

Credit Guides, Proposals, Quotes and Preliminary Assessments

January 2011

Solving the Maze of the New Consumer Credit Documents

From 1 April 2011, mortgage and finance brokers must use new credit disclosure documents when they offer customers credit assistance for consumer loans, credit cards and consumer leases (e.g. home loans, personal loans, car financing etc.).

Last year, preliminary 'unsuitability' assessments were introduced in the first round of changes to consumer credit regulation. The next set of documents will be credit guides, proposals and quotes - we take a closer look at all of them in this article.

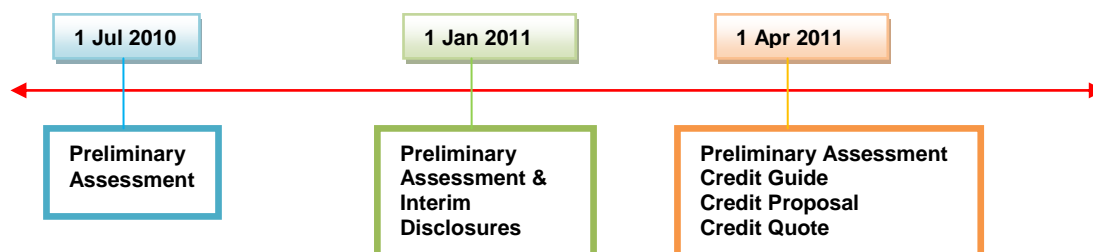
All of the documents must be given when credit assistance is provided – this is when a broker does any of the following in relation to a particular loan or lease:

- suggests that a customer apply for a loan or lease;
- suggests that a customer apply for an increase to the credit limit of a loan or lease;
- suggests that a customer remain in a loan or lease;
- assists a customer to apply for a loan or lease; or
- assists a customer to apply for an increase to the credit limit of a loan or lease.

Some brokers are beginning to prepare these documents but we are expecting to see more regulations in January which are likely to provide further detail about these documents. Make sure your documents are consistent with any new regulations before you begin using them in April 2011.

'Interim disclosure requirements' apply until April 2011. These require brokers to provide information about your external dispute resolution process and maximum fees and charges. Franchisee credit representative should check with their licensees as some documents are not required.

Timeline for the interim and new disclosure requirements



Preliminary Assessment	From 1 July 2010 , brokers must prepare a preliminary assessment.
Credit Guide and Credit Proposal	From 1 April 2011 , provided that brokers comply with the Interim Disclosures (see below).
Credit Quote	From 1 April 2011 , provided that brokers comply with the Interim

Disclosures (see below).

Interim Disclosures

From **1 January 2011 to 1 April 2011**, brokers must:

- Give the customer written contact details about their External Dispute Resolution Scheme (EDR).
- Enter into a written contract with the customer, before providing any credit assistance, where the contract must disclose the maximum amount that the customer must pay to the broker for any credit assistance or other services. This will not apply if the broker does not intend to, and will not, impose a fee or charge for providing credit assistance or other services.

The MFAA Finance Broking Contract (FBC) already complies with the EDR disclosure requirement, but if you are a credit representatives, you will need to update it to show must be updated to show both the broker's and your licensee's EDR details.

Where a fee or charge is imposed for providing the credit assistance or other services, brokers will also need to disclose the maximum amount of the fees or charges that are payable by the customer to the broker in the FBC or another document.

What are the new disclosure documents?

The diagram below shos the new credit disclosure documents and when they will need to be provided during a typical broking scenario (once all requirements apply from 1 April 2011).



Credit Guide

What does it do?	The credit guide is designed to assist the customer to decide whether to use the broker's services.
What does it cover?	<p>General information about the broker and its services including:</p> <ul style="list-style-type: none"> ■ A description of the remuneration the broker will generally receive for providing credit assistance services; ■ If the broker is a credit representative, the names of the credit licensees that the broker acts for and the broker's credit representative number and contact details; ■ If the broker is a licensee, the names of the credit providers that the broker deals with most often, the broker's credit licence number and contact details and information about to how to obtain a copy of a preliminary 'unsuitability' assessment; ■ How the broker will handle any complaints received and how the customer can access FOS or COSL for external dispute resolution;
Who needs to give it?	Credit licensees and credit representatives who provide credit assistance
When must it be given to the customer?	As soon as it becomes apparent that the broker will be providing credit assistance to the customer (whether immediately or in the future) unless the credit guide has been provided within the last 12 months and the broker's EDR details remain unchanged.
How can I give it?	Hard copy or electronically (if electronically the customer must consent and documents must be easily retrievable, printable and able to be saved).
Gold Seal Tip: Disclosing remuneration	<p><i>When disclosing the type of remuneration the broker might receive for credit assistance, it is important to clearly explain when the charges and payments will be payable. A description of the remuneration including commission, fees and charges must be included.</i></p> <p><i>When explaining the different types of remuneration, make sure there is a clear distinction between fees, charges and commissions and identify who charges that amount and who receives it (e.g. whether the broker, the credit provider or some other person).</i></p>
Gold Seal Tip: Combining disclosures	<p><i>Two or more disclosures can be combined in a single document, provided that all the required information is present, so for example brokers who act as credit representatives of credit licensees, may provide a joint credit guide that includes information for both the broker and the credit licensee.</i></p> <p><i>Likewise the credit quote can be included as part of the credit guide so one document is given to the customer that covers both of those disclosures.</i></p>

Credit Quote

What does it do?	A credit quote provides customers with more detailed information about the services that the broker will provide. It discloses the maximum amount of any fees and charges that apply to the broker's services.
What does it cover?	It must describe: <ul style="list-style-type: none"> ■ The particular services the broker will provide to the customer; ■ The maximum amounts payable by the customer including associated costs and payments; ■ Any costs that are payable for the quote preparation;
Who needs to give it?	Credit licensees and credit representatives who provide credit assistance A credit quote is not required where no fees or charges will be charged, provided that this is stated in the credit guide or credit proposal.
When must it be given to the customer?	Before the broker begins providing credit assistance to the customer (e.g. the credit quote can be given at the same time as the credit guide, provided the broker knows what services the client wants). The customer must sign the quote (as confirmation that the customer accepts the charges, fees and commission). A signed copy must then be given to the customer
How can I give it?	Hard copy or electronically but this may be difficult as the customer must sign the document and many brokers will want to keep the signed document on their files to prove it has been given.
Gold Seal Tip: Disclosing remuneration	<i>When disclosing remuneration, it is likely that brokers will need to include the dollar amount for fees and charges and/or the percentage payable as commission.</i>

Preliminary ('Unsuitability') Assessment

What is it?	An assessment that the loan or lease to be recommended is "not unsuitable" for the client. A loan will be unsuitable if the customer will be unable to repay the loan or can only do so with substantial hardship. Also if it does not match the customer's requirements or objectives
What is required?	<ul style="list-style-type: none"> ■ Brokers must: ■ Make reasonable enquiries about the consumer's requirements and objectives in relation to the loan or lease; ■ Make reasonable enquiries about the consumer's financial situation; and

	<ul style="list-style-type: none"> Take reasonable steps to verify the consumer's financial situation.
Who needs to undertake it?	Credit licensees and credit representatives who provide credit assistance
What does it cover?	<ul style="list-style-type: none"> The period in which the consumer will either enter into or remain in the loan or lease That the loan or lease is not unsuitable for the client.
When must it be done / given to the customer?	Within 90 days before the provision of credit assistance in relation to a particular loan or lease.
Must it be given to the customer?	<p>Yes, within 7 years of the credit quote, if the customer asks for it. It must be provided:</p> <ul style="list-style-type: none"> Within 7 business days if the request is made within 2 years; and Within 21 business days if the request if made after 2 years. <p>The preliminary assessment does not need to be given to the customer if no credit assistance was provided (e.g. where brokers do not make suggestions about a particular loan or lease or help with an application).</p> <p>It may be given in hard copy or electronically (if electronically the customer must consent and documents must be easily retrievable, printable and able to be saved).</p>
Gold Seal Tip: Concise and easily understood by consumer	<p><i>It is good practice for the assessment to show what information the broker took into account and the reasons why the loan was considered not to be unsuitable.</i></p> <p><i>Commercially sensitive lending criteria does not need to be disclosed to the customer if you are asked to provide the preliminary assessment.</i></p> <p><i>Redo the Preliminary Assessment if there is a delay in arranging the loan and more than 90 days has passed since you undertook the assessment</i></p>

Credit Proposal

What does it do?	<p>The credit proposal is required once the broker has decided which loan or lease to recommend to the client.</p> <p>It informs the customer of the fees, charges and commissions that will be payable for the credit assistance that the broker will provides in relation to that loan or lease – as well as any other fees The customer might need to pay, e.g. valuations.</p>
What does it cover?	It must:

	<ul style="list-style-type: none"> ▪ Identify the particular loan or lease the customer has selected ▪ Disclose the total fees and charges payable and how they are calculated; ▪ Provide an estimate of the amount of the commission payable by the credit provider; ▪ Detail the fees, charges and other amounts payable to credit provider or another third party; ▪ Disclose which fees and charges that will be financed and the remaining amount of credit available for use by the customer.
Who needs to give it?	Credit licensees and credit representatives who provide credit assistance
When must it be given to the customer?	At the same time as the credit assistance is provided.
How can I give it?	Hard copy or electronically (if electronically the customer must consent and documents must be easily retrievable, printable and able to be saved).
Gold Seal Tip: Disclosing remuneration	<i>Brokers should disclose dollar amounts for the fees, charges and commission expected to be paid in relation to the specific loan or lease.</i>

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7 January 2011

Gold Seal is a leading provider of compliance, risk management, legal, human resource, training and education services to the mortgage broking and financial services sectors. Gold Seal has developed a complete Compliance Management System for mortgage brokers and a set of template consumer credit disclosure documents which are available for purchase. For more information visit www.goldseal.com.au or call 02 8353 6600.