

EXPLANATORY STATEMENT

Select Legislative Instrument 2011 No. 165

National Consumer Credit Protection Act 2009

National Consumer Credit Protection Amendment Regulations 2011 (No. 5)

The *National Consumer Credit Protection Act 2009* (Credit Act) applies to the provision of credit for personal use, and related matters.

Section 329 of the Credit Act provides that the Governor-General may make regulations prescribing matters required or permitted by the Credit Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Credit Act.

The *National Consumer Credit Protection Amendment (Home Loans and Credit Cards) Act 2011* amended the Credit Act to introduce a requirement for home loan lenders to provide a Key Facts Sheet for standard home loans.

The Regulations amend the *National Consumer Credit Protection Regulations 2011* (Principal Credit Regulations) to prescribe the Key Facts Sheet and related items.

Specifically, the Regulations:

- insert definitions of interest rate and lender;
- define standard home loans to which the Key Facts Sheets requirements apply;
- set out the form and features of the Key Facts Sheet; and
- provide information about preparing the Key Facts Sheet.

Details of the proposed Regulations are set out in the Attachment.

The Regulations are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Regulations commence on 1 January 2012.

Consultation

The Regulations are based on draft Key Facts Sheets that have been consumer tested. Targeted and detailed consultation with industry and consumer stakeholders has been undertaken to ensure these regulations are based on, or operate consistently with, industry practice.

Authority: Section 329 of the
*National Consumer Credit
Protection Act 2009*

ATTACHMENT

Details of the proposed *National Consumer Credit Protection Amendment Regulations 2011 (No. 5)*

Regulation 1 – Name of Regulations

This regulation provides that the name of the Regulations is the *National Consumer Credit Protection Amendment Regulations 2011 (No. 5)*.

Regulation 2 – Commencement

The Regulations commence on 1 January 2012.

Regulation 3 – Amendment of *National Consumer Credit Protection Regulations 2010*

This regulation provides that Schedule 1 amends the *National Consumer Credit Protection Regulations 2011* (Principal Credit Regulations).

Schedule 1 – Amendment of *National Consumer Credit Protection Regulations 2010*

Item 1 inserts definitions for *interest rate* and *lender* into the Principal Credit Regulations. An *interest rate* is the interest rate or rates that apply to a type of home loan or a home loan chosen by a consumer.

A *lender* is a person who determines the pricing of a standard home loan and produces the Key Facts Sheet for that home loan. This includes but is not limited to banks, credit unions, mortgage managers and product designers.

Item 2 inserts regulations 28LA and 28LB into the Principal Credit Regulations.

Subregulation 28LA makes provisions that apply to determining whether a credit contract is a standard form contract and therefore may meet the criteria for a standard home loan for which a Key Facts Sheet must be provided under the Credit Act. A standard form contract is a contract for a home loan for which repayments of the loan repay both principal and interest for the term of the loan. In addition, a standard form contract must be either a variable rate home loan, fixed rate home loan, honeymoon rate home loan or a discounting rate home loan.

The purpose of the Key Facts Sheet is to provide potential home loan customers with information about home loans in a consistent format so they can more easily compare different home loans. ASIC may use its discretionary powers under the Credit Act to exempt, on a case by case basis, home loan products which are not ordinarily available to typical home loan customers when shopping around for a home loan (and therefore would be unlikely to be considered by typical home loan customers when comparing other home loans) and where the lender would not be able to produce the home loan due to the specific characteristics of the home loan, such as the interest rate could not be determined until a loan application is submitted.

Subregulation 28LB prescribes the requirements for a Key Facts sheet. It provides that Schedule 5 sets out the Key Facts Sheet and the requirements for how the information in the Key Facts Sheet is to be prepared. It also outlines the requirements for how the Key Facts Sheet must be presented to a consumer or published online. Where a lender is not able to print the Key Facts Sheet in color, it may be printed in black and white.

Item 3 inserts a new Schedule 5 which contains two Parts.

Part 1 is the Model of the Key Facts Sheet. It outlines the words that must be present in a Key Facts Sheet and the information that must be given to the consumer. The Key Facts Sheet is provided to potential consumers to assist them in comparing the cost and other features of home loans. Key features of the Key Facts Sheet document include:

- the date the Key Facts Sheet is produced and the lender's logo;
- a disclaimer advising that the Key Facts Sheet is not a formal offer of credit from the lender;
- information provided by the consumer such as the preferred loan amount and loan term;
- description of the home loan including the repayment method, repayment frequency, interest rate, and the personalised comparison rate;
- estimated cost of the home loan including the total amount to be paid back, the cost of the loan for each \$1 borrowed, establishment and ongoing fees, and monthly and annual repayments;
- a paragraph describing how consumers can shop around for the best deals; and
- further information about the Key Facts Sheet on the next page including an explanation of the personalised comparison rate.

Other information that may be required in the Key Facts Sheet are:

- for loans where the interest rate may vary at any time during the loan contract – information about what happens to repayments when interest rates increase;
- for fixed rate loans – information about what happens to repayments at the end of a fixed rate period; and
- for loans where additional repayments may be made – information about how to repay the home loan faster.

Part 2 provides information on preparing a Key Facts Sheet. Paragraph 2.1 provides notes in the model of the Key Facts Sheet.

Note 1 explains how the lender's Australian credit licence number (ACL) is to be disclosed. If the lender is not an ACL holder, no ACL number is required, however the lender must disclose that the credit provider's ACL number will be provided in the credit contract. The lender does not need to disclose their Australian company number or their Australian business number.

Note 2 explains that the type of loan must be either a fixed or variable rate home loan. If a fixed rate loan is specified, then the term of the fixed rate period must also be provided.

Note 3 explains that repayments must pay off principal and interest. This is the only repayment method available for loans to which the Key Facts Sheet applies.

Note 4 explains that the only repayment frequency available on the Key Facts Sheet are monthly repayments. The product for which the Key Facts Sheet is generated may offer alternative repayment frequencies, such as weekly or fortnightly, but for the purposes of the Key Facts Sheet, calculations will be based on monthly repayments.

Note 5 explains how the interest rate is to be disclosed. If the interest rate may change over the term of the loan than this must also be disclosed. For example:

- For a variable rate loan: 7.09% per annum.
- For a fixed rate loan: 7.29% per annum fixed for 3 years, then a variable rate currently 7.09% per annum.
- For a discount rate loan which discounts 0.2% per annum after the first year: 7.09% per annum for 1 year, then 6.89% per annum.
- For an introductory rate loan which gives a 1.0% per annum discount during the first year: 6.09% per annum for 1 year, then a variable rate currently 7.09 per annum.

Note 6 explains the calculation of the *personalised comparison rate*. The *personalised comparison rate* is to be calculated in accordance with the formula in subregulation 100(3) of the Principal Credit Regulations to calculate comparison rates, but using the designated amounts for the loan amount and loan term as provided by the consumer. The fees included in the calculation of the personalised comparison rate are the same as those that would be included in the calculation of a mandatory comparison rate under regulation 100 of the Principal Credit Regulations. That is fees and charges (other than government fees, charges and duty) that are ascertainable at the time the Key Facts Sheet is provided. The tolerances and assumptions used for the calculation of the mandatory comparison rate also apply to the *personalised comparison rate* in the Key Facts Sheet.

Note 7 explains the calculation of the total amount to be paid back. This is the total amount inclusive of all interest and fees to be payable over the life of the loan. It uses the same tolerances and assumptions as those to calculate the *personalised comparison rate*.

Note 8 explains that the field entitled “This means you will pay back” is to provide the total amount to be paid back divided by the loan amount. This is expressed as a dollar amount for every dollar borrowed.

Note 9 explains that the establishment fee includes fees and charges that are included in the calculation of the *personalised comparison rate* (in Note 6) which are paid to the lender on the commencement of the loan.

Note 10 explains that for a variable rate loan or a fixed rate loan which expires at the end of the fixed rate period, the repayment per month and the repayment per year need to be disclosed. For other loans which may have changes in the interest rate written into the credit contract, the repayment per month and repayment per year for the initial period before the change in interest rate must be provided along with the repayment per month and repayment per year for the later period under the changed interest rate.

Note 11 explains that the *monthly repayment* is to include the repayment for the month and any fees and charges incurred in that month.

Note 12 explains that the *yearly repayment* is to include the total of all repayments made in that year and all fees and charges incurred in the year.

Note 13 explains that the disclosure provided in Note 10 for where there is a change in the interest rate includes the length of time before the change in interest rate occurs. For example, Repayment per month for the first 3 years.

Note 14 allows the sentence “Additional fees may be payable if you choose to repay your fixed rate home loan early” to be omitted if break fees are not payable under the home loan.

Note 15 allows the box entitled “What happens at the end of the fixed rate period?” to be omitted if the interest rate is variable or will be fixed for the entire term of the loan.

Note 16 explain that there are three options to provide the disclosure entitled “How can I repay my loan faster”. The first is for instances where additional repayments are permitted without charge, where the disclosure must include the impact of making \$200 more than the minimum repayment a month. The second is where additional repayments are permitted but attract a fee. The third is where no additional repayments are permitted.

Paragraph 2.2 allows tolerances and assumptions under section 180 of the National Credit Code to apply to the calculation of amounts for the Key Facts Sheet.

Paragraph 2.3 requires Key Facts Sheets that are generated online to provide working links to websites mentioned in the Key Facts Sheet.

Paragraph 2.4 allows lenders who are not required to provide a Key Facts Sheet to provide a Key Facts Sheet if they comply, to a reasonable extent, with the requirements for producing the Key Facts Sheet. Lenders that do so, must omit references to the production of the Key Facts Sheet being an Australian Government requirement.

Annexes A to C provide examples of Key Facts Sheets.

Annex A provides an example of a Key Facts Sheet for a variable loan of \$400,000.

Annex B provides an example of a Key Facts Sheet for a fixed loan of \$400,000 with a fixed interest rate for 1 year.

Annex C provides an example of the reverse side of a Key Facts Sheet.

This Key Facts Sheet is an Australian Government requirement
under the *National Consumer Credit Protection Act 2009*

KEY FACTS ABOUT THIS HOME LOAN

Date produced: 11 March 2012



THIS IS NOT AN OFFER OF CREDIT. This Key Facts Sheet is provided to help you compare this home loan with the home loans of other lenders

What you have told us

Loan Amount	\$400,000
Term of the home loan	30 years
Interest type	Variable
Lender and product name	Master Bank Variable Rate Home Loan

HOW DOES THIS HOME LOAN COMPARE?

Description of this home loan

Repayment method	Principal and interest
Repayment frequency	Monthly (other repayment options are available)
Interest rate	7.16% per annum
Personalised comparison rate (interest rate including fees)	7.22% per annum

Estimated cost of this home loan

Total amount to be paid back (including the loan amount and fees)	\$993,240
This means you will pay back	\$2.46 for every \$1 borrowed
Establishment fees	\$1,000
Ongoing fees	\$8 per month \$300 per year
Repayment per month (including ongoing fees)	\$2,734
Repayment per year (including ongoing fees)	\$33,108

There may be circumstances in which other fees are payable. Fees applicable for the loan you apply for will be shown in the loan contract. You can also obtain a list of fees applicable to this type of loan from our branches or through our website at www.masterbank.com.au.

Other loan set-up fees, such as valuation fees and lender's mortgage insurance, and Government charges, such as registration fees and stamp duty on property transfer, have not been included. These will be determined after application.

Additional fees may be payable if you choose to repay your fixed rate home loan early.

What happens if interest rates increase?

This is a variable rate loan. If your interest rate was to increase by 1% per annum, your monthly repayment would increase by around **\$242**.

How can I repay my loan faster?

This loan allows you to make additional repayments to pay off your home loan faster. If you increased your monthly repayments by \$200 a month to **\$2,934 you would repay the loan in 23 years, 6 months, instead of 30 years, based on the current variable interest rate stated in this Key Facts Sheet.**

Altering the frequency of repayments may also help repay the loan faster.

How to find the best deal for you

To obtain the best deal for you, it is important to shop around and compare interest rates, fees and features before you apply for a home loan. Choosing the best home loan for you may save you money. For more information about how to get the best deal on your home loan visit the ASIC consumer website at www.moneysmart.gov.au.

This Key Facts Sheet is an Australian Government requirement
under the *National Consumer Credit Protection Act 2009*

KEY FACTS ABOUT THIS HOME LOAN

Date produced: 11 March 2012



THIS IS NOT AN OFFER OF CREDIT. This Key Facts Sheet is provided to help you compare this home loan with the home loans of other lenders.

What you have told us

Loan Amount	\$400,000
Term of the home loan	30 years
Interest type	Fixed
Lender and product name	Master Bank Fixed Rate Home Loan

HOW DOES THIS HOME LOAN COMPARE?

Description of this home loan

Repayment method	Principal and interest
Repayment frequency	Monthly (other repayment options are available)
Interest rate	7.19% per annum for 1 year, then a variable rate currently 7.86% per annum
Personalised comparison rate (interest rate including fees)	7.69% per annum

Estimated cost of this home loan

Total amount to be paid back (including the loan amount and fees)	\$1,040,764
This means you will pay back	\$2.60 for every \$1 borrowed
Establishment fees	\$0
Ongoing fees	\$0 per year
Repayment per month for first year (including ongoing fees)	\$2,713
Repayment per year for first year (including ongoing fees)	\$32,556
Repayment per month after 1 year (including ongoing fees)	\$2,894
Repayment per year after 1 year (including ongoing fees)	\$34,728

There may be circumstances in which other fees are payable. Fees applicable for the loan you apply for will be shown in the loan contract. You can also obtain a list of fees applicable to this type of loan from our branches or through our website at www.masterbank.com.au.

Other loan set-up fees, such as valuation fees and lender's mortgage insurance, and Government charges, such as registration fees and stamp duty on property transfer, have not been included. These will be determined after application.

Additional fees may be payable if you choose to repay your fixed rate home loan early.

What happens at the end of the fixed rate period?

At the end of the fixed rate period you may be able to fix the rate at a new fixed interest rate for a further period. If a further fixed rate is not entered into, the rate will convert to the applicable variable interest rate. Under the current variable interest rate, if interest rates do not change, your monthly repayment would increase by around **\$181**.

What happens if interest rates increase?

This is a fixed rate loan. Your repayments will not change during the fixed rate period. After the fixed rate period, if the variable interest rate was to increase by 1% per annum, from the current variable interest rate of 7.69%, your monthly repayment would increase by around **\$281**.

How can I repay my loan faster?

This loan allows you to make additional repayments to pay off your home loan faster. If you increased your monthly repayments by \$200 a month to **\$3,094 you would repay the loan in 21 years and 4 months, instead of 30 years, based on the current variable interest rate stated in this Key Facts Sheet.**

Altering the frequency of repayments may also help repay the loan faster.

How to find the best deal for you

To obtain the best deal for you, it is important to shop around and compare interest rates, fees and features before you apply for a home loan. Choosing the best home loan for you may save you money. For more information about how to get the best deal on your home loan visit the ASIC consumer website at www.moneysmart.gov.au.

FURTHER INFORMATION ABOUT THIS KEY FACTS SHEET

Which home loan is right for you?

When choosing a home loan, it's important to work out what you want from your loan and how much it will cost you. Given the wide range of loans on offer – with different interest rates, product features and fees – it pays to shop around to find the loan that fits your needs and circumstances. Some loans offer features that may be appropriate for your situation and result in savings over the life of the loan.

Some features you may wish to consider include:

- ability to split your loan between fixed and variable interest rates;
- ability to make extra repayments;
- an offset account;
- a redraw facility; and
- linked credit card and savings accounts.

But compare the costs and benefits of these features before you agree to them.

For more information on choosing the right home loan for you, you may also wish to visit the ASIC consumer website at www.moneysmart.gov.au.

Where can I find out more about this loan?

If you want more information on the terms used in this document or about this home loan, please call us on 00 1234 5678, or visit our website at www.masterbank.com.au/keyfactsheetterms.

This Key Facts Sheet is an Australian Government requirement.

The Australian Government requires all lenders selling standard home loans to give you a Key Facts Sheet like this one when you ask for one and provide the necessary information.

Key Facts Sheets contain information presented in the same way to help you compare and select the most appropriate home loan for you. You should request Key Facts Sheets when shopping around for a home loan to help you find the home loan that is right for you.

This Key Facts Sheet is not an offer of credit. The lender is not obliged to provide you with the home loan described in this Key Fact Sheet. You will need to apply for the loan and meet our lending criteria before we can determine whether you are eligible for this loan.

You should also be aware:

- the interest rates and fees and charges are those that apply as at the date of production of this Key Facts Sheet.
- the amount required to be paid does not include fees which are dependent on events that may not occur (for example, late payment fees if you do not make repayments on time).
- the amount of the repayments shown in this Key Facts Sheet will change if interest rates, fees and charges change and if a different loan type, loan term or loan amount is used.

What is the personalised comparison rate?

The personalised comparison rate helps you understand what the total cost of your home loan might be, taking into account known fees and charges that will apply (other than government fees, charges or duties) by building those costs into the interest rate. It also helps you understand the impact of fixed or introductory rates of interest on the total amount of interest you could pay over the life of the loan.