Online Small Business Lenders Code of Practice



Australian Finance Industry Association

Table of Contents

PART A – INTRODUCTION 3
1. About This Code 3
PART B – OUR 9 KEY COMMITMENTS TO YOU 4
2. We will focus on customers 4
3. We will be fair, honest & ethical 4
4. We will deliver high standards of service 4
5. We will give you clear information about our products and services 4
6. We will consider your financial circumstances when providing our products and services 4
7. Our staff and representatives will be trained and competent 4
8. We will deal fairly with complaints 4
9. We will comply with our industry and legal obligations 4
10. We will support and promote this Code 4
PART C – DELIVERING ON OUR KEY COMMITMENTS 5
11. We will focus on customers 5
12. We will be fair, honest & ethical 5
13. We will deliver high standards of service 5
14. We will give clear information about our products and services 5
15. We will consider your financial circumstances when providing our products and services 6
16. Our staff and representatives will be trained and competent 7
17. We will deal fairly with complaints 7
18. We will comply with our industry and legal obligations 7
19. We will support and promote this Code 7
PART D – FINANCIAL HARDSHIP 8
20. Financial Hardship 8
PART E – PROMPT AND FAIR RESOLUTION OF COMPLAINTS 9
21. Internal dispute resolution 9
22. External dispute resolution 10
23. Online Small Business Lenders Code Compliance Committee 10
PART F – ADMINISTRATION OF THE CODE 11
24. Administration 11
DEFINITIONS 12
GLOSSARY OF TERMS 12

Part A – Introduction

1. ABOUT THIS CODE

1.1 This Code is the AFIA Online Small Business Lenders Code of Practice (the Code). The Code commenced on 30 June 2018 and version 2 became effective on 1 December 2022. This version is effective from 12 September 2024.

This Code:

a. Promotes a customer-centric approach to the design, marketing and distribution of Online Small Business Loan products;

b. Promotes high industry standards of service for customers and builds best practices across the industry;

c. Supports compliance with legal and industry obligations; and

d. Provides a benchmark for consistency within AFIA's members who are online small business lenders about matters such as disclosure of comparable financial information to borrowers.

1.2 This Code is binding on AFIA members who have been approved as Code Compliant Members (Code Signatories) by the Online Small Business Lenders Code Compliance Committee. Code Signatories have joined the Code voluntarily because we acknowledge the importance of the adoption of high standards of service and business practices in the industry. A full list of signatories can be found here.

1.3 The words "we", "us" and "our" are to be read as applying to a Code Signatory. Other words and phrases that have special meaning are identified with capital letters and are defined in Definitions and the Glossary of Terms.

1.4 This Code applies to Online Small Business Loans provided to you if we were a Code Signatory at the time the Loan Product was entered into.

1.5 Even if we cease to be code compliant, we will continue to be bound by this Code for the duration of your Online Small Business Loan.

1.6 If we entered into a loan with you before the time we became code compliant, we will comply with our obligations to the extent it is practicable to do so under the Key Commitments in relation to anything that occurred after the time we became code compliant, and in our future dealings with you.

Part B – Our Key Commitments to You

2. WE WILL FOCUS ON CUSTOMERS

We will place a high priority on service, competitiveness and customer focus. We will provide you with a polite and responsive service. We are committed to clear and effective communication with customers.

3. WE WILL BE FAIR, HONEST & ETHICAL

We will act fairly and honestly, be ethical and treat you reasonably in all our dealings with you.

4. WE WILL DELIVER HIGH STANDARDS OF SERVICE

We will provide Loan Products that are useful, reliable and designed to be readily understood. We will treat your personal information with respect and in accordance with our Privacy Policy.

5. WE WILL GIVE YOU CLEAR INFORMATION ABOUT OUR PRODUCTS AND SERVICES

We will provide clear and accessible information about our Loan Products so you can make an informed decision about whether to enter into a Loan Product with us.

6. WE WILL CONSIDER YOUR FINANCIAL CIRCUMSTANCES WHEN PROVIDING OUR PRODUCTS AND SERVICES

We will consider your loan purpose and financial circumstances before we decide whether to lend to you. Where we have lent to you and you find yourself in financial difficulty, we will work with you in good faith and in accordance with our policies to assist you to meet your ongoing obligations to us.

7. OUR STAFF AND REPRESENTATIVES WILL BE TRAINED AND COMPETENT

We will make sure our staff, agents and representatives are well trained and reflect our commitment to you.

8. WE WILL DEAL FAIRLY WITH COMPLAINTS

We will handle complaints promptly and fairly and provide you with information on avenues for resolving disputes if we are not able to reach an agreement with you.

9. WE WILL COMPLY WITH OUR INDUSTRY AND LEGAL OBLIGATIONS

We will comply with all our obligations under the law and this Code. We will act fairly and in a way that is consistent with good industry practice.

10. WE WILL SUPPORT AND PROMOTE THIS CODE

We will promote this Code, ensure our staff agents and representatives are trained to put it into practice and will support its monitoring and effectiveness.

Part C – Delivering on Our Key Commitments

11. WE WILL FOCUS ON CUSTOMERS

11.1 We will provide high quality products and services that meet our clients' needs.

11.2 We will provide an accessible and responsive service.

11.3 We will take extra care if you have a vulnerability or are experiencing hardship, albeit that we may become aware of your circumstances only if you tell us about them or it is otherwise reasonable for us to become aware of it.

11.4 We will proactively engage with you to obtain feedback – both positive and negative.

11.5 Our communications will be plain language and avoid legal and technical jargon as far as possible.

12. WE WILL BE FAIR, HONEST & ETHICAL

12.1 We will act with transparency in our dealings with you.

12.2 If there are any legal or regulatory restrictions on finance being provided to purchase goods or services, we will not provide loans to purchase such goods or services.

13. WE WILL DELIVER HIGH STANDARDS OF SERVICE

13.1 Before you accept a loan offer we will give you a summary document clearly setting out key features of the Loan Product. It will tell you for example whether the proposed loan will be secured. This summary document may be a separate document or part of the Loan Product.

13.2 Unless a longer period is required by law, we will give you at least 30 days prior notice before we change your Loan Product. Any agreed changes can commence from the time the change is agreed with you or from a later agreed time.

13.3 If we change an interest rate we will tell you as soon as possible, and in any event no later than the date of the change, unless we are not able to because the interest rate is calculated according to a money market or some other external reference rate, or a rate otherwise designated as a variable or floating rate.

13.4 We will at your request give you a copy of the contract including terms and conditions and standard fees, a statement of your outstanding balance and any notices we previously gave to you which is relevant to us exercising our rights. We will do this within 3 business days of the request. If we cannot provide a document within this timeframe, we will advise you of this together with the expected timeframe for providing the document. Documents may be in electronic form or any form mutually agreed.

14. WE WILL GIVE CLEAR INFORMATION ABOUT OUR PRODUCTS AND SERVICES

14.1 The information we provide about our loan products will be clear, concise and accurate, written in plain language, and use applicable standard terms where appropriate (as set out in the Glossary).

14.2 We will disclose interest rates, fees and charges in an accessible and clear format.

14.3 We will answer any questions you have about the features of our loan products and how they work.

14.4 Our advertising and promotional material will be clear and not misleading or deceptive, or likely to mislead or deceive. Documentation for loan products will be distinct from our marketing material.

14.5 We will give you our terms and conditions, a statement of fees and charges, and a standard pricing comparison document. We will do this before a contract is made with us.

Note: The Standard Pricing Comparison does not apply to revolving facilities or facilities which may be redrawn or repeatedly drawn down. This is because factors such as the Total Repayment Amount, the Average Repayment Amount, the Term and the Total Cost of Credit set out in clause 14.7 cannot be determined for a facility that can be redrawn or repeatedly drawn down.

14.6 The documentation for our loan products will be drafted to comply with all applicable laws and regulation (including unfair contract terms), will set out whether you can make Early Repayments and whether there will be any applicable reduction to the Total Payment Amount.

14.7 The Standard Pricing Comparison will set out:

a. the Loan Amount;

b. the Disbursement Amount;

c. the Total Repayment Amount;

d. the Average Repayment Amount;

e. the Term;

f. the Total Cost of Credit including Interest Expense, Origination Fee and Other Fees;

g. the Annual Percentage Rate; and

h. other comparison information that we think may assist you.

14.8 We will make sure any fees and charges payable to us after disbursement of the Loan Amount (such as late payment fees or direct debit dishonour fees) are reasonable having regard to our costs. Our costs include charges imposed by our service providers where applicable.

14.9 We will regularly review the disclosure of our fees and charges to you.

15. WE WILL CONSIDER YOUR FINANCIAL CIRCUMSTANCES WHEN PROVIDING OUR PRODUCTS AND SERVICES

15.1 We will make our lending decisions, including decisions to extend or increase existing Loan Products, following an assessment of the purpose of the loan and your financial circumstances that are known to us at the time. We expect you to provide honest and accurate information when applying for a loan, or the extension or increase of an existing Loan Product.

15.2 We will only lend to you where we believe that you have the capacity to repay. In making this assessment we rely on the information you provide to us and other information we have about you.

15.3 We will periodically review our credit assessment procedures and criteria for the Loan Products we issue.

16. OUR STAFF AND REPRESENTATIVES WILL BE TRAINED AND COMPETENT

16.1 If we engage finance brokers to distribute our products, we will require them to be aware of and have regard to our obligations to you under this Code.

16.2 Where we pay a commission to any finance broker in connection with a Loan Product we will tell you that we are doing so.

16.3 We will train our staff to treat diverse and vulnerable customers with sensitivity, respect and compassion. This includes training to identify signs of vulnerability, including mental health, domestic and family financial concerns, or potential financial abuse, as well as training for staff who regularly assist customers from diverse backgrounds including First Nations people.

17. WE WILL DEAL FAIRLY WITH COMPLAINTS

17.1 In the event of a dispute or complaint about our products or services you will have access to internal and external dispute resolution processes.

17.2 You can complain in the manner provided for in our loan documentation.

17.3 We will respond to complaints and disputes in a manner that is prompt, efficient and transparent, consistent with the law, and fair to everyone involved.

17.4 See Part E of this Code for more information about internal and external dispute resolution.

18. WE WILL COMPLY WITH OUR INDUSTRY AND LEGAL OBLIGATIONS

18.1 When the law allows us to do so, we may communicate with you electronically rather than in paper form. We may do this by sending the information using a form of electronic communication or where it is reasonable to do so, by notifying you that we have made information available electronically – for example on a website – and how you can access it. You must notify us of any changes to your electronic contact information.

18.2 We will comply with the Privacy Act 1988 including the Australian Privacy Principles and the Privacy (Credit Reporting) Code 2014, including credit reporting and the collection, storage, use and disclosure of your personal information. We will not disclose that information unless we are required to by law (for example under Australian Corporations or Anti Money Laundering legislation), there is a duty to the public to disclose, you ask us to disclose the information, you have consented to us doing so, or we are otherwise not restricted from doing so under applicable laws. We will publish our Privacy Policy on our website.

18.3 We will take reasonable steps to protect your personal information from misuse or loss and from unauthorised access, modification or disclosure.

18.4 We will regularly review the security and reliability of our services.

19. WE WILL SUPPORT AND PROMOTE THIS CODE

19.1 We will promote this Code so you are aware of the protections we provide to our customers. This will include making the Code available on our website and the digital platforms that we participate in, and by engaging with key stakeholders including via AFIA.

Part D – Financial hardship

20. FINANCIAL HARDSHIP

20.1 If you are experiencing difficulty in meeting your financial obligations to us, you should contact us as soon as possible.

20.2 If you tell us that you are experiencing difficulty in meeting your financial obligations to us, we will work with you in good faith and in accordance with our policies to assist you to meet your ongoing financial obligations to us. We will treat you fairly, respectfully and consider your specific circumstances. We may also initiate contact to discuss your financial situation.

20.3 We may do this by negotiating a new and mutually acceptable repayment arrangement with you, having regard to your financial circumstances as a whole at the relevant time as well as your obligations to us. We are not obliged, however, to do so.

20.4 Without limiting clause 2, we will have procedures in place to ensure we:

a. respond promptly to any request or application made to us and in any event no later than 21 days after you make a request for financial hardship assistance; and

b. genuinely consider your request or application in good faith including by taking your financial situation into account.

20.5 We will tell you whether we can provide you with any contract variation or other assistance in relation to your financial situation. If we cannot provide you with hardship assistance, we will:

a. advise you in writing of our response to the request and the reasons for it; and

b. advise you of your right to take the matter to the Australian Financial Complaints Authority (AFCA) and AFCA's contact details.

20.6 We will suspend any recovery action against you until a decision has been made about financial hardship support and that decision has been communicated to you.

20.7 We will not proceed with any recovery action if we have agreed a financial hardship arrangement with you.

20.8 We will not on-sell a debt to a debt buyer during an active hardship arrangement.

Part E – Prompt and fair resolution of complaints

21. INTERNAL DISPUTE RESOLUTION

21.1 We will have an internal process for handling complaints from our customers in relation to the products and services we provide.

21.2 We will provide information on our website about how we deal with complaints, including your right to take unresolved complaints AFCA.

21.3 Our complaint resolution procedures will comply with the same ASIC standards and requirements that Australian Financial Services Licence holders must comply with, except where we promise to improve on those standards and requirements.

21.4 We will work to resolve your complaint as quickly as possible, including "on the spot" if we can.

21.5 We will acknowledge all complaints within 1 business day or as soon as practicable and provide an initial response within 10 days from the date of the complaint.

21.6 We will provide you with a written response within 30 calendar days of receiving the complaint that will include:

a. the outcome of our investigation of your complaint;

b. your right to take your complaint to AFCA;

c. AFCA's contact details.

21.7 If we reject or partially reject your complaint we will advise you of the reasons for our decision by:

a. identifying and addressing the issues raised in the complaint;

b. setting out our findings on material questions of fact and referring to the information that supports those findings;

c. providing enough detail for you to understand the basis of our decision and be fully informed when deciding whether to escalate the matter to AFCA.

21.8 There may be some circumstances where (unless otherwise required to do so) we will not provide a written response to you because we have either:

a. resolved the complaint to your satisfaction within 5 days; or

b. given you an appropriate explanation and/or apology and there are no further actions we can take to reasonably address the complaint.

21.9 We will only be able to deal effectively with your complaint if you continue to communicate with us and respond to our reasonable requests for information while we are considering the complaint.

21.10 We are committed to responding to complaints and disputes in a way that is:

a. prompt, efficient and transparent;

b. consistent with the law; and

c. fair in all the circumstances.

22. EXTERNAL DISPUTE RESOLUTION

22.1 If we are not able to resolve your complaint to your satisfaction, you can take your complaint to AFCA.

22.2 AFCA may not deal with your dispute unless you have attempted to resolve the problem with us first and either:

a. we have made a proposal to resolve the complaint and you have told us the proposal is not acceptable to you; or

b. at least 30 calendar days (or the timeframe set by AFCA) has elapsed since you made your complaint.

22.3 AFCA may consider whether we have complied with the standards of this Code when seeking to resolve a matter.

You can contact AFCA on telephone 1800 931 678, by email at info@afca.org.au or their website www.afca.org.au.

23. ONLINE SMALL BUSINESS LENDERS CODE COMPLIANCE COMMITTEE

23.1 You can report an alleged breach of this Code to the Online Small Business Lenders Code Compliance Committee (CCC).

23.2 The CCC is an independent committee that has been established to monitor our compliance with this Code. The CCC can investigate any activities within its Terms of Reference including any alleged breaches by us of the Code. It is authorised to take actions that are within its powers and to make recommendations to the AFIA Board.

23.3 We will co-operate and comply with all reasonable requests of the CCC in the performance of its monitoring and investigative functions.

23.4 The CCC can make a range of decisions or recommendations to resolve an alleged breach of the Code. In some circumstances the CCC can impose sanctions on us.

23.5 We will abide by decisions made by the CCC.

You can contact the CCC by email at CCC-OSBL@afia.asn.au or here under the Reporting a breach of the Code heading.

Part F – Administration of the Code

24. ADMINISTRATION

24.1 Australian Finance Industry Association Limited ACN 000 493 907 (AFIA) administers this Code.

24.2 This Code operates alongside and is subject to existing laws and regulations and does not limit your rights under those laws and regulations. Where there is any conflict or inconsistency between this Code and any law or regulation, that law or regulation prevails.

24.3 AFIA will review this Code at least every 3 years or sooner if instructed by the AFIA Board of Directors.

24.4 The AFIA Board may - after consultation with and seeking comments and suggestions from the CCC, Code Signatories and other organisations and people it considers appropriate – review and amend the Code at any time it considers it appropriate to do so.

Definitions

AFIA Online Small Business Lenders Group means the AFIA Online Small Business Lenders Group that has been established under the terms of the By-Laws.

By-Laws means the AFIA Online Small Business Lenders Group By-Laws, as approved by A'IA's Board, as amended from time to time.

Code Compliant Member means an AFIA Member that has been approved as a Code Compliant Member under the By Laws.

Code Signatory means a Code Compliant Member.

Glossary means the Glossary of Terms set out in this Code.

Industry means that section of the loan market in which the Code Signatories are participants as lenders to business customers under any Loan Products.

Loan Products means a loan contract that is an Online Small Business Loan.

National Credit Code means Schedule 1 in the National Consumer Credit Protection Act 2009 (Cth).

Online Small Business Loan means a loan which has a Term and where:

a. the finance is provided (or to be provided) for a purpose that is wholly or predominantly a business or commercial purpose and where the National Credit Code is not applicable to the finance provided (or to be provided); and

b. the finance provided (or to be provided) is:

i. unsecured (with or without a guarantee); or

ii. (secured by any form of security that is not a mortgage over land in registerable form.

For the avoidance of doubt, the following types of finance, or any arrangement of a similar nature, are not an Online Small Business Loan for the purposes of this Code:

a. equipment finance in which the lender has an interest of any kind in the financed goods or equipment;

b. a rental agreement or instalment purchase agreement;

c. an operating lease;

d. a finance lease;

e. invoice financing of any kind; and

f. a factoring arrangement or finance facility.

Glossary of Terms

Annual Percentage Rate is the rate that can be used to calculate the cost of the loan, taking account of the reducing balance of the Loan Amount, expressed as an annual rate. (For these purposes, the cost of the loan is exclusive of fees.)

Average Monthly Payment is the Total Repayment Amount divided by the Term. The Average Monthly Payment amount does not include fees and other charges you can avoid, such as interest at a default interest rate on overdue amounts, late payment fees and dishonour fees.

COD (Cents on the Dollar) is the amount of the Interest Expense and Other Fees (if any) that is payable for each dollar borrowed. The amount is exclusive of any Origination Fee.

Direct Debit Fee is fee charged by the lender to a borrower, if any, for requesting the drawdown of funds from the borrower's nominated account, where the request is made under an authority granted by a Direct Debit Request.

Disbursement Amount is the amount of the loan that is available for disbursement and may be less than the Loan Amount.

Dishonour Fee is the fee charged by the lender where you fail to pay an amount that is due and payable to the lender under the Loan Contract.

Early Repayment is the early repayment of the loan amount, as well as the payment of all amounts that you are required to pay under the Loan Contract.

Fees are all fees payable, or that may become payable, by you to the lender under the Loan Contract.

Interest Expense is the interest charge, or charge for the cost of credit, that is payable by you under the Loan Contract. The Interest Expense does not include any allowance for Fees that are separately payable under the Loan Contract.

Late Payment Fee is a fee charged by the lender where an amount due and payable under the Loan Contract has not been received by the lender within the required time for the payment of that amount.

Loan Amount is the total amount of the finance made available, or to be made available, under the Loan Contract.

Loan Contract is a loan contract that is an Online Small Business Loan Contract.

Other Fees are fees that will be charged by the lender to a borrower under the Loan Contract that is not an Origination Fee or Interest Expense and that is not contingent on the occurrence of any later event.

Origination Fee is any fee charged by the lender that is to be deducted from the Loan Amount prior to or at the time the Disbursement Amount is made available to you.

Term is the period, expressed a number of months (including any part of a month), over which the Total Repayment Amount is to be paid by you to the lender.

Total Cost of Credit is the total amount you will pay in Interest Expenses and other fees for the Loan. The amount does not include fees and other charges you can avoid, such as interest at a default interest rate on overdue amounts, late payment fees and dishonour fees.

Total Interest Percentage is the Interest Expense expressed as a percentage of the Loan Amount. The Total Interest Percentage is exclusive of fees.

Total Repayment Amount is the total amount that you will pay to the lender, comprising the Loan Amount, the Interest Expense, and Other Fees. The Total Repayment Amount is exclusive of any Origination Fee.



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