



Summary of feedback to CP 382 and ASIC's response

In Consultation Paper 382 *Low cost credit contracts* ([CP 382](#)), we sought feedback on guidance for providers of low cost credit contracts under the consumer credit regime, see draft Regulatory Guide 000 *Low cost credit contracts* (draft RG 000) attached to CP 382.

We received 3 confidential submissions and 13 non-confidential submissions. We have summarised key feedback on the different sections of draft RG 000 and our responses, including how we have addressed the feedback in the final Regulatory Guide 281 *Low cost credit contracts* ([RG 281](#)) where relevant. This document is not intended to be a comprehensive summary of all feedback or all changes to the guidance.

Note: Non-confidential submissions are published on the landing page for [CP 382](#).

Section B: The regime for low cost credit contracts

Feedback	ASIC's response	Reference in RG 281
Some respondents sought clarification on how the fee caps interact with the definition of a low cost credit contract, and whether a buy now pay later contract can include an arrangement where the merchant is paid indirectly via a card scheme.	We have clarified that: <ul style="list-style-type: none">if a provider enters into a low cost credit contract, the fees and charges payable under that contract must not exceed the fee caps in reg 69G (i.e. the contract must include the maximum fees and charges payable, taking into account any other low cost credit contracts with the consumer); anda buy now pay later provider may pay the merchant indirectly via a payment service provider or card scheme.	RG 281.5, RG 281.14, RG 281.18– RG 281.20
One respondent queried the implication of a low cost credit contract also satisfying the definition of a continuing credit contract.	We have corrected our guidance to note that if a low cost credit contract meets the definition of another type of credit contract other than a small amount credit contract or medium amount credit contract (e.g. a continuing credit contract or credit card contract), a provider will need to comply with any other obligations that may apply to those types of credit contract.	RG 281.6
Some respondents requested guidance on what fees and charges are included in the fee caps set out in reg 69G of the <i>National Consumer Credit Protection Regulations 2010</i> .	We do not consider that further guidance is required as reg 69G refers to all fees and charges that are or may be payable under the contract in the fee period.	Not applicable
Some respondents requested further clarity on how the low cost credit contract regime applies to contracts that commenced before the regime applies (pre-commencement contracts).	We have clarified that the fee caps under reg 69G apply to pre-commencement contracts, and that a provider can elect to comply with the modified responsible lending obligations if they intend to increase the credit limit of a pre-commencement contract.	RG 281.19– RG 281.22

Section C: Complying with the modified responsible lending obligations

Feedback	ASIC's response	Reference in RG 281
<p>Some respondents requested greater clarity on the interaction between:</p> <ul style="list-style-type: none"> • 'reasonable inquiries' about and 'reasonable steps to verify' a consumer's financial situation under s130(1) of the <i>National Consumer Credit Protection Act 2009</i> (National Credit Act); and • these inquiries and verification steps and the mandatory inquiries in reg 28HAD. 	<p>We have clarified that s130(1)(a) and (b) are two separate obligations under the modified responsible lending regime.</p> <p>We have made it clearer that the mandatory inquiries in reg 28HAD effectively set a floor for what is required from credit providers to comply with s130(1), as outlined in the Explanatory Statement to the National Consumer Credit Protection Amendment (Low Cost Credit) Regulations 2025 (Explanatory Statement).</p>	RG 281.23, RG 281.28
<p>On mandatory inquiries, some respondents requested further guidance on the level and type of information required to satisfy reg 28HAD(6).</p>	<p>As stated in our guidance, it is up to the provider to determine how and in what format the information to satisfy reg 28HAD(6) is obtained, provided they reasonably believe the information to be substantially correct. However, in response to the feedback, we have clarified that:</p> <ul style="list-style-type: none"> • further inquiries are needed in the circumstances outlined in RG 281.30 (including noting another example that may trigger further inquiries to be made); • in certain circumstances, the provider may be able to use various methods to obtain information about the consumer, including asking the consumer questions or looking at existing customer information to satisfy reg 28HAD(6); and • as set out in the Explanatory Statement, information obtained as part of the credit inquiry under reg 28HAD(3) and (4) may be used to determine whether the provider reasonably believes the information to be substantially correct. 	RG 281.30– RG 281.32
<p>On mandatory inquiries, some respondents expressed concern that draft RG 000 suggested benchmarks must be used to satisfy reg 28HAD(6) and that the guidance on benchmarks was inconsistent with Regulatory Guide 209 <i>Credit licensing: Responsible lending conduct</i> (RG 209).</p>	<p>We have clarified that benchmarks may be useful in some circumstances to test whether information obtained under the mandatory inquiries could be reasonably believed to be substantially correct. We have added a cross reference to our guidance in RG 209.140 on steps required to ensure the reliability and adequacy of expenses benchmarks.</p>	RG 281.33
<p>On mandatory inquiries, one respondent noted that our guidance on the types of credit information a licensee must seek to obtain under reg 28HAD(2)–(3) was not exhaustive.</p>	<p>We have simplified our guidance so that it aligns with reg 28HAD, noting that the required credit information under negative and partial credit checks are defined in the <i>Privacy Act 1988</i>. We have also flagged other obligations that a provider must be aware of when undertaking credit checks, consistent with the Explanatory Statement.</p>	RG 281.35– RG 281.36

Feedback	ASIC's response	Reference in RG 281
On the mandatory factors in s133BXC(3), some respondents made suggestions and requested further guidance.	<p>We have updated and added some examples in Table 2. Ultimately, providers will need to consider the factors holistically and may weigh them depending on the individual circumstances of a particular credit application.</p> <p>We have also clarified in Table 1 that, while the factors are generally intended to lower the scope and intensity of the inquiries and verification required under s130, in some circumstances a more robust analysis may be required.</p>	Table 1, Table 2
There was some divergence in the interpretation of the rebuttable presumptions for assessments, including their effect on the obligation to make inquiries about requirements and objectives.	The presumptions only apply to the requirement to assess a consumer's requirements and objectives. We have clarified that the presumptions do not apply to the obligation to make inquiries about a consumer's requirements and objectives.	RG 281.43
On the rebuttable presumptions for assessments, some respondents sought further examples on how the presumptions could be rebutted, particularly where there may be indications that a consumer is vulnerable.	We have provided examples that may indicate the contract would not meet the requirements and objectives of the consumer.	RG 281.45–RG 281.46
On assessments for a larger contract, some respondents sought further clarification on when the protected period may be reduced and when changes to a consumer's situation are 'foreseeable'.	We have added additional examples of what may be considered foreseeable changes to a consumer's circumstances. These foreseeable changes may be considered when adjusting the length of the protected period.	RG 281.54
On assessments for a larger contract, some respondents sought greater clarity on the timing of the consent required for protected increases and the nature of the consent required.	While the legislation does not prescribe the timeframe for a consumer's consent, we have clarified that it may be appropriate to obtain consent at the time of the protected increase, for example, to confirm that the consumer's circumstances have not changed and to reduce the risk of increasing the credit limit of a contract where that contract is unsuitable for the consumer.	RG 281.57
On assessments for a larger contract, some respondents requested further examples of when a change to the contract terms may mean the contract is no longer 'substantially the same'.	The legislation does not define the terms 'substantially the same', but we have added another example to clarify that we consider this would also include circumstances in which a repayment frequency is changed.	RG 281.61

Feedback	ASIC's response	Reference in RG 281
On assessments for a larger contract, one respondent was confused by some of our guidance on the interaction between assessments for a larger contract and the rebuttable presumptions.	We have simplified guidance on how the rebuttable presumptions apply when making an assessment for a contract larger than the initial limit.	RG 281.62–RG 281.64
On unsuitability assessment policies, some respondents suggested that the policy should be made available to the public, to a consumer, or to the Australian Financial Complaints Authority.	There is no express requirement for unsuitability assessment policies to be published. However, ASIC can obtain a copy of the policy under statutory notice, if required.	Not applicable
Some respondents sought additional guidance on the content of an unsuitability assessment policy, including examples of best practice and whether the policy could be simplified for smaller providers.	We have not amended our guidance, as the unsuitability assessment policy will vary depending on the provider's processes to ensure compliance.	Not applicable
On unsuitability assessment policies, some respondents sought guidance on the content and frequency of reviews and the effect of a provider identifying changes to better facilitate compliance	RG 281 notes that the frequency of reviews is linked to the purpose of the unsuitability assessment policy and will depend on events or circumstances that suggest the policy is no longer effective. To acknowledge that this may include a situation where a breach that has arisen, we have reminded providers to review Regulatory Guide 78 <i>Breach reporting by AFS licensees and credit licensees</i> (RG 78).	Table 3

Section D: Electing to comply with the modified responsible lending obligations

Feedback	ASIC's response	Reference in RG 281
Some respondents sought clarity about whether an election must be published or notified to any person.	Table 4 states that a low cost credit contract covered by an election must contain a statement that the provider has made an election. Providers can choose to disclose on their websites if they are complying with the modified responsible lending obligations, but are not obliged to do so. ASIC may request from a provider an election (or revocation) document under statutory notice.	Not applicable
One respondent sought clarity about the implications of not making an election for pre-commencement contracts.	We added a note to clarify that if a provider does not make an election in relation to a pre-commencement contract and increases the credit limit of the contract, they must comply with the standard responsible lending obligations.	RG 281.66

Section E: Other modified obligations for low cost credit contracts

Feedback	ASIC's response	Reference in RG 281
Some respondents sought clarification on whether the modified obligations in Section E apply to all low cost credit contract providers or only those who elect to comply with the modified responsible lending obligations.	We have clarified that these modified obligations apply to low cost credit contracts, even if the provider has not elected to comply with the modified responsible lending obligations.	Section E, Key points
Some respondents requested guidance on statements of account.	There have been no changes to the legislative requirements for statements of account, except to clarify that information about interest charges does not need to be included if no interest is payable under the low cost credit contract (see s34(6A) of the National Credit Code at Sch 1 of the National Credit Act).	Not applicable
One respondent requested guidance on including email as a type of information system that can be used for electronic disclosure.	We have addressed this feedback by adding the suggested example.	RG 281.70
Some respondents requested that ASIC specify information that must be provided to the consumer in the event of a default.	The information that must be provided is set out in reg 85(2). In addition to clarifying that this obligation can be satisfied by using Credit Form 11 or Credit Form 11A, we have suggested that providers include the contact number for the National Debt Helpline.	RG 281.78