

## Responsible lending exemptions for small business customers, April 2020<sup>1</sup>

<b>you are a credit assistance provider</b>	you have currently (or had in last 12 months) with the consumer a contract for the provision of credit (whether or not a credit contract) <sup>2</sup> or a contract for the hire of goods (whether or not a consumer lease) <sup>3</sup>	<b>credit contract</b>	you are providing credit assistance to the consumer in relation to an application for a new credit contract, or a credit limit increase	the credit to be provided (or intended to be provided) under the new contract or increase is partly for the purposes of a small business <sup>4</sup> operated by the consumer (whether alone or with others) <sup>5</sup>	the conduct occurs during the exemption period <sup>6</sup>	in relation to the conduct, you are exempt from:  the responsible lending obligation to make a preliminary suitability assessment and make inquiries and verifications about the consumer's requirements and objectives; and  the prohibition on providing credit assistance if the contract will be unsuitable
			you are providing credit assistance by suggesting that the consumer remain in a credit contract	the credit provided under the credit contract was partly for the purposes of a small business operated by the consumer (whether alone or with others); or  if the credit limit of the credit contract was increased one or more times, the credit provided under at least one of the increased limits was partly for the purposes of a small business operated by the consumer (whether alone or with others); or  if any remaining credit is available under the credit contract, the consumer intends for all or part of the remaining credit to be applied wholly or partly for the purposes of a small business operated by the consumer (whether alone or with others)	the conduct occurs during the exemption period	in relation to the conduct, you are exempt from:  the responsible lending obligation to assess whether remaining in the contract will be unsuitable for the consumer, and make inquiries and verifications about the consumer's requirements and objectives; and  the prohibition on suggesting that a consumer remain in an unsuitable credit contract
		<b>consumer lease</b>	you are providing credit assistance to the consumer in relation to an application for a new consumer lease	the goods to be hired under the consumer lease are partly for the purposes of a small business operated by the consumer (whether alone or with others)	the conduct occurs during the exemption period	in relation to the conduct, you are exempt from:  the responsible lending obligation to make a preliminary suitability assessment and make inquiries and verifications about the consumer's requirements and objectives; and  the prohibition on providing credit assistance if the lease will be unsuitable

<sup>1</sup> Made by the *National Consumer Credit Protection Amendment (Coronavirus Economic Response Package) Regulations 2020* (Cth) on 2 April 2020, effective 3 April 2020. Information in this document is a summary only and is not legal advice. Copyright Dwyer Harris 2020.

<sup>2</sup> This would include business (non-regulated) credit.

<sup>3</sup> This would include business (non-regulated) leases.

<sup>4</sup> A small business has the same meaning given in section 5 of the *Australian Small Business and Family Enterprise Ombudsman Act 2015* (Cth), which generally means a business that has either fewer than 100 employees or revenue of \$5 million or less.

<sup>5</sup> "... alone or with others" means that the relief extends to where the credit or lease is for a borrower or lessee jointly with one or more other borrowers and lessees.

<sup>6</sup> 6 months from 3 April 2020.

you are providing credit assistance by suggesting that the consumer remain in a consumer lease	the goods hired under the consumer lease were partly for the purposes of a small business operated by the consumer (whether alone or with others); or  the consumer intends for or some of the goods hired under the consumer lease to be used wholly or partly for the purposes of a small business operated by the consumer (whether alone or with others)	the conduct occurs during the exemption period	in relation to the conduct, you are exempt from:  the responsible lending obligation to assess whether remaining in the lease will be unsuitable for the consumer, and make inquiries and verifications about the consumer's requirements and objectives; and  the prohibition on suggesting that a consumer remain in an unsuitable consumer lease
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<b>you are a credit provider<sup>7</sup> or lessor</b>	you have currently (or had in last 12 months) with the consumer a contract for the provision of credit (whether or not a credit contract) or a contract for the hire of goods (whether or not a consumer lease)	<b>credit contract</b>	you are entering into a credit contract with the consumer or increasing the credit limit of a credit contract with the consumer (or making representations to the consumer in relation to these matters)	the credit to be provided (or intended to be provided) to the consumer under the credit contract or increase is partly for the purposes of a small business operated by the consumer (whether alone or with others)	the conduct occurs during the exemption period	in relation to the conduct, you are exempt from:  the responsible lending obligation to make a suitability assessment and make inquiries and verifications about the consumer's requirements and objectives; and  the prohibition on entering or increasing the credit limit of a credit contract that is unsuitable for a consumer
		<b>consumer lease</b>	you are entering into a consumer lease with the consumer (or making representations to the consumer in relation to this)	the goods to be hired by the consumer under the consumer lease are partly for the purposes of a small business operated by the consumer (whether alone or with others)	the conduct occurs during the exemption period	in relation to the conduct, you are exempt from:  the responsible lending obligation to make a suitability assessment and make inquiries and verifications about the consumer's requirements and objectives; and  the prohibition on entering a consumer lease that is unsuitable for a consumer

<sup>7</sup> Or an exempt special purpose funding entity.