



22 October 2025

ASIC Secretariat
Australian Securities and Investments Commission
Level 7, 120 Collins Street
VIC, 3000
simplificationconsultativegroup@asic.gov.au

Dear Colleague

ASIC REGULATORY SIMPLIFICATION CONSULTATION

The Australian Finance Industry Association (AFIA) is the only peak body representing the entire finance industry in Australia.¹ We appreciate the opportunity to provide feedback to the Australian Securities and Investments Commission's (ASIC's) the consultation on Regulatory Simplification (the consultation).²

We represent over 150 members, including bank and non-bank lenders, finance companies, fintechs, providers of vehicle and equipment finance, car rental and fleet providers, and service providers in the finance industry. We are the voice for advancing a world-class finance industry and our members are at the forefront of innovation in consumer and business finance in Australia. Our members finance Australia's future.

We collaborate with our members, governments, regulators and customer representatives to promote competition and innovation, deliver better customer outcomes and create a resilient, inclusive and sustainable future. We provide new policy, data and insights to support our advocacy in building a more prosperous Australia.

AFIA appreciates the efforts of ASIC in streamlining and simplifying the administration of its functions. Although these are important areas to simplify the greatest gains in regulatory

¹ [Australian Finance Industry Association \(afia.asn.au\)](https://www.afia.asn.au)

² <https://www.asic.gov.au/about-asic/regulatory-simplification/>

simplification will be achieved through regulatory reform; AFIA supports a substantive review of the current legal and regulatory framework governing credit provision. In this submission, AFIA responds to selected consultation questions raised by ASIC in the consultation.

Thank you for the opportunity to make this submission. Should you wish to discuss our submission or require additional information, please contact me at [REDACTED]

Yours sincerely

[REDACTED]

[REDACTED]

Head of Regulatory Policy

ANNEXURE: RESPONSE TO SELECT QUESTIONS

Question 20: Are there any additional areas of simplification you would like us to consider?

AFIA supports regulatory measures that promote a level playing field across the finance industry. In September 2025, ASIC issued a class no-action letter exempting small banks from the next internal dispute resolution (IDR) data reporting cycle, reducing their reporting frequency from every six months to once a year. ASIC stated that this exemption is intended to reduce regulatory costs for small banks and improve their competitiveness with larger banks. However, this exemption does not extend to small non-bank lenders, including many AFIA members, who must continue to report IDR data biannually. This creates an uneven regulatory framework that disadvantages non-bank lenders, despite their similar scale and competitive pressures.

There is no strong policy rationale for treating small banks more concessionally than small non-bank lenders when it comes to regulatory burden. The implied rationale for such uneven treatment appears to be that banks face greater regulatory obligations and therefore merit relief. However, this overlooks the fact that being a bank also confers significant commercial advantages, including access to deposits and brand recognition. The regulatory burden borne by banks is not a justification for excluding non-banks from equivalent concessions, particularly when those non-banks are competing in the same lending markets and serving similar customer segments. AFIA therefore strongly recommends that ASIC expand the scope of the no-action letter to include small non-bank lenders, ensuring that all small financial institutions are treated equitably and that regulatory settings genuinely support competition and innovation across the sector.

Question 17: Are there any other regulatory reform ideas within ASIC's remit that could simplify the application of the law, or otherwise make it easier for individuals and business to meet their compliance obligations?

Responsible lending obligations (RLOs), as set out in Chapter 3 of the National Consumer Credit Protection Act 2009 and interpreted through ASIC's Regulatory Guide 209 (RG 209), are a critical component of Australia's consumer protection framework. AFIA supports the intent of these obligations, which help safeguard consumers and uphold the integrity of the finance industry.

However, RG 209 was last updated in December 2019, prior to the Full Federal Court's decision in *ASIC v Westpac* (the 'Wagyu and Shiraz' case), which clarified that lenders have discretion in how they assess suitability, provided their inquiries are reasonable. This has created a misalignment between regulatory guidance and judicial interpretation, resulting in uncertainty for lenders and operational inefficiencies across the industry. The recent Money3 judgement further exacerbates the uncertainty.

AFIA submits that RG 209 should be revised to reflect the flexibility endorsed by the courts and to ensure the guidance is fit for purpose in a modern financial services environment. Specifically, RG 209 should support scalable credit assessment practices that are proportionate to product complexity and borrower risk and embrace technology-neutral approaches that reflect the growing use of data-driven decision-making, automation, and AI. The guidance should also clarify the use of benchmarks such as the Household Expenditure Measure (HEM) alongside declared expenses and provide direction on the concept of 'conceptual minimum' to avoid lifestyle-based affordability judgments. Updating RG 209 in this way would promote efficiency, innovation and competition, while maintaining strong consumer protections and ensuring continued access to credit for all Australians.³

Question 16: What changes, if any should be made to the reportable situations regime and substantial holding notices?

AFIA notes the Council of Financial Regulators' review into small and medium banks recommendation to remove small banks from the requirement to automatically report certain breaches. ASIC notes that the review suggested that consideration be given to extending such relief to all licensees thereby avoiding complexity and a lack of uniformity in the settings. ASIC also noted that the review commented that generally larger licensees will have more breaches to report compared to smaller licensees. AFIA strongly supports the reform to remove credit licensees from the requirement to automatically report certain breaches on the basis that, per AFIA's response to question 20, there is no strong policy rationale for treating small banks more concessionally than small non-bank lenders when it comes to regulatory burden.

Question 13: With respect to how you use ASIC's registers, other than the work we've outlined, is there anything else you would like us to improve?

AFIA notes the announcement of The Hon Dr Andrew Leigh MP on 15 October 2025 that the Government will now proceed directly to a public, Commonwealth-operated register of beneficial ownership information for unlisted companies. The Government has said a Commonwealth-operated register will better increase transparency and support stronger regulatory and law enforcement responses to tax and financial crime facilitated by complex legal structures and arrangements.

AFIA welcomes this development and supports the work of ASIC to enhance its systems to accept and make available beneficial ownership information in the future. A central repository of company data through ASIC is an important efficiency gain.

³ For a detailed discussion on this matter, refer to AFIA's submission to the [CFR Small and Medium Sized Banks Review](#) (February 2025)