IN DRAFT AND SUBJECT TO FURTHER REVISIONS

Guidelines: Supporting Customers Experiencing Financial Difficulty

Australian Finance Industry Association

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Introduction

1.1 Integrity, transparency, and fairness are cornerstones of a sustainable finance industry and for our members, as professionals working within it. AFIA works with its members to promote competition and innovation, deliver better customer outcomes, and create a resilient, inclusive, and sustainable future for Australia.

1.2 We work with our members to develop industry standards (including Codes of Practice) to improve industry practices, transparency, fairness, and customer confidence. These codes assist members to meet high professional standards as well as their legal obligations as well as to lift industry practices and to respond to changing customer and community expectations. These objectives are aimed at ensuring industry practices reflect market and economic conditions and strengthening trust and the good standing of the finance industry in the community and economy at large.

1.3 Given the vicissitudes of life, some customers may encounter unexpected and uncontrollable changes in their financial or personal circumstances that cause them to experience financial difficulty, such as:

- loss of employment;
- reduction of work hours;
- a downturn in business;
- a breakdown of a relationship;
- death of an immediate family member; and
- illness or injury, or a natural disaster.

1.4 The sooner that arrangements can be put into place to support a customer, usually more options are available and better outcomes can be achieved. Financial firms have financial hardship teams in place to help manage customers experiencing financial difficulties.

1.5 Customers who are experiencing financial difficulty often require additional and more specialised support, including access to community and other support services, especially financial counselling. Frequently, these customers might also be experiencing other personal circumstances that compound financial difficulty, including mental health conditions, financial abuse, domestic violence, or addiction. For more information, see AFIA's Guidelines: Supporting Customers Experiencing Vulnerabilities.

1.6 By having in place policies, procedures, and systems to support customers experiencing financial difficulty, members are championing a thriving finance industry that acts in the interests of customers and the prosperity of Australians, as well as exemplifying important corporate responsibility.

1.7 This guideline is addressed to members and is intended to complement the AFIA Finance Industry Code of Practice to assist members to understand and communicate with their customers who are experiencing financial difficulty. By encouraging active awareness amongst members to recognise and provide consistent support to their customers who are experiencing financial difficulty, AFIA endorses and recommends its members adopt bespoke policies that align their internal business operations with this guidance and the AFIA Financial Industry Code of Practice.

1.8 This guideline will also be useful for customers as a reference tool when seeking assistance from members.

2. Purposes for this guideline for AFIA members

2.1 This guideline has four purposes:

(i) To explain how Commonwealth consumer protection laws[1] and the AFIA Finance Industry Code of Practice apply to our members' financial difficulty programs.

(ii) To provide practical guidance on what our members can do to meet these obligations when dealing with their customers who may be experiencing financial difficulties.

(iii) To outline a framework for industry that balances the need for consistent, standardised access to financial difficulty assistance with the need for flexibility when responding to customers' unique personal and financial circumstances.

(iv) To promote best practice across the financial services profession.

2.2 This guideline reflects good industry practice. AFIA encourages members to use the principles in this guideline to put in place internal processes, procedures, and policies to alert their customers to relevant and practical information about financial difficulty and strategies that can be undertaken to address these. A list of suggested information referrals can be seen at Appendix 2.

3. What is financial difficulty?

'Financial difficulty' arises when your customer is unable to repay what they owe you and are experiencing difficulty meeting your repayment obligations. This can be as a result of an unexpected event or unforeseen changes outside of their control (AFCA Approach to financial difficulty: legal principles, industry codes and good industry practice, July 2022).

3.1 The AFIA Finance Industry Code of Practice recommends that members advise their customers in advance (in writing) and by displaying on their public-facing webpages words to the following effect:

[1] The *National Consumer Credit Protection Act 2009* (Cth) is the law governing consumer credit in Australia and is designed to protect consumers' interests. The NCCP Act includes the National Credit Code as a schedule to that Act.

If you have difficulty meeting your financial obligations to us, you should tell us as soon as possible. We will provide you with different ways to contact us if you are experiencing financial difficulties or hardship. We may also initiate contact with you to discuss your financial situation if it becomes apparent to us that you may be experiencing financial difficulties or hardship.

3.2 The Code encourages customers (and their guarantors or representatives, where appropriate) to proactively contact their lender immediately if they are experiencing financial difficulties so that their situation can be discussed and options for mutual solutions can be canvassed, including a suitable repayment arrangement.

3.3 Code compliant members want to help their customers during times of financial difficulty, and each have undertaken to adopt policies, programs, practices, and support services to do this. Members also recognise that there are many different reasons for why and how their customers might experience financial difficulty. Each member is expected to have different options available to help their customers through a period of financial difficulty. Guarantors are also eligible for financial difficulty assistance under the AFIA Finance Industry Code.

3.4 Note, the term “financial hardship” is used in this document when referring to the relevant provisions of the National Credit Code (NCC), a schedule to the *National Consumer Credit Protection Act 2009* (Cth) (“the NCCP Act”), which requires lenders to meet certain minimum requirements in responding to a customer who notifies them of their inability to make repayments. Even if a customer is not eligible to change their credit contract under the NCC, a lender may still offer other forms of support and assistance.

3.5 AFIA encourages all its members to consider how they manage customers experiencing difficulties, noting that each customer is unique and experience financial difficulties differently.

4. Good Industry Practice

4.1 All members have internal policies, procedures, and programs for responding to financial difficulties. Financial difficulties can involve a consumer experiencing short-term difficulties or financial hardship, which may require a longer-term arrangement to help them through a temporary inability to repay the obligations on their credit contract. While small business customers do not have the same rights under law as consumers, a small business customer experiencing financial distress may also need temporary assistance with their repayments.

4.2 Our members encourage their customers who are experiencing financial difficulty or who think they are, or will be, unable to meet their existing financial obligations, to contact their lenders as soon as possible. The sooner lenders are contacted, the sooner they can work with their customers to find a solution and try to prevent the situation from deteriorating further.[2]

4.3 Importantly, in working to find a sustainable solution to customers' financial difficulties, any help will depend on a customers' specific circumstances and will be provided on a case-by-case basis. The AFIA Finance Industry Code sets out the steps that members agree to take depending on the specific circumstances of their customer's financial difficulty.

4.4 Recognising and understanding the impact of financial difficulties on the needs of customers (and what harm customers may be exposed to) enables members to recognise how this might affect their customer's experience. If members do not understand the impact of financial difficulty and fail to respond to customer needs empathetically and fairly, the consequences for the welfare of their customer could be detrimental. There is also the potential risk of adverse regulatory or reputational risk arising from not taking a customer-centric approach.

4.5 Once identified as a customer who is experiencing financial difficulty, members should ensure that their policies and procedures set out circumstances when extra care should be offered, especially when vulnerability has been raised or has been detected. Examples of some circumstances that indicate when customers may be experiencing vulnerability include where a customer:

(i) is experiencing age-related impairment or cognitive impairment;

(ii) is experiencing financial abuse, family or domestic violence, or elder abuse;

(iii) is seriously ill, or has a mental illness; or

(iv) is experiencing any other personal, or financial circumstances causing significant detriment (such as homelessness or drug addiction).

This list is not intended to be exhaustive, and members should consider each of their customer's circumstances individually. The actions below demonstrate good industry practice by implementing the AFIA Finance Industry Code of Practice.[3]

5. How members will respond to customers who are experiencing financial difficulty

5.1 To communicate in a clear and timely manner to enable our customers to make an informed decision about their options, members will:

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[2] Members should note that where they are contacted by an individual customer (i.e. not a small business) they should be careful to consider whether obligations under the hardship provisions of the NCC apply.

[3] Note: some AFIA members might follow a similar approach when assessing a request for assistance from a small business; however, the information needed will be different and may be more extensive. AFIA members may also have additional options available to assist a small business, for example a small business customer may be able to access a temporary increase in an overdraft facility limit, a deferment of scheduled repayments consolidation or restructure of facilities.

(i) encourage customers experiencing financial difficulty to contact their lender early. Customers may not yet be in arrears when they contact their lender. Refer their customers to their financial hardship team or equivalent team/assigned relationship manager in the case of agribusiness customers.[4]

(ii) make information publicly available about their processes for working with customers in financial difficulty and ensure its processes are accessible, inclusive, and provided to customers and others, including older customers, people with disability, Indigenous Australians, including in remote locations, and people with limited English, in a fair and ethical manner.

(iii) employ a range of practices that can identify common indicators of financial difficulty. If the member identifies that a customer may be experiencing difficulty paying what they owe under a loan (or are experiencing financial difficulty), then the member may contact the customer to discuss the situation and the options available to that customer. This will be done on a case-by-case basis and with sensitivity, respect and compassion.

(iv) ensure that customer respond promptly, and within the timeframes set by the NCC (if it applies), to any written or verbal communication or request from a customer or representative of the customer to discuss financial difficulties (including if the customer is unable to meet their loan repayments or other obligations under the credit contract[5]), regardless of who the customer speaks to at the lender[6] – noting that customers can give verbal and written hardship notices under the financial hardship provisions of the NCC.

(v) inform the customer in writing of its decision whether it will provide the customer with help in relation to the financial difficulty and reasons for the decision. In the case of financial hardship, specific NCC time periods and processes apply.

(vi) (if the member agrees to provide the customer with help in the form of changes to the agreement with it) will inform the customer in writing about the main details of the arrangements, including:

(a) the repayments the customer needs to make under the proposed new arrangement;

(b) what will happen at the end of the arrangement; and

(c) whether the customer accepting the proposed new arrangement will have any adverse consequences in relation to banking services or credit history.

(vii) comply with any additional NCC requirements, if applicable.

(viii) ensure policies for financial difficulty or hardship matters involving joint borrowers are clear.

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[4] The financial hardship team should be careful when communicating with the customer in respect of financial difficulty as the solution may require a long-term formal solution under the NCC rather than an informal short-term solution.
[5] NCC, s 72.
[6] Neither the AFIA Industry Code nor the NCC limit who the customer speaks to when they contact the member and as such, members and need to ensure that all staff have had sufficient training and are able to recognise financial difficulty or hardship.

(ix) (if the customer asks), assist a joint borrower without involving the other borrower initially. Members should advise the customer when it will notify the co-borrower(s) that hardship assistance has been sought.

(x) ensure policies consider circumstances of financial abuse and family and domestic violence.

5.2 To work with customers to agree hardship arrangements that are sustainable, realistic and aim to allow the customer to resolve the financial difficulty, members will (in agreeing to such an arrangement):

(i) take into account the information available, including information the customer has given their lender about the financial situation.

(ii) when considering individual circumstances, members will consider:

(a) the size of the household / number of dependents;

(b) the level of debt;

(c) the amount of time the customer requires to sustainably repay the debt; and

(d) the amount of discretionary spend.

(iii) make arrangement so that renegotiation can take place if the customer's circumstances change.

(iv) consider making reasonable allowances for discretionary expenditure. This is particularly important for longer term arrangements. Members should consider discussing appropriate levels of discretionary spending with the customer.

(v) adopt an integrated approach to assessment by considering all credit facilities the customer has with their lender when assessing their financial difficulty requests.

(vi) consider the appropriate length of the arrangement, for example, considering the customer's circumstances and financial position. Longer-term arrangements should not include accumulating default interest, fees, and charges.

(vii) where a customer's circumstances indicate that a short-term solution will not help the customer overcome their financial difficulty, but the longer-term solution may be effective, the longer-term solution should be favoured. If a member determines it would not be appropriate to offer a contract variation under the NCC (because the customer's financial situation is unlikely to recover) the customer will need to consider other options.

(viii) where a customer tells their lender that they are a low-income earner, or hold a Commonwealth Seniors Health Card, a Health Care Card or a Pensioner Concession Card, provide the customer with information about basic transaction accounts or other financial services the member can offer that have low or no standard fees and charges that may be appropriate to their needs.

(ix) explain whether the customer accepting the proposed new arrangement will have any adverse consequences in relation to financial services or their credit history. This includes how their repayment history information (RHI) will be affected while they are in a financial hardship arrangement and that RHI will return to reflecting arrears if they fail to comply with an arrangement and have not made a new arrangement with the member when an arrangement ends.

(x) ensure information collected from the customer is a clear and simple as possible, recognising the importance of making sure the process is as simple as possible and the customer may be experiencing higher levels of anxiety and financial stress at this time.

(xi) encourage customers to keep in contact with their lender, particularly if their personal circumstances or financial situation changes. Members may consider agreeing to a check-in date with the customer during the arrangement and/or contacting the customer at the end of the arrangement.

(xii) not sell the debt (except as part of a funding arrangement or sale of business or business restructure) and may cease collections activity or recovery action relating to NCC loans if they are actively considering the customer's financial situation to find a solution to financial difficulties or as required under the financial hardship variation provisions of the NCC or if the customer is complying with an arrangement.

(xiii) work with a customer to find other solutions before a debt is sold where a customer is actively engaged with the member. Members will only contract debt collectors that follow the *ASIC and ACCC Debt Collection Guideline*, other applicable regulatory codes and the member's own policies for supporting customers in hardship. Members will require a debt collector to consult with the member before bankruptcy is initiated, giving the member an opportunity to repurchase the debt if a vulnerability is identified.

Informal Arrangements

5.3 There may be minor individual instances of help that financial firms can provide to the customer informally without the need for a formal hardship arrangement, such as waiving a fee, refunding an interest charge, or providing a short payment grace period. However, where a hardship notice has been received by a lender, and the NCC applies, the processes set out in the NCC will need to be implemented and followed by the lender. Members should be careful so that their staff are trained to recognise the need for when more formal processes are required.

5.4 To ensure good governance of financial difficulty programs, members should:

(i) have internal policies, procedures and programs for responding to financial hardship consistent with the legal rights and obligations of customers. The goal of members' policies, procedures and programs should be to support customers to resolve the financial difficulty where possible. Where this is not possible, members should make customers aware of alternative options.

(ii) communicate with customers in a timely manner and ensure information given is useful and explanations are clear.

(iii) have training programs in place to equip staff to identify where a customer may be experiencing financial difficulty and refer them to staff who are authorised and trained to give the customer that advice, such as the members' financial difficulty team. Training should extend to all employees and representatives who interact with customers so staff can better understand when a customer is expressing their distress via any communication channel to the financial firm with regards to their financial and personal circumstances, not just specifically asking for hardship support from specialised staff.

(iv) in addition, specialised teams, such as customer assistance, financial difficulty and debt collections teams should receive training about how financial difficulty might occur, how to assess their customer's personal circumstances; how the member's programs can assist and referring customers to appropriate external assistance, for example, to financial counsellors. Training should also be provided to specialised teams to assist customers experiencing vulnerability. Financial firms should train staff to treat diverse and vulnerable customers with sensitivity, respect and compassion. Training should be provided at induction and refreshed regularly.

(v) work with a customer's financial counsellor or representative, such as a lawyer or administrator, and make it as simple as possible for the customer to appoint a representative.

(vi) where a financial counsellor has been appointed by a customer, a member should accept the agreed industry standardised forms.

If a customer has appointed a representative (other than a financial counsellor) and the lender:

(a) has made reasonable attempts to contact, or deal with, the representative and has been unsuccessful;

(b) or reasonably believes that the representative is not acting in the customer's best interest, or it is otherwise reasonable to do so in the circumstances;

the member may communicate directly with the customer. This will ensure that the customer is getting the right information from the member at the right time. Members may choose to communicate directly with the customer if they consider that the representative is a debt management firm without an appropriate credit licence.[7]

[7] Refer to the National Consumer Credit Protection Amendment (Debt Management Services) Regulations 2021.

(vii) where appropriate, advise customers of free alternatives to using a debt management firm, for example the member's internal dispute resolution schemes, the National Debt Helpline[8] or Way Forward Debt Solutions.[9]

(viii) ensure that all financial difficulty assistance information is prominently presented and readily accessible through multiple channels (including digital platforms and mobile banking applications) to assist with customer/staff awareness and guidance. Member websites should include promotion of the financial difficulty assistance program on their homepage. The financial assistance page should include links to information including:

(a) basic facts about financial difficulty assistance provided by the member including a tollfree telephone number for the dedicated financial hardship team;

(b) details for financial counselling services and the national debt helpline; and

(c) emergency support packages and contact numbers following natural disaster events.

(ix) have processes in place for managing complaints. Members will publish and make readily available, information about their internal dispute resolution processes and their external dispute resolution provider through branches, telephone services, their website and other digital platforms. Members will ensure their processes for handling complaints are fair and reasonable. If a customer is unable to resolve a complaint to their satisfaction, the member will provide information on how to take the complaint to the Australian Financial Complaints Authority (AFCA) and how to contact it.

(x) if a customer wants to report an alleged breach of the AFIA Finance Industry Code of Practice, they can also take the matter to the AFIA Code Compliance Committee (**CCC**). If the customer has a specific dispute with their lender which involves a breach of the AFIA Finance Industry Code of Practice, they should first contact their lender and then AFCA if their complaint is not resolved satisfactorily.

What is the financial hardship process and how to access it[10]

5.5 A customer[11] can tell their lender, verbally or in writing (including by electronic or digital communication) of their current or future inability to meet their existing financial obligations (a hardship notice as defined

[8] The National Debt Helpline offers a free, independent and confidential service for those experiencing financial troubles. Call 1800 007 007 or visit https://ndh.org.au.
[9] Way Forward is a not-for-profit organisation established to help people manage and repay their debt. Way Forward negotiate arrangements with multiple creditors on behalf of their clients. Their services are funded by voluntary donations and provided at no cost to their clients: https://wayforward.org.au/.
[10] Note this section outlines the application of the NCCP Act. The NCCP Act applies to credit provided to individuals but does not apply to credit obtained for commercial or business purposes. NCCP Act protections are noted, where relevant, through the guideline.
[11] Note that the NCC only applies to individual customers and does not include small businesses.

under the NCC). Customers do not have to use particular terminology or formally apply for hardship to have their lender take action on their financial hardship notice. If it is unclear whether a customer is providing a financial hardship notice, the member should check with the customer. Note, customers may react negatively to language like a 'hardship notice' and any such discussions should be handled carefully.

5.6 Once a customer has notified a member, the member may require the customer to provide certain information and supporting documentation. Financial firms should try to minimise the information required and only request information relevant to assessing a customer's ability to meet their financial obligations or to changing a customer's contract. For example, the information requested could allow the customer to explain how their personal and financial circumstances have changed and whether they are expected to change and improve in the future. Where possible the member will accept verbal information.

5.7 The type of information and documentation required depends on several factors, including the period of time hardship assistance is required, the type of arrangement that may be offered, or whether a third party requires additional information (e.g. a provider of lenders mortgage insurance).

5.8 Typically, the information and documentation that may be required includes:

(i) statement of Financial Position – outlining income, expenses, assets and liabilities;

(ii) evidence of employment (e.g. payslips, employment contract, tax return);

(iii) evidence of income (e.g. account statements, Centrelink statement, social security payment details);

(iv) evidence of medical circumstances (e.g. medical certificate from a qualified medical practitioner;

(v) proof of assistance via the disability support pension); and

(vi) other evidence (e.g. separation statement, contract of sale, or consent from joint borrower (where required)).

5.9 It is important that members receive copies of the relevant evidence to appropriately consider the circumstances of their customer.

5.10 Members should have a policy on supporting documentation that expressly contemplates circumstances under which documentation requirements may be limited or waived, especially for customers who are experiencing vulnerability.

5.11 In assessing the financial hardship application, financial firms will typically consider:

(i) the customer's financial position, including income, expenses and equity position (financial firms will consider any assets and their value and any liabilities and outstanding debts);

(ii) the customer's ability to meet the commitments under the hardship arrangement and future repayments under the contract; and

(iii) the customer's ability to rehabilitate their circumstances (based on whether the hardship assistance will offer genuine relief and whether the customer can restore their financial situation).

Identifying customers in financial difficulty or hardship

5.12 By proactively identifying customers experiencing financial difficulty or hardship, lenders can start discussing the customer's situation and available options earlier before the customer goes into arrears or the lender starts collections activity or recovery action. A lender can only do this, however, with the customer's co-operation. Once the member has identified the financial difficulty or hardship, they will be able to determine whether the financial hardship provisions under the NCC (as noted above) will apply.

Possible indicators or signs of when a customer may be in financial difficulty or hardship

5.13 There are common signs of financial distress that could alert a lender to ask a customer if they need support. These signs might include a customer:

(i) consistently making minimum or late payments on a credit card;

(ii) being in arrears with a loan;

(iii) not responding to repeated outbound calls, overdue notices or other lender communications;

(iv) showing evidence of injury or illness;

(v) experiencing a change in employment circumstances;

(vi) experiencing a change in personal circumstances e.g. change in relationship status through

(vii) separation, divorce or death;

(viii) having unusual patterns of usage of credit card products and making requests for significant increases in credit card limits;

(ix) carrying persistent balance or regularly exceeding credit limit;

(x) carrying balance on a credit card with a high interest rate; and

(xi) multiple or excessive use of Buy Now Pay Later (BNPL), pay day loans and/or consumer leases.

How do lenders confirm the financial hardship arrangement?

5.14 If a lender agrees to a financial hardship arrangement in the form of changes to the customer's agreement,[12] the customer must comply with the repayment terms of any new arrangement to avoid the resumption of collections activity.[13] This does not apply to minor individual instances of help members provide under the AFIA Finance Industry Code of Practice.

5.15 Lenders are required to provide their customers with a written notice where the lender has agreed to change the credit contract in prescribed timeframes unless an exemption applies.[14] Importantly, lenders should provide useful and clear information to their customers about what the customer should provide when seeking a financial hardship arrangement under the NCC.[15] The lender should confirm the main details of the new arrangement and should include details of:

(i) amount of outstanding debt;

(ii) key details of the arrangement (such as an alternative arrangement or repayment plan);

(iii) details of whether the arrangement will affect the credit contract or outstanding debt;

(iv) whether the customer will need to pay interest;

(v) the duration of the arrangement;

(vi) whether, and at what point, the arrangement will be reviewed;

(vii) the customer's obligations under the arrangement and at the end of the arrangement;

(viii) what happens if the customer cannot make the repayments required under arrangement;

(ix) how the customer will be expected to catch up on accrued arrears (where applicable); and

(x) implications for a customer's credit reporting including RHI and financial hardship information (FHI).

5.16 Members should notify customers prior to the conclusion of the financial hardship arrangement and explain the payment options after the arrangement has ended. For example, that arrears may be due, that interest-only payments cease, or repayments increase.

What happens if a lender does not agree to provide a financial hardship arrangement under the NCC?

[12] NCC section 72(4)(a).
[13] NCC section 88(1), 89A and 94.
[14] NCC section 73(1) however, see above at 'Informal Arrangements'.
[15] NCC section 72(2).

5.17 Under the NCC, a lender does not have to change their customer's credit contract. For example, where a customer does not provide a reasonable explanation for why they cannot meet their contractual debt obligations, or if the lender reasonably believes their customer couldn't meet their repayment terms even if the credit contract was changed.

5.18 Other reasons a lender may refuse to change the credit contract following from a hardship notice by the customer:

(i) hardship assistance was previously given to the customer but did not improve their financial situation;

(ii) hardship assistance would be detrimental to the customer, for example, it could put the customer in a negative equity position with their property;[16]

(iii) the customer would be unable to meet their financial obligations in the future; and

(iv) based on the information provided the customer can afford the loan and does not appear to be in hardship.

5.19 After a lender has explained why it could not provide hardship assistance,[17] and the customer is in arrears, it may refer the customer to the collections team and resume normal debt collections processes.[18]

5.20 Depending on the circumstances, a lender may exercise its discretion to help customers with an exit strategy or provide other assistance and advice, on a case-by-case basis. A lender may consider other options or approaches noted above, and including:

(i) giving customers more time to sell a property. Discussing other relevant support measures that might be available (including government programs, such as mortgage assistance schemes); and

(ii) suggesting the customer seek other assistance (including from a professional financial counsellor, financial adviser, legal aid officer or legal practitioner).

4.6 If a customer is not satisfied with the response or assistance provided by the lender, customers have the right to make a complaint to their lender and if not satisfied with the outcome, a complaint to AFCA.

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[16] It may be appropriate for a customer to enter a temporary position of negative equity. For example, if a property sale is about to occur and/or the period will be short-term and the customer can demonstrate that they will recover and have the capacity to repay.

[17] By way of providing notice under paragraphs 72(4)(b) of the NCC.

[18] Collections activity will stop when a hardship notice is being considered or a hardship arrangement is in place. There are time periods specified in section 89A of the NCC as to when lenders can start or recommence enforcement proceedings following a hardship notice.

Understanding hardship, default and collections

5.21 If a hardship arrangement is being actively considered or a hardship arrangement is in place, lender will not:

(i) undertake collections activity;

(ii) or sell the debt.

5.22 However, if after entering into a hardship arrangement the customer is unable to meet the repayments required, a lender may exercise its right to issue a default notice and recommence the collections processes in accordance with the NCCP Act and subject to any subsequent hardship notices.

5.23 If this happens, the customer will receive a default notice[19] from the lender which must include information about their rights after default, including how to seek a postponement of enforcement proceedings and a review of the lender's decision regarding a hardship notice by raising a complaint through the lender's internal dispute resolution scheme or AFCA (external dispute resolution scheme).[20]

5.24 The NCC provides that if after 30 days the default has not been remedied or a new arrangement has not been agreed, the lender can take enforcement action against the customer.[21] In this instance, if the customer's financial situation has deteriorated, the lender and the customer will have to consider alternative actions outlined in the AFIA Code.

5.25 The actions below demonstrate good industry practice in how members can implement Part D of the AFIA Finance Industry Code of Practice.[22]

[19] Unless not required under section 88(4) of the NCC.
[20] NCC section 88(3).
[21] A lender must not begin enforcement proceedings in relation to a credit contract unless the lender has given the customer (and guarantor) a default notice with 30 days to remedy the default (see section 88 of the NCC).
[22] Note: some AFIA members might follow a similar approach when assessing a request for assistance from a small business; however, the information needed will be different and may be more extensive. AFIA members may also have additional options available to assist a small business, for example a small business customer may be able to access a temporary increase in an overdraft facility limit, a deferment of scheduled repayments consolidation or restructure of facilities.

How AFIA Members may be able to help

Minor individual instances of help

Informal arrangements or minor individual instances of help, for example deferrals, refunds or fee waivers, can be provided by members at their discretion. This can assist customers who need to make a repayment at a later date, or have accidentally missed a payment.

When restoring a customer's financial position is possible

Our members' financial difficulty or hardship arrangements focus on situations from which a customer can recover their financial position if an appropriate arrangement is put in place. Arrangements can be:

- **Short term**. Moving to interest-only or reduced payments for a short period of time.
- **Longer term**. Extending the term of the customer's loan(s), to reduce repayments for the life of the credit contract. Longer-term arrangements would generally require a change to the conditions of the existing credit contract and a new repayment schedule.
- **Debt reduction**. If the customer is an individual, an member may, at its discretion, reduce or waive a customer's debt if it is an unsecured personal loan or credit card, on a case by case basis, and on compassionate grounds having regard to the customer's circumstances, the customer's inability to meet repayments now and into the future, whether the hardship is genuine and being caused by factors outside the customer's control and commercial considerations.

When providing assistance to a small business customer

Our members work with their small business customers to ensure that assistance can be provided when a request is made. Our members are acutely aware that in these circumstances, the types of assistance and information that may need to be provided are likely to be different and more extensive than for an individual customer. For instance, small business customers may require hardship assistance such as access to a temporary increase in an overdraft facility limit or a deferment of scheduled repayments consolidation or a restructure of facilities to restore cashflows and to manage assets.

When restoring a customer's financial position is unlikely

A permanent change to a customer's financial situation may mean it is unlikely that their financial position can be recovered, even if their existing credit contract was changed. The member may decide it is not appropriate to offer a hardship arrangement under the NCC. However, even in these circumstances, members may be able to offer help. Options may include agreeing on an alternative arrangement, plan or contract, changing the terms of the credit contract, giving the customer time to sell the property or asset, or giving information about bankruptcy or insolvency arrangements.

Emergency events or natural disasters

While the AFIA Finance Industry Code of Practice does not specifically deal with emergency events or natural disasters, during these events our members may want to quickly help their customers and communities. This includes floods, bushfires, cyclones, earthquakes, or pandemics.

Our members recognise that customers may not have access to their homes and/or financial records at these times. In these circumstances, members may not require customers to complete standard financial difficulty under the AFIA Finance Industry Code of Practice or hardship assessment processes, such as providing information or supporting documentation to obtain assistance. This gives customers the time and headspace to come to terms with their situation without the pressures associated with their debts and financial obligations.

Our members will work with their customer to determine a suitable arrangement when the immediate event has passed, and recovery from the event has commenced.

Our members may also choose to offer wider emergency relief packages (such as food or accommodation services in certain circumstances) to provide immediate support for customers, as well as broader assistance to help communities recover.

Our members will work with governments and authorities to make sure financial services infrastructure is restored as quickly as possible.

Version history

Version	Date	Further description
1.0	September 2024	Guidance: Supporting customers experiencing financial difficulty

Appendix 1: Further support and advice

Organisations and Regulators	
AFIA	https://afia.asn.au/
Australian Financial Complaints Authority (AFCA)	https://www.afca.org.au/ AFCA is a free, independent dispute resolution scheme to deal with complaints from customers and small businesses about financial services products.
Australian Securities and Investments Commission (ASIC)	https://asic.gov.au/ ASIC is Australia's integrated corporate, markets and financial services and consumer credit regulator.
Money Smart	https://moneysmart.gov.au/ Money smart is the Australian Securities and Investments Commission's (ASIC) website for consumes and investors.
Australian Financial Security Authority (AFSA)	https://www.afsa.gov.au/ The AFSA is an executive agency responsible for Australia's personal insolvency system. They work to support this system to help protect customers.
Australian Human Rights Commission – Aboriginal and Torres Strait Islander social Justice	https://humanrights.gov.au/ Australia's National Human Rights Institution.
Finance, Debt, and Legal issues	
National Debt helpline	https://ndh.org.au/ Tel: 1800 007 007 This provides free and independent financial counsellors around Australia.

Small Business Debt Helpline	https://sbdh.org.au/ A free, independent and confidential service that provides help for small business owners and sole traders in financial difficulty.
Victims Support ACT	Tel: 1800 822 272 provides information support and referrals for victims of crime who may be eligible for financial support.
Child support	Tel: 131 272 Provides information about, and applications for, child support.
Centrelink Social worker	Tel: 132 850 Help with applying for a crisis payment and other benefits, as well as short-term counselling and referrals.
Legal Aid	Find a legal aid commission at www.nationallegalaid.org/
Community Legal Centres (CLC)	Find a local CLC at www.naclc.org.au/
Financial Counselling	www.financialcounsellingaustralia.org.au There are a variety of financial counselling organisations throughout Australia. Please find a non-exhaustive list below: Australian Capital Territory www.carefcs.org Rural Financial Counselling Service (RFCS) New South Wales www.fcan.org.au Queensland www.fcaq.org.au South Australian and North Territory www.safca.org.au Tasmania www.fcat.org.au Victoria www.fcvic.org.au Western Australia www.financialcounsellors.org Rural & Small Business Financial Counselling Service – Southern Queensland - www.rfcssq.org.au/
Good Shepherd	https://goodshep.org.au/
Way Forward	https://wayforward.org.au/
Financial Rights Legal Centre	https://financialrights.org.au/factsheets/financial-hardship/\
Advice and Support	

1800 ELDERHelp	Tel: 1800 353 374 A national free call phone number that automatically redirects callers seeking information and advice on elder abuse with local phone line services.
Elder Abuse Action Australia (EAAA) knowledge hub Compass	https://www.compass.info/ Information and resources available for older Australians and the broader community.
The National Legal Aid Family Violence Law Help website	www.familyviolencelaw.gov.au Provides advice on domestic and family violence and the law in Australia.
Dementia Australia	https://www.dementia.org.au/ Provides information to support people with concerns about memory and thinking to understand dementia.
National Dementia Helpline	Tel: 1800 100 500 Learn about support services and education programs.

Appendix 2

Further reading

AFIA	AFIA Codes of Practice
Money Smart	Financial abuse guidelines
Australian Institute of Health and Welfare	Insights into vulnerabilities of Aboriginal and Torres Strait Islander people aged 50 and over
Australian Financial Complaints Authority (AFCA)	AFCA Approach to joint facilities and family violence The AFCA Approach to financial elder abuse
Australian Securities and Investments Commission (ASIC)	RG 274 Product design and distribution obligations ASIC (2019), Corporate Plan 2019-2023
The Australian Transaction Reports and Analysis Centre (AUSTRAC)	Assisting customers who don't have standard forms of identification
Australian Banking Association (ABA)	Financial Abuse Industry Guideline
Supporting Women's Financial Safety	Supporting Women's Financial Safety: A Guide to Prevention and Action on Financial Abuse within the Financial Service Sector
The Australian Financial and Security Authority (AFSA)	Vulnerability Framework 2022-25 Council of Financial Regulators, New Zealand, Customer Vulnerability Framework
Australian Institute of Health and Welfare	Insights into vulnerabilities of Aboriginal and Torres Strait Islander people aged 50 and over
The World Health Organisation (WHO)	Abuse of older people
The Australian Transaction Reports and Analysis Centre (AUSTRAC)	Assisting customers who don't have standard forms of identification
Centre for Women's Economic Safety (CWES)	Designed to disrupt: Reimagining banking products to improve financial safety
Gendered Violence Research Network	Understanding Economic and Financial Abuse in First Nations Communities (March 2021)

UK Financial Conduct Authority (FCA)	FG21/1: Guidance for firms on the fair treatment of vulnerable customers
Thriving Communities Partnership	Fostering Financial Stability for people in Prison - Phase 2 (Research Report November 2022)

Appendix 3

Financial Counselling Agency
Authorisation Form

Purpose of the Authority form

By signing this authority, you authorise the financial counselling agency to act on your behalf with the named third party, such as a creditor, debt collector, external dispute resolution scheme or a telecommunications company.
When acting on your behalf, the financial counselling agency may (among other things):

- seek and exchange personal information about you and your account/s;
- negotiate; and
- enter into arrangements.

Authorisation

Third party:	
Reference no.:	

I/We:

Full Name (#1):	
Date of birth:	
Address:	

Full Name (#2):	
Date of birth:	
Address:	

Your Business details (if applicable)

Business name:	
ABN	
Address:	

Authorise:

Name of financial counselling agency: (Authorised Representative)			
Financial counsellor's name:		Registration number:	
Address:			
Phone:		Mobile:	
Email:			

Signature

Name (#1)::		Date:	
Name (#2)::		Date:	

This form was developed by Financial Counselling Australia in consultation with industry, peak bodies and EDR schemes | March 2021

GUIDE | Financial Counselling Agency Authorisation

Purpose of the authority

The purpose of this form is to have an agreed acceptable authority a financial counsellor can send to a third party. A third party could be a creditor, debt collector, external dispute resolution scheme or a telecommunications company. The authority covers all accounts that a person has with that third party.

It is important that your client is aware of how the authority will work.

The ACCC/ASIC Debt Collection Guideline at Section 9 provides information regarding the expectation of creditors and debt collectors that they will accept this authority.

Using the authority

A client may give a financial counselling agency the authority to act on their behalf with a third party. This means that the third party will deal with the agency.

The financial counselling agency and its representatives must do the following:

1. Include the financial counsellor's national registration number on all correspondence with the third party including the authorisation form (this enables the third party to verify your identity);
2. Notify the third party in writing if the financial counselling agency stops assisting the client (notification is not necessary if the matter has settled); and
3. Notify the third party if the financial counsellor acting on behalf of the client changes.

Separate authorities

A separate authority is required for each third party. You only need one authority for each entity (for example, if a bank has divisions the authority covers the bank and those divisions). A separate form is also required to make a complaint to an external dispute resolution scheme. This is to ensure that:

- Each third party gets a clearly addressed authority; and
- There is no confusion about how many third parties there may be; and
- To avoid explaining the possible privacy implications of sharing this information.

Explaining the authority

You must explain to your client why they are signing the authority form. This information will cover the following:

- The authority is required to access the personal information of the client that is held by the third party. The Privacy Act requires that the third party has the client's consent to access any of the client's personal information.
- The authority also means you can act on behalf of the client to deal with the third party. This means that the third party will deal with the financial counsellor as if it were dealing with the client.
- That you have professional and ethical obligations as a financial counsellor and these include that you will at all times keep the client informed of developments.
- That you will seek instructions from the client when major decisions are required. By then acting on those instructions you are then able to make arrangements or settlements with the third party that are binding (on behalf of your client).
- Explaining that it is important that the information provided to the third party must be true and correct.
- Explain that the third party may still send routine correspondence to the client or correspondence as required by law (for example, account statements). Correspondence relating to the dispute or inquiry must be sent to the financial counselling agency.
- The client can revoke the authority at any time and you will inform the third party accordingly.
- When you close the client's case, you will also revoke the authority with the third party.

Account numbers

Providing at least one account number or a reference number on the form will assist the third party in identifying the client's accounts. If an account number is not available leave this section blank but explain why in any cover letter or email.

Additionally, the account number, product type and account holders should be included in any cover letter or email.

Client details

You should provide as much information as you can to help the third party identify your client. This information may include your client's full name, date of birth and address, plus the address where the service was provided where relevant.

There may be circumstances where a client cannot provide their address. This could be because, for example, the client is homeless or is escaping family violence. If this situation applies then you should leave this section blank and explain why or provide further information in the cover letter that the third party can use to identify the client.

Revoking the authority

An authority can be revoked at any time and for any reason. Common situations when an authority is revoked are:

- The financial counselling agency ceases to act on behalf of the client,
- The client has not responded within a reasonable period of time, or
- The client puts in place another authority.

You need to revoke the authority in writing when you cease to act for the client. If the matter is settled then there is no need to revoke the authority if it is clear between the parties that the matter has concluded.

Can the third party creditor contact your client directly?

A third party can contact your client directly if:

- Your client requests that the third party contact them;
- You do not respond to communications from the third party within a reasonable time (7 days) and the third party has warned you that they will contact your client if you do not respond in a reasonable time (7 days); and
- The third party asked for written authority and you do not provide that written authority in a reasonable time.

Note: If the third party contacts the client directly it does not revoke this authority.

Australian Finance Industry Association

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