



ASIC

Australian Securities & Investments Commission

ASIC Credit (AFCA transition) Instrument 2018/448

I, Stephen Yen PSM, delegate of the Australian Securities and Investments Commission, make the following legislative instrument.

Date: 29 May 2018

Stephen Yen

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Part 1—Preliminary

1 Name of legislative instrument

This is the *ASIC Credit (AFCA transition) Instrument 2018/448*.

2 Commencement

This instrument commences on the day after it is registered on the Federal Register of Legislation.

Note: The register may be accessed at www.legislation.gov.au.

3 Authority

This instrument is made under subsections 163(1) of *National Consumer Credit Protection Act 2009*.

4 Definitions

In this instrument:

Act means the *National Consumer Credit Protection Act 2009*.

AFCA scheme has the same meaning as in Chapter 7 of the *Corporations Act 2001*.

Part 2—Declaration

5 Credit guides

- (1) The provisions to which Part 3-7 applies apply in relation to a licensee (the **provider**) and a credit representative (the **provider**) as if paragraphs 113(2)(h), 126(2)(e), 127(2)(e), 136(2)(h), 149(2)(e), 150(2)(e) and 160(3)(f) were modified or varied as follows:
 - (a) in the introductory words after “information”, insert “(that may be up to date or after 1 November 2018, reflect the position immediately before that date)”; and
 - (b) in subparagraph (ii), omit “scheme;”, substitute “scheme or the approved external dispute resolution scheme that was relevant before 1 November 2018;”.
- (2) The provisions to which Part 3-7 applies apply in relation to a credit representative (the **provider**) as if paragraph 158(2)(h) were modified or varied as follows:

- (a) after “information”, insert, “(that may be up to date or after 1 November 2018, reflect the position immediately before that date)”; and
 - (b) omit “scheme;”, substitute “scheme or the approved external dispute resolution scheme that was relevant before 1 November 2018;”
- (3) The declarations in subsection (1) and (2) apply in relation to a provider giving a credit guide before 1 July 2019 where:
 - (a) if the credit guide is given on or after 1 November 2018—section 6 applies to the provider; and
 - (b) a credit guide in the same terms was first given by the provider before the commencement of this instrument.

6 Requirement for relying on relief

- (1) This section applies to a provider if on and from 1 November 2018:
 - (a) where the provider has a website—the provider makes available on the website current information (the **AFCA information**) about the AFCA scheme and how that scheme may be accessed; and
 - (b) subject to subsection (2), the AFCA information is included in any document which:
 - (i) purports to describe dispute resolution arrangements applicable in relation to the credit activities engaged in by the provider (whether or not it also includes other matters); and
 - (ii) is made available by the provider to other people in relation to whom the provider has or may engage in credit activities; and
 - (c) the documentation relating to the provider’s internal dispute resolution procedure includes the AFCA information.
- (2) Paragraph (1)(b) does not apply to a document required to be given by or under the Act.