *Fees for Australian credit licenses and annual compliance certificates*
- [INFO 126](#) *Credit representatives*
- [INFO 244](#) *Credit licence applications: Providing information for fit and proper people.*

## Important notice

Please note that this information sheet is a summary giving you basic information about a particular topic. It does not cover the whole of the relevant law regarding that topic, and it is not a substitute for professional advice.

You should also note that because this information sheet avoids legal language wherever possible, it might include some generalisations about the application of the law. Some provisions of the law referred to have exceptions or important qualifications. In most cases, your particular circumstances must be taken into account when determining how the law applies to you.

This is Information Sheet 254 (INFO 254), issued in May 2021.