



## To Licence or not to Licence?

June 2010

One of the biggest questions for mortgage brokers and mortgage managers arising from the new credit laws will be: should I obtain my own licence or become a credit representative for someone else?

### Own Licence or Credit Representative?

If you hold your own licence, you will be in charge of your destiny. You will be able provide whatever services you wish in the way that you wish and, subject to lenders requirements regarding loan submission and borrower eligibility, in any way that you decide.

No one will be looking over your shoulder and telling you how, when and what to do with your clients. You will be free to develop your own branding, service proposition, client relationship management methods and to manage your business as you choose.

On the other hand, if you become a credit representative of a licensee, the licensee will be as responsible for the services that you provide to your clients as they would if you were employed by them. This of course can be good and bad.

On the good side, they will provide you with all the processes, tools and templates that you need in order to provide your credit services.

However, they are also likely to mandate the way in which you deal with clients by laying down strict rules about what, when and how you do things. Also they will be obliged to monitor and supervise your activity regularly to ensure that you are complying with the credit laws, especially the responsible lending obligations that require you to provide various disclosure documents including a Credit Guide, Quotation and Credit Proposal to clients and to make a preliminary assessment of whether the loan is unsuitable for the client.

The desirability of this for you, will depend on your whether your desire to be independent and to do things in your own way is stronger than the comfort of knowing that someone else is in effect going to guide and oversee the services that you provide.

Remember that the fundamental essentials will not change regardless of whether you are a credit representative or hold your own licence. You will still have to meet the minimum training standard of a Certificate IV in Financial Services (Mortgage Broking ) (although not until 30 June 2014), undertake 20 hours of continuing professional development per year and comply with the responsible lending obligations that I just described.

The difference is that as a licensee, **you** will be responsible for ensuring that you do so and as a credit representative, you will not have a %big brother+watching over you to ensure that you do so.

### The Cost of Licensing?

There are several cost elements associated with applying for a Credit Licence. Most are ongoing costs that will recur each year

#### Licence Application Fee

This fee increases in proportion to the amount of credit that you referred in the previous financial year. If this was

< \$100 million and you are a sole trader	\$450
< \$200 million and you are a sole trader or company	\$1,000
\$200 million - <\$600 million	\$4,000
The fees increase in bands of \$4,000 up to <2.1 bn. For 2.1 bn and over	\$21,000

This is an annual fee, payable when you lodge your application and, in subsequent years, your annual Compliance Certificate. Higher fees apply to non-electronic lodgements.

### Searches

For each fit and proper person can cost up to \$200 if you outsource them.

### EDR Membership

The cost depends on a number of factors.

- **FOS:** Members pay between \$275 and \$11,000 a year (depending on the size of their business). Most small businesses will pay \$275 a year plus a one-off \$220 application fee. Authorised credit representatives will pay \$55 a year (if their credit licensee is a member of FOS).
- **COSL: Members** pay about \$324 a year (on average) plus a one-off application fee of \$165. The basic membership fee for a credit licensee is \$250 a year and \$75 a year for an authorised credit representative.

There is also a charge on a case-by-case basis if a complaint is heard.

### Professional Indemnity Insurance

The going rate for insurance seems to be in the order of \$500 - \$750 per representative. For a quotation, call one of the following specialist brokers Mega Capital, Surety and General and Endeavour Insurance Brokers.

### Software

Many brokers use loan comparison software provided by their aggregator. Lenders are increasingly requiring electronic application lodgement and a number of software providers now offer loan comparison and lodgement software combined with a wealth of other features including client relationship management, workflow, marketing etc. Shop around for the best deal.

### Compliance

All credit licensees are required to have compliance management systems in place. These must include arrangements for ensuring that all representatives comply with the responsible lending and minimum training standards and for ensuring that the business complies with the general conduct requirements.

You will need to have access to compliance information and support. There are any number of external providers who are only too keen to provide this service to licensees whose businesses are not of sufficient scale to employ an internal resource.

The cost for this type of service can vary considerably depending on the nature of the offering. However at the very least, you should budget for periodic external reviews of at least a sample of loan writer files and an external audit of your compliance with the general conduct obligations. In addition, it would be wise to budget for the potential need for external advice on compliance issues from time to time.

Beware of providers who want to sign you up for a program of services. Inevitably, you will find that they deliver less than is promised, or with the threat of ASIC breathing down your neck, you are sold services that you do not require. Look for a provider who will provide you with the tools that you need to manage compliance yourself and who will be available on call as and when required. You will probably find that this will cost you less in the long run than a program of standardised services, not all of which may be useful to you.

The credit regime is not as complex as the AFS regime. Once the new laws are bedded down and we are all used to the new requirements, you will find that they do not seem nearly as onerous as they do at the present time. Obtain quotations from the providers, but carefully scrutinise them. You will not always be comparing apples with apples so look beyond the price to what is actually offered.

### **So What is Right for You?**

Obviously there are merits in belonging to aggregator groups at present, as this provides access to a greater range of lenders and the opportunity for volume bonuses.

As commissions shrink and become increasingly dependent on the quality of the applications, and lenders require individual broker accreditation, it seems likely that there will be an interesting market place going forward. Brokers will increasingly evaluate the relative merits of belonging to aggregator groups in the context of individual licensing and credit representative status.

It is certainly interesting to reflect on what happened in the insurance broking and financial planning sectors since the AFS regime was introduced and to think about the parallels for mortgage brokers

Traditionally owner drivers, for the most part insurance brokers, opted for an independent licensing model. Over 4,000 insurance broking licences were issued. Since then, the insurance industry has seen considerable consolidation with larger broking firms buying up significant numbers of smaller firms, and also the development of %cluster groups+of like minded individually licensed businesses who join together as buying and professional service groups. Certainly some %authorising licensee+ models have emerged who have recruited authorised representative insurance brokers but these tend to be the exception rather than the rule.

Financial planners on the other hand, long accustomed to operating as agents and to membership of dealer groups, elected to stay with this model. Less than 800 financial planning licence were issued. However in recent times we are seeing a disaggregation of this industry. Planners are becoming disenchanting with the nature and quality of the services provide by their authorising licensees, particularly for the quite considerable fees that they charge for the privilege - usually a percentage of the commission and fees earned by the planner.

It remains to see what effect the credit legislation will have on the structure of the mortgage broking sector. There does not appear to be any one model emerging. Some aggregators are requiring all their loan writers to hold their own licence. Some are prepared to authorise them all. And many are offering hybrid models, providing choice.

There is no right or wrong answer at this point. Only time and experience will determine the financial and organisational efficacy of the various models.

Credit licensees who are prepared to authorise loan writers as credit representatives will however take on considerable responsibility for the actions of their credit representatives. And so it can be expected that they will need to recover the cost of managing this responsibility from their representatives in the form of either fees or a percentage of earnings. These will need to cover the costs of appointing and managing their credit representatives, developing and implementing their credit services processes and the ongoing monitoring and supervision of their representatives.

Again, it is likely that only time and to some extent, economies of scale will determine whether it will be more cost effective for mortgage brokers to hold their own licence or to become a credit representative.

The best advice that I can give is to evaluate for yourself the likely cost of obtaining and maintaining your own licence and compare this to what you will be asked to pay by potential authorising licensees.

Remember that distribution is king in financial services. Will the institutionally owned aggregators be subsidised by their lender parents in their work of managing distribution channels as occurs in the

financial planning industry? This is certainly a factor that contributes to the strength and size of these groups. However, this cost saving still needs to be regarded as the price of freedom and independence and evaluated in that context.

### In Conclusion

I wish I had a magic answer to the question of whether to licence or not for you. But I don't. What I can say is that I generally find that, provided they are reasonable business managers with some aptitude for administration (or an office manager who does it for them), our clients who hold their own licences tend to be more satisfied than the authorised representatives that we come across. Mainly this is because of the flexibility that holding their own licence provides.

There will always be responsibility as well. As a licensee will be 100% responsible for the mortgage services that you provide. It will be up to you to seek out the assistance you need to ensure that you operate compliantly because there won't be anyone looking over your shoulder.

On the other hand, with your own licence, you are your own boss. You own the clients. You can develop your own product list. You can develop your own service proposition. You are not locked in to using unwieldy one size fits all+disclosure documents.

The choice is up to you!

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Director

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#### About Gold Seal

Gold Seal is a leading provider of compliance, risk management, legal, human resource, training and education services to financial services intermediaries. We have specialist expertise in obtaining Credit and AFS Licenses

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