



ASIC
Australian Securities &
Investments Commission

CONSULTATION PAPER 382

Low cost credit contracts

February 2025

About this paper

This consultation paper sets out ASIC's proposals for providing guidance to Australian credit licensees and potential licensees on the obligations that will apply to low cost credit contracts and buy now pay later contracts under the consumer credit regime, including the modified responsible lending obligations in Ch 3 of the *National Consumer Credit Protection Act 2009*.

Note: For the draft regulatory guide setting out our proposed guidance, see the attachment to this consultation paper, which is available on our website at www.asic.gov.au/cp under CP 382.

About ASIC regulatory documents

In administering legislation ASIC issues the following types of regulatory documents.

Consultation papers: seek feedback from stakeholders on matters ASIC is considering, such as proposed relief or proposed regulatory guidance.

Regulatory guides: give guidance to regulated entities by:

- explaining when and how ASIC will exercise specific powers under legislation (primarily the Corporations Act)
- explaining how ASIC interprets the law
- describing the principles underlying ASIC's approach
- giving practical guidance (e.g. describing the steps of a process such as applying for a licence or giving practical examples of how regulated entities may decide to meet their obligations).

Information sheets: provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

Reports: describe ASIC compliance or relief activity or the results of a research project.

Document history

This paper was issued on 7 February 2025 and is based on the legislation as at the date of issue.

At the time of publication, the *National Consumer Credit Protection Amendment (Low Cost Credit) Regulations 2025*, which will amend the *National Consumer Credit Protection Regulations 2010*, had not yet been finalised by Government. All references to these regulations in this paper are based on the exposure draft released for consultation on 5 February 2025 and may be updated once the regulations are finalised.

Disclaimer

The proposals, explanations and examples in this paper do not constitute legal advice. They are also at a preliminary stage only. Our conclusions and views may change as a result of the comments we receive or as other circumstances change.

Contents

The consultation process	4
A Background to the proposals	6
The regime for low cost credit contracts	6
ASIC's proposed guidance	7
B Proposed guidance on low cost credit contracts	8
The regime for low cost credit contracts	8
Complying with the modified responsible lending obligations	8
Electing to comply with modified responsible lending obligations ...	11
Other modified obligations for low cost credit contracts	12
C Regulatory and financial impact	13
List of proposals and questions	14

The consultation process

You are invited to comment on the proposals in this paper, which are only an indication of the approach we may take and are not our final policy.

As well as responding to the specific proposals and questions, we also ask you to describe any alternative approaches you think would achieve our objectives.

We are keen to fully understand and assess the financial and other impacts of our proposals and any alternative approaches. Therefore, we ask you to comment on:

- the likely compliance costs;
- the likely effect on competition; and
- other impacts, costs and benefits.

Where possible, we are seeking both quantitative and qualitative information. We are also keen to hear from you on any other issues you consider important.

Your comments will help us develop our policy on regulating low cost credit contracts. In particular, any information about compliance costs, impacts on competition and other impacts, costs and benefits will be taken into account if we prepare a Regulation Impact Statement: see Section C, 'Regulatory and financial impact'.

Making a submission

You may choose to remain anonymous or use an alias when making a submission. However, if you do remain anonymous we will not be able to contact you to discuss your submission should we need to.

Please note we will not treat your submission as confidential unless you specifically request that we treat the whole or part of it (such as any personal or financial information) as confidential.

Please refer to our privacy policy at www.asic.gov.au/privacy for more information on how we handle personal information, your rights to seek access to and correct personal information, and your right to complain about breaches of privacy by ASIC.

Comments should be sent by **7 March 2025** to:

Sarah Morgan, Senior Manager
Regulatory Reform & Implementation
Australian Securities and Investments Commission
GPO Box 9827
Melbourne VIC 3001
email: rri.consultation@asic.gov.au

Note: Please include 'Feedback on CP 382' in the subject line.

What will happen next?

Stage 1	7 February 2025	ASIC consultation paper released
Stage 2	7 March 2025	Comments due on the consultation paper
Stage 3	Q2 2025	Regulatory guide released

A Background to the proposals

Key points

From June 2025, low cost credit contracts and buy now pay later contracts will be regulated as a type of credit under the *National Consumer Credit Protection Act 2009* (National Credit Act).

This consultation paper sets out our proposals on guidance for providers of low cost credit contracts to understand their obligations. The attached draft Regulatory Guide 000 *Low cost credit contracts* (draft RG 000) sets out our proposed guidance.

Note: See the 'Key terms' in draft RG 000 for a list of terms and definitions used in this paper. Draft RG 000 is available on our website at www.asic.gov.au/cp under CP 382 .

The regime for low cost credit contracts

1 Buy now pay later arrangements generally allow consumers to buy and receive goods and services immediately from a merchant and repay a buy now pay later provider over time, with no (or little) costs to the consumer for the credit. These arrangements have typically fallen outside the definition of credit or the exemptions in the National Credit Code (at Sch 1 of the National Credit Act), including the low cost continuing and short term credit exemptions.

2 The *Treasury Laws Amendment (Responsible Buy Now Pay Later and Other Measures) Act 2024*, which commences in full on 10 June 2025, extends the application of the National Credit Act and National Credit Code to the provision of credit under low cost credit contracts and buy now pay later contracts.

Note: Under the *Treasury Laws Amendment (Responsible Buy Now Pay Later and Other Measures) Act 2024*, the reforms commence six months after the Act receives Royal Assent (i.e. 10 June 2025), or a date within the six-month period that is fixed by proclamation.

3 Through several modifications that ease some requirements for low cost credit contracts, the legislative amendments seek to strike a balance of maintaining the competitive benefits of low cost credit contracts for consumers and the economy while reducing consumer harm from unaffordable lending practices.

4 The reforms establish low cost credit contracts as a new category of regulated credit to which the National Credit Code applies. Low cost credit contracts are continuing or non-continuing credit contracts for providing credit to consumers on a low cost basis. They are subject to modified obligations, including modified responsible lending obligations.

Note: See the Explanatory Memorandum to the Treasury Laws Amendment (Responsible Buy Now Pay Later and Other Measures) Bill 2024 ([Explanatory Memorandum](#)) at paragraph 2.1.

5 Most buy now pay later contracts will be regulated as low cost credit contracts under the new regime where they satisfy requirements in the *National Consumer Credit Protection Regulations 2010* (National Credit Regulations), including those that relate to fees or charges payable under the contract.

6 While the category of low cost credit contracts currently only captures buy now pay later contracts, other types of credit contracts (such as wage advances) may be brought within scope of low cost credit contracts via the regulations.

Note: See the [Explanatory Memorandum](#) at paragraph 2.43.

ASIC's proposed guidance

7 In response to the reforms, we have prepared a draft regulatory guide: see Regulatory Guide 000 *Low cost credit contracts* (draft RG 000) attached to this consultation paper.

Note: In January 2025 we released Information Sheet 285 *Buy now pay later credit contracts* ([INFO 285](#)), which provides information on applying for a credit licence. We will also make technical updates to a range of other guidance before 10 June 2025.

8 The draft regulatory guide explains:

- (a) the circumstances in which the low cost credit contract regime applies;
- (b) the modified responsible lending obligations that credit licensees providing low cost credit contracts can elect to comply with;
- (c) other modified obligations that apply to low cost credit contracts.

9 Aspects of the low cost credit contract regime are largely based on the existing regime that applies to other credit contracts, and our guidance refers to existing ASIC guidance, particularly Regulatory Guide 209 *Credit licensing: Responsible lending conduct* ([RG 209](#)), where relevant.

10 Our objective is to provide clear guidance for credit licensees that provide low cost credit contracts, taking into account the different types of buy now pay later arrangements and the other types of credit that may be brought within the scope of the regime over time.

11 Our guidance does not mandate particular requirements. The legislation allows credit licensees flexibility to determine what is appropriate in individual circumstances. Our guidance is intended to help industry prepare for and meet their obligations before and after commencement of the regime.

12 We welcome your feedback on the draft regulatory guide. This consultation paper sets out specific questions on parts of our guidance, focused on the obligations that are modified for low cost credit contracts. We intend to release final guidance in May 2025.

B Proposed guidance on low cost credit contracts

Key points

We seek feedback on our proposed guidance on:

- who the regime applies to;
- electing to comply with the modified responsible lending obligations;
- complying with the modified responsible lending obligations;
- other modified obligations for low cost credit contracts.

The regime for low cost credit contracts

Proposal

- B1** We propose to include guidance on who the regime applies to and how the obligations apply for low cost credit contracts entered into before commencement: see Section B of draft RG 000.

Your feedback

B1Q1 Is our guidance clear?

B1Q2 Is any further guidance needed on how the regime applies to pre-commencement contracts?

Rationale

- 13 The new regime applies to contracts that previously fell under exemptions for certain types of credit in the National Credit Code. Our guidance seeks to make clear the definition of low cost credit contract and buy now pay later contract, so that providers are aware of whether or not the regime applies to them.

Complying with the modified responsible lending obligations

Proposal

- B2** We propose to set out guidance on the mandatory inquiries that must be made about a consumer's financial situation as part of the obligation to make reasonable inquiries and verification for a low cost credit contract: see draft RG 000.25–RG 000.33.

Your feedback

B2Q1 Is our guidance clear?

B2Q2 Do you suggest any changes? If so, please provide details.

Rationale

- 14 Providers of low cost credit contracts must make reasonable inquiries about a consumer’s financial situation and take reasonable steps to verify the consumer’s financial situation.
- 15 The National Credit Regulations set out mandatory inquiries about a consumer’s financial situation that providers must make for low cost credit contracts, including in relation to the consumer’s income, expenditure and any low cost credit contracts, small amount credit contracts and/or consumer leases the consumer is currently a party to.
- 16 Our guidance aims to help providers determine what they should consider when making these mandatory inquiries by reference to [RG 209](#), including satisfying themselves that the information is ‘substantially correct’. We also include guidance on the mandatory inquiries that providers must make in relation to the consumer’s credit history.
- 17 These mandatory inquiries do not limit other inquiries providers may need to make to be satisfied they have undertaken reasonable inquiries and verification.

Proposal

- B3** We propose to set out guidance on the mandatory factors that must be considered in determining what constitutes ‘reasonable’ inquiries about a consumer’s requirements, objectives and financial situation (and the steps taken to verify the information obtained from these inquiries): see draft RG 000.34–RG 000.36 and Table 2.

Your feedback

B3Q1 Is our guidance clear?

B3Q2 Do you suggest any changes? If so, please provide details.

Rationale

- 18 Under the modified responsible lending obligations, to determine whether the inquiries about a consumer’s requirements, objectives and financial situation (and steps taken to verify the information) are ‘reasonable’, the provider must have regard to mandatory factors set out in s133BXC(3).
- 19 In our guidance we include a description of each of these factors. We refer to [RG 209](#) for other factors that may be relevant.
- 20 We suggest that credit licensees consider these factors holistically and weigh them depending on the individual circumstances of a particular application in order to make ‘reasonable’ inquiries and verification.

Proposal

- B4** We propose to include guidance on the rebuttable presumptions that low cost credit contracts with a credit limit up to \$2,000 (or a threshold prescribed by the regulations) will:
- (a) meet the consumer's requirements and objectives, for the purpose of s131; and
 - (b) be presumed to be 'not unsuitable' in terms of meeting the consumer's requirements and objectives for the purpose of s133: see draft RG 000.37–RG 000.42.

Your feedback

B4Q1 Is our guidance clear?

B4Q2 Do you suggest any changes? If so, please provide details.

Rationale

- 21 The modified responsible lending obligations include rebuttable presumptions that low cost credit contracts below a certain amount will meet the consumer's requirements and objectives for the purposes of s131 and 133.
- 22 Our guidance aims to provide clarity to providers on when the presumptions may or may not apply, and when the presumptions may be rebutted, with reference to the [Explanatory Memorandum](#).

Proposal

- B5** We propose to include guidance on assessments for low cost credit contracts that are larger than the initial limit provided, including on making the initial assessment, making protected increases, and the interaction with the rebuttable presumptions: see draft RG 000.43–RG 000.58.

Your feedback

B5Q1 Is our guidance clear?

B5Q2 Do you suggest any changes? If so, please provide details.

Rationale

- 23 Providers can make an initial assessment for a low cost credit contract that is larger than the low cost credit contract initially entered into: s133BXD. This is so providers can make a one-off assessment and provide gradual credit limit increases to consumers over time (known as protected increases), without the need for a new assessment.
- 24 Our guidance seeks to make clear that, if providers rely on this provision, they need to make inquiries, verification and assessments for the larger amount, not the initial amount of the contract.
- 25 We also include guidance on how the provision interacts with the rebuttable presumptions for low cost credit contracts.

Proposal

B6 We propose to include guidance on the requirement to prepare an ‘unsuitability assessment policy’, including when reviews are needed: see draft RG 000.59 and Table 3.

Your feedback

B6Q1 Is our guidance clear?

B6Q2 Do you suggest any changes? If so, please provide details.

Rationale

- 26 Providers that elect to comply with the modified responsible lending obligations must prepare a written policy, known as an ‘unsuitability assessment policy’, setting out their processes for ensuring compliance with their obligation to:
- (a) assess whether a contract or limit increase is unsuitable (s128); and
 - (b) assess a contract as being unsuitable in certain circumstances (s131).
- 27 We do not specify a preferred review period—rather, we think this should be informed by a provider’s business model and by monitoring data on consumer outcomes.

Electing to comply with modified responsible lending obligations

Proposal

B7 We propose to include guidance on how providers can elect to comply with the modified responsible lending obligations for a specified class of low cost credit contracts: see Section D of draft RG 000.

Your feedback

B7Q1 Is further guidance needed on elections for all or a specified class of low cost credit contracts and how to revoke an election?

Rationale

- 28 Section 133BXA(1) of the National Credit Act allows providers to elect to comply with the modified responsible lending obligations for a specified class of low cost credit contracts.

Note: In this consultation paper, all section references are to the National Credit Act.

- 29 As our guidance explains, we consider this option provides flexibility for providers in choosing to comply with the standard or modified responsible

lending obligations for all or only some of their products, depending on the nature of their buy now pay later product, or other circumstances.

- 30 The legislation does not mandate a form for making or revoking an election. However, we consider that the election and revocation need to include a date, a clear statement of election or revocation, and a clear description of the scope of the election or revocation. There should also be a clear indicator (e.g. an identification number) that links a revocation with an election.
- 31 The aim of this guidance is to ensure that an election and revocation is valid and clearly supports the provider's intention about whether or not they choose to comply with the modified responsible lending obligations.

Other modified obligations for low cost credit contracts

Proposal

- B8** We propose to summarise other modified obligations that apply to low cost credit contracts, including differences in requirements relating to electronic disclosure, credit representatives, comparison rates, default notices, contractual requirements, and anti-avoidance schemes: see Section E of draft RG 000.

Your feedback

- B8Q1 Should we include additional guidance on these other modified obligations?

Rationale

- 32 In addition to the modified responsible lending obligations, the new regime amends some other requirements for low cost credit contracts including:
- (a) the ability to make materials relating to low cost credit contracts available exclusively through electronic means;
 - (b) scaling back certain obligations for credit representatives, including the requirement for membership of the Australian Financial Complaints Authority;
 - (c) removing the requirement to include comparison rates in advertisements;
 - (d) expanding the types of defaults where a default notice must be given;
 - (e) prescribing certain matters that must be included in a contract document to align with the typical features of low cost credit contracts; and
 - (f) extending the application of the anti-avoidance scheme provisions.
- 33 We do not consider these changes require further guidance. We include a summary in Section E so that providers are aware of their obligations, with links to further information where needed.

C Regulatory and financial impact

- 34 In developing the proposals in this paper, we have carefully considered their regulatory and financial impact. On the information currently available to us we are of the view they strike an appropriate balance between:
- (a) helping credit licensees understand what is required to comply with the new obligations for buy now pay later contracts and low cost credit contracts, including the modified responsible lending obligations; and
 - (b) ensuring flexibility for credit licensees to tailor their processes for low cost credit contracts in a way that is appropriate for their business and consumers.
- 35 Before settling on a final policy, we will comply with the Australian Government’s Policy Impact Analysis (PIA) requirements by:
- (a) considering all feasible options, including examining the likely impacts of the range of alternative options that could meet our policy objectives;
 - (b) if regulatory options are under consideration, notifying the Office of Impact Analysis (OIA); and
 - (c) if our proposed option has more than a minor or machinery impact on business or on the not-for-profit sector, preparing an Impact Analysis (IA) or an IA equivalent (Independent Review).
- 36 All IAs are submitted to the OIA for approval before we make any final decision, or if an IA equivalent—to the OIA for agreement. Without an approved IA or agreed IA equivalent, ASIC is unable to give relief or make any other form of regulation, including issuing a regulatory guide that contains regulation.
- 37 To ensure that we are in a position to properly complete any required IA or IA equivalent, please give us as much information as you can about our proposals or any alternative approaches, including:
- (a) the likely compliance costs;
 - (b) the likely effect on competition; and
 - (c) other impacts, costs and benefits.

See ‘The consultation process’, p. 4.

List of proposals and questions

Proposal	Your feedback
<p>B1 We propose to include guidance on who the regime applies to and how the obligations apply for low cost credit contracts entered into before commencement: see Section B of draft RG 000.</p>	<p>B1Q1 Is our guidance clear?</p> <p>B1Q2 Is any further guidance needed on how the regime applies to pre-commencement contracts?</p>
<p>B2 We propose to set out guidance on the mandatory inquiries that must be made about a consumer's financial situation as part of the obligation to make reasonable inquiries and verification for a low cost credit contract: see draft RG 000.25–RG 000.33.</p>	<p>B2Q1 Is our guidance clear?</p> <p>B2Q2 Do you suggest any changes? If so, please provide details.</p>
<p>B3 We propose to set out guidance on the mandatory factors that must be considered in determining what constitutes 'reasonable' inquiries about a consumer's requirements, objectives and financial situation (and the steps taken to verify the information obtained from these inquiries): see draft RG 000.34–RG 000.36 and Table 2.</p>	<p>B3Q1 Is our guidance clear?</p> <p>B3Q2 Do you suggest any changes? If so, please provide details.</p>
<p>B4 We propose to include guidance on the rebuttable presumptions that low cost credit contracts with a credit limit up to \$2,000 (or a threshold prescribed by the regulations) will:</p> <ul style="list-style-type: none"> (a) meet the consumer's requirements and objectives, for the purpose of s131; and (b) be presumed to be 'not unsuitable' in terms of meeting the consumer's requirements and objectives for the purpose of s133: see draft RG 000.37–RG 000.42. 	<p>B4Q1 Is our guidance clear?</p> <p>B4Q2 Do you suggest any changes? If so, please provide details.</p>
<p>B5 We propose to include guidance on assessments for low cost credit contracts that are larger than the initial limit provided, including on making the initial assessment, making protected increases, and the interaction with the rebuttable presumptions: see draft RG 000.43–RG 000.58.</p>	<p>B5Q1 Is our guidance clear?</p> <p>B5Q2 Do you suggest any changes? If so, please provide details.</p>
<p>B6 We propose to include guidance on the requirement to prepare an 'unsuitability assessment policy', including when reviews are needed: see draft RG 000.59 and Table 3.</p>	<p>B6Q1 Is our guidance clear?</p> <p>B6Q2 Do you suggest any changes? If so, please provide details.</p>

Proposal	Your feedback
<p>B7 We propose to include guidance on how providers can elect to comply with the modified responsible lending obligations for a specified class of low cost credit contracts: see Section D of draft RG 000.</p>	<p>B7Q1 Is further guidance needed on elections for all or a specified class of low cost credit contracts and how to revoke an election?</p>
<p>B8 We propose to summarise other modified obligations that apply to low cost credit contracts, including differences in requirements relating to electronic disclosure, credit representatives, comparison rates, default notices, contractual requirements, and anti-avoidance schemes: see Section E of draft RG 000.</p>	<p>B8Q1 Should we include additional guidance on these other modified obligations?</p>