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Responsible Lending Code

Competition and Consumer Policy Team

Ministry of Business, Innovation and Employment

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**Submission on Responsible Lending Code Discussion Document**

Thank for the opportunity to contribute to the development of a Responsible Lending Code (the Code), which is intended to help lenders comply with new lender responsibility principles set out in the Credit Contracts and Consumer Finance Amendment Act 2014 (the Act).

**Preliminary comments**

The Banking Ombudsman Scheme (BOS) was established in July 1992 as an independent dispute resolution scheme. It is an approved dispute resolution scheme under the Financial Service Providers (Registration and Dispute Resolution) Act 2008. BOS is governed by an independent board of consumer representatives and industry representatives, with an independent chair.

BOS helps customers sort out their unresolved problems with participants. BOS participants are registered banks, their subsidiaries and related companies, and certain non-bank deposit takers that meet BOS participation criteria (minimum independent credit rating of BB, supervised by the Reserve Bank, and able to demonstrate effective complaints handling procedures). BOS is independent of the banking service providers, customers, and the government. Its service is free of charge to customers, and funded by a levy on participants.

When conducting investigations and making determinations, BOS must take into account the law, relevant judicial authority, good banking practice, and any relevant codes of practice. All BOS participants must observe the responsible lending provisions in the Code of Banking Practice. While (as noted at paragraph 16 of the discussion document) the Responsible Lending Code is not legally binding in itself, the Code will be a relevant standard against which BOS will assess participant conduct when considering complaints. The Code will provide us with a key benchmark against which participants’ conduct will be measured.

While our terms of reference allow us to investigate complaints about the administration of a lending decision, they do not permit us to investigate a banking service provider’s commercial decision about lending or refusing to lend. BOS also does not have jurisdiction to consider complaints regarding the reasonableness of standard fees and charges (although we may consider whether fees are applied in accordance with the lender’s policies and the agreement).

This submission is based on BOS’s experience in considering credit-related enquiries and complaints about financial service providers. In general, we support the introduction of a Responsible Lending Code to promote responsible lending and provide improved protection for vulnerable consumers. To that end, we support a Code that is principles-based and flexible, and which provides targeted and scalable guidance that is not unduly burdensome for responsible lenders. Some of the issues that the Code is designed to address do not arise in the context of credit agreements provided by BOS participants.

We have provided comment below on the questions set out in the discussion document that relate to topics on which we have relevant insights or experience.

**Introduction**

1. *Do you agree with the proposed criteria for assessing what guidance should be set out in the Code as set out in paragraph 18? Should retaining sufficient flexibility to allow lenders to adapt the guidance to different products and business models be another criterion? Are there any other key criteria to be considered?*

We agree with the criteria set out in paragraph 18 of the discussion document, and support the addition of another criterion regarding retaining flexibility.

1. *Are there any particular features of the New Zealand market which would differentiate our approach from international approaches?*

International approaches are helpful for ideas about what could be included in the New Zealand Code; however New Zealand’s unique industry and legal landscape must be considered when developing the Code. We support an approach that aligns with, and builds on, the current regulation of the industry, including the Code of Banking Practice.

1. *We consider that the structure of the Code should reflect the lifecycle of a consumer credit contract, do you agree?*

Yes, we agree that the structure of the Code should reflect the lifecycle of a consumer credit contract. This approach is easy to follow and will assist users to quickly identify relevant provisions.

1. *Are there lenders/borrowers/agreements or classes of lenders/borrowers/agreements that should be treated differently under the Code? If so, why, in what way and how should any such lenders/borrowers/agreements be defined?*

We do not believe that there is any reason to treat certain lenders or borrowers differently. However, certain types of lending entail more risk than others. Therefore there may well be good reasons to single out certain types of lending or agreements, particularly those identified as taking advantage of consumers or that frequently give rise to complaints about irresponsible lending.

1. *Should the concept of “scalable” guidance apply to the Code? If so, which principles or responsibilities should be scalable?*

We support an approach whereby some guidance is “scalable”, in that what constitutes compliance with the principles may differ depending on the circumstances and the type of agreement. Many of the lender responsibility principles included in the Act contain concepts that are best given effect through “scalable” guidance rather than attempting to set out prescriptive guidance capturing the multitude of lenders, borrowers and agreements covered by the Code. In particular:

* + what constitutes “reasonable” inquiries about the suitability of the agreement;
  + what is required to assist consumers to make an informed decision; and
  + what amounts to treating borrowers “reasonably and in an ethical manner”.

1. *How prescriptive should the guidance in the Code be?*

BOS supports retaining sufficient flexibility in the Code, rather than taking a prescriptive approach. The Code should provide a clear benchmark for the industry, and assist lenders to act reasonably and to exercise the care, diligence, and skill of a responsible lender. The Code may also provide guidance for dispute resolution schemes in assessing complaints about lending practice, enabling consistent decision-making. However, a prescriptive approach risks not effectively capturing all the circumstances that may arise and therefore not adequately protecting the interests of consumers or making it unduly restrictive. A principles-based approach will also provide the flexibility necessary for dispute resolution schemes to make appropriate decisions on individual cases and circumstances.

1. *Should the level of prescription differ for different classes of lenders/borrowers /agreements? If so, which classes and why?*

As set out in response to Question 4, we do not believe that there is any reason to treat any financial service providers differently. However, a greater level of prescription may be appropriate for classes of agreements that are identified as high risk or particularly problematic.

**Before entering into a consumer credit agreement**

*Assisting informed decisions*

1. *Apart from complying with disclosure obligations, how do/should responsible lenders assist borrowers to understand the terms of the credit agreement? How should any guidance cover different modes of providing credit? (eg: online applications). Should certain information be required to be given orally for face- to-face or telephone interactions with customers?*

Customers will have preferences regarding the mode they use to access credit services. Lenders should endeavour to accommodate these customer preferences but must ensure adequate disclosure to customers whichever mode they choose. Face-to-face or telephone interactions with the lender provide an opportunity for borrowers to ask for further information or explanation about any aspect of the credit agreement that they find confusing or do not understand. Online applications do not preclude opportunities to communicate, and there are ways to ensure that any customer questions are answered through an online process. However, whichever mode the credit service is provided through, the application process should generally not just involve the customer ticking (or clicking) a box to indicate that they have read the terms and conditions of the agreement.

In our experience, it is very rare for a customer to read the terms and conditions of an agreement in full, and the terms and conditions are generally long and contain technical language that many customers find difficult to comprehend. Including some guidance in the Code about the need to assist customers to understand the terms of the credit agreement would therefore be justified. However this guidance need not be prescriptive; it may be sufficient to note that the medium through which the credit transaction takes place should be considered by the lender when deciding on the level and explanation required to be given to the borrower,[[1]](#footnote-2) and that assisting informed decisions will generally require more than a ‘tick box’ approach. The Code could then provide examples regarding best practice, such as including simple explanations of the key obligations and risks involved or, for online applications, requiring the customer to click through a series of questions to indicate they agree to the key obligations and risks. Ease of access to a means of communication with the lender, so that the customer may ask any questions about the agreement, will also be important.

1. *What are/should be responsible lenders’ practices where English is not a borrower’s first language?*

The Amendment Act provides that the Code may set out the processes, practices, or procedures that a lender should follow to assist borrowers and guarantors to reach an informed decision, including where English is not the borrower or guarantor’s first language (new 9F(1)(b)). Our approach to situations where borrowers have not made an informed decision due to language difficulties has been that banks need to take steps to ensure the customer is fully informed. The steps required will depend on the nature of the credit product. Relying on a friend or family member to translate may be acceptable in some circumstances but further steps may be necessary if the potential negative impact on the consumer is likely to be relatively serious or the friend or family member is involved in the transaction. Possible steps could include providing information in the consumer’s language, utilising a staff member fluent in that language, or advising the customer to consult an independent interpreter.

Although not in a lending context, the potential for unessessary confusion caused by a customer’s limited understanding of English is evidenced by this case: [Case 28137](https://bankomb.org.nz/news-and-publications/case-notes/item/case-28137#.U-qjWvmSy94) (where bank customers were distressed about their loss of face within the community because they had been charged a dishonour fee, which they had interpreted as a ‘dishonesty’ fee).

1. *What opportunities do/should responsible lenders provide to borrowers to ask questions about the agreement? Would providing access to frequently asked questions be sufficient?*

Consumers often do not know at the outset what they need to know about the agreement, and may even be reluctant to think about the risks involved or the possibility of things going wrong. From our experience, what is needed is better and clearer disclosure at the outset, particularly simple, concise explanations in plain English that include information about the risks and downsides of the agreement. This information should be given before the customer is asked to sign the agreement. As noted above in response to Question 15, a face-to-face or other verbal conversation provides the consumer with an opportunity to ask questions to clarify their understanding of the agreement. Access to frequently asked questions may be helpful, as well as access to a contact person for online applications.

1. *How do/should responsible lenders assist borrowers to understand the implications of the credit agreement? For example, if technical or legal concepts are referred to, should the agreement explain the implications of those concepts?*

The agreement should contain a simple explanation of any technical or legal concepts in plain English. To assist borrowers to understand the implications of the credit agreement, lenders should provide simple explanations that include the downsides/risks of the agreement, prior to when the agreement will be signed (to provide an opportunity for reflection).One way of assisting borrowers to appreciate the risks of entering into the agreement is to provide a concise, relevant and clear summary of the key risks. For example, some agreements include a list of the key information and risks early in the agreement in a clear and prominent way, such as in bold and headed “important information”.

1. *What are/should be responsible lenders’ processes in relation to independent budgeting or legal advice for borrowers and guarantors? In which circumstances should the lender require or recommend independent legal advice?*

Lenders should advise consumers to seek independent legal advice in certain circumstances, including where a consumer is offering a guarantee or other security. Independent legal advice may also be called for where the lending transaction is unusual or complex, or the consumer will take on risk but derive no personal benefit from the transaction. See, for example, [Case 9484](https://bankomb.org.nz/news-and-publications/case-notes/item/case-9484#.U-qnGPmSy94)(where the bank failed to advise the customer to seek independent legal advice when she signed a loan agreement as a co-borrower, and it had therefore breached its obligation under the Code of Banking Practice, (now) 5.2).

We note, however, that independent legal advice does not necessarily mean that a consumer fully understands the agreement. While it is common practice for banks to require a solicitor’s certificate certifying that disclosure has been made to the consumer, we still get a number of complaints from these consumers claiming that they have not been adequately informed and that they were not aware of key terms and conditions of the agreement.

1. *What do/should responsible lenders do to assist guarantors to make informed decisions?*

Responsible lenders should ensure that persons considering being a guarantor are aware of their obligations, and are informed that they should seek independent legal advice before giving a guarantee. This complaint to our office illustrates poor practice in terms of explaining the ramifications of signing a guarantee: [Case 33727](https://www.bankomb.org.nz/news-and-publications/case-notes/item/case-33727#.U-qjIfmSy94).

Concerns have also been raised with our office by guarantors about not being informed about the risks because the lender has dealt directly with the borrower’s lawyer, and did not provide any information directly to the prospective guarantor. Including a requirement in the Code that lenders must provide key information on the risks of providing a guarantee directly to the prospective guarantor may therefore be appropriate.

1. *What information do/should responsible lenders give a borrower to assist them to make an informed decision on credit related insurance?*

We receive a number of complaints about credit related insurance, particularly that the customer thought that the insurance was compulsory. In relation to credit card insurance, we also receive complaints that the customer did not understand that the amount of the insurance premium can depend on the balance of the credit card. In our view, borrowers should be advised upfront about the key terms and principal risks of the credit related insurance, rather than the common practice of being sent out information after agreeing to take out the insurance policy and having a ‘free look’ period in which they can then cancel the policy.

1. How do/should responsible lenders ensure that borrowers have sufficient time to make informed decisions?

The sufficiency of the amount of time a borrower needs in order to make informed decisions will depend on the circumstances of the borrowing. A provision similar to CONC 8.3.5 may therefore be appropriate (ie: that the information “should be provided leaving sufficient time for the customer (taking into account the complexity of the information and the customer’s financial position) to consider it before having to make a decision on the appropriate course of action”). However, in our experience, complaints from consumers about not being fully informed generally do not arise due to a lack of time when making the decision but rather that they were not fully aware (or misunderstood) the terms of the agreement.

*Making reasonable inquiries*

1. *What information do/should responsible lenders require from a borrower when they apply for credit? How much reliance should a lender place on a credit check?*

When considering whether a bank has acted responsibly, we determine whether the bank has made appropriate enquiries and whether the customer:

* can afford the repayments,
* actively seeks a loan (as opposed to being approached by the bank),
* is not under any sort of disability, and
* either meets the bank’s usual lending criteria, or is not far from them.
* See, for example, [Case 34261](https://bankomb.org.nz/news-and-publications/case-notes/item/case-34261#.U-qnavmSy94)

BOS participants routinely collect certain information about a borrower applying for credit (eg: income and expenditure) and do credit checks. We consider that lending is irresponsible if information available at the time of lending indicates the customer may not be able to make the required repayments. Generally, BOS participants comply with reasonable practice. However, it may be helpful to include in the Code a list of what reasonable inquiries about a consumer’s financial situation could include (such as in ASIC at RG 209.32).

1. *What do/should responsible lenders explain to the borrower in relation to the purpose of the checks and assessments of affordability?*

Complaints to our office sometimes involve situations where a borrower has failed to provide relevant all relevant information to the lender (for example, regarding outstanding debts), and the borrower has subsequently experienced difficulty making repayments. Explaining to the borrower what information the lender will obtain and why, and the consequences of providing incomplete information, may assist customers to understand that the checks and assessments are for their benefit (to check can make repayments), potentially resulting in customers being more forthright about their financial situation.

1. *How do/should responsible lenders assess whether the information a consumer has provided is correct? In what circumstances do/should responsible lenders be able to rely on information provided by a borrower?*

Our approach to complaints about banks relying on incorrect information has been that the bank is entitled to assume application details are accurate if it had no information to suggest otherwise (see, for example, [Case 34680](https://www.bankomb.org.nz/news-and-publications/case-notes/item/case-34680#.U-qi_PmSy94), where the borrower failed to disclose his rental expenses). This approach aligns with new section 9B(4) of the Act, which allows lenders to rely on information provided by the borrower or guarantor unless the lender has reasonable grounds to believe the information is not reliable. It is also consistent with the courts’ approach to allegations that a lender should have gone behind what a borrowertold them (see Fortes v Bank of New Zealand [2014] NZCA 346; GE Custodians v Bartle [2010] NZSC 146).

Circumstances in which the lender should verify the information provided by the customer may include where information provided by the borrower is inconsistent with other information held by the lender about the borrower, such as in this case: [Case 26171](https://bankomb.org.nz/news-and-publications/case-notes/item/case-26171#.U-qiqvmSy94). (In this case, the bank did not verify information provided by the customer in support of his loan application. In particular, the bank did not check the value of the assets listed in the application and sought very little information in support of the customer’s projected commission-based income. If it had checked this information, the bank would not have allowed the loan, which contributed to the customer’s bankruptcy. We upheld the complaint that the bank had been irresponsible. However, we also found the customer was partly at fault because he had given the information to the bank and signed the loan application.)

BOS supports the ASIC approach, which suggests that a lender may need to make additional inquiries where:

* the information that a borrower provides is inconsistent with other information held by the lender about the borrower, or
* the information that the borrower provides is outside the standard range for the type of borrower.

Although we are not concerned about the types or extent of information that BOS participants use to verify a consumer’s financial situation, it may be helpful to list in the Code examples of the types of information lenders could use to verify a consumer’s financial situation (in a similar manner to the list in ASIC at Table 4).

1. *How does/should a responsible lender’s checks differ for existing customers and new customers?*

A lender may be able to rely on information already held about an existing customer but will need to conduct more extensive checks for new customers. However, responsible lenders should still undertake some checks for existing customers, such as checking that the information held about the borrower is up-to- date (particularly that nothing has recently changed regarding income or expenses). Further, a bank must consider all relevant information available to it across departments when making a decision about lending. For example:

* it may not be enough for a bank to only consider credit card department information when other departments also hold information relevant to a loan application;
* the fact a customer has previously met payments on a current credit facility may not in itself establish the customer can repay a higher level of debt so the bank may check other information it holds on that customer.

1. *How should responsible lenders consider whether credit does/does not meet the requirements and objectives of the borrower?*

The level of inquiries required will depend on the circumstances. BOS supports an approach whereby factors relevant to the scalability of the reasonable inquiries and verification obligations are listed in the Code (similar to that in ASIC at Table 3). For example, more inquires will be required where:

* the potential negative impact on the consumer is likely to be relatively serious (e.g. the consumer may lose his or her house)
* the contract has complex terms
* the consumer has limited capacity to understand the contract or is inexperienced
* the consumer has conflicting objectives or is confused about his/her objectives
* the consumer is a new customer.

It may also be helpful to include a list of what “reasonable inquiries” about a consumer’s requirements and objectives could include (as in ASIC at RG 209.33).

38. *Should the Code specify a threshold for substantial hardship? If so, what is an appropriate threshold?*

It may be difficult to specify a threshold for substantial hardship that will cover all credit agreements and lending situations. Whether a consumer is likely to be able to meet his or her obligations without suffering substantial hardship will depend on an assessment of a number of factors. However it may be helpful to include some explanation of substantial hardship in the Code, for example that “without suffering substantial hardship” means that the borrower can, without undue difficulty, make repayments on time while meeting other reasonable commitments and without having to borrow, and do so out of income and savings without having to realise security or assets (similar to the definition in CONC).

39. *To what extent do/should responsible lenders take into account likely future market conditions (eg: interest rate rises) when assessing affordability for the borrower (particularly for long term credit agreements such as mortgages)?*

Responsible lenders should assess affordability based on the maximum amount to be payable under the credit contract, factoring in possible future market conditions.

42. *What policies do/should responsible lenders have in place to assess whether the security taken is excessive relative to the size and length of the credit provided?*

We agree that lenders should take steps to ensure that any security that is taken is not excessive relative to the size and length of the loan. The Code should include some examples of what would be considered an excessive security.

**During the life of a consumer credit agreement**

*Dealing during the term of the agreement*

44. *What practices and processes do/should responsible lenders have in place to assist borrower decision-making in relation to variations to a contract (eg: credit card limit increases) or refinancing? What types of variations do/should such practices apply to?*

Lenders should only grant a credit facility to a customer or increase a customer’s credit limit when the information available to the lender leads it to believe that the customer will be able to meet the terms of the facility or increased facility (see Code of Banking Practice, 5.1(c)). Increases in credit limits ought to be assessed in the same manner as the initial granting of credit. The lender must reasonably believe, from the information available to it, that the customer will be able to repay the increased debt. If the lender grants credit, or an increase in credit, then a failure to consider relevant information may be evidence of irresponsible lending (see, for example, [Case 8490](https://bankomb.org.nz/news-and-publications/case-notes/item/case-8490#.U-qiPvmSy94). In this case, there was a lack of communication between different divisions of the bank, and the bank should have made further enquiries before providing the further increase).

BOS supports the CONC approach of requiring that:

* before significantly increasing the amount of credit to be provided or increasing a credit limit, the lender must undertake an assessment of the borrower’s creditworthiness;
* the rules for assessing creditworthiness and affordability before a credit agreement is entered into apply with necessary modifications to increases in the amount of credit and credit limits;
* in relation to refinancing, the lender must not encourage a borrower to refinance if the result would be that the borrower’s commitments are not sustainable; and
* in relation to high-cost short-term credit, the lender must inform the borrower that “rolling over or extending your loan may not be the best option and may make things worse”.

1. *What practices and processes do/should responsible lenders have in place in relation to whether a credit agreement would likely meet the borrower’s requirements and objectives and can be repaid without substantial hardship following a variation or refinancing? What types of variations do/should such practices apply to?*

The processes required of the lender when considering a variation or refinancing will depend on the circumstances. While a small increase to a loan may not require further checks, a number of small increases should put the lender on notice that some further checks may be needed. The level of inquiries required may be greater where the consumer is refinancing, particularly where the consumer is having difficulties meeting the repayments on their existing credit contract.

**Default, enforcement and the end of a consumer credit agreement**

*Repayment difficulties and other problems*

1. *What policies or procedures do/should responsible lenders have in place for dealing reasonably with borrowers who have or may breach the agreement or when other problems arise? (eg: in relation to assistance to be provided to the borrower).*

In our experience, most banks have a policy for dealing with customers in financial difficulty, which is often set out on their website. Further, some banks have a specialist team to deal with financial hardship requests. Also, branch staff and call centre staff seem to be good at referring a customer to the financial hardship team when they note that a customer may be in difficulty.

In terms of assistance to customers, many banks are willing to approve a loan repayment holiday when a customer first approaches them for help, or when the loan first goes into arrears. When customers come back for a second loan repayment holiday, the bank will generally take a more detailed look at the customer’s overall financial situation.

In dealing with complaints that a bank has not dealt appropriately with a customer’s request for assistance when experiencing financial hardship, BOS general approach is to consider the bank’s actions in light of the provisions at clause 5.1(f)-(j) of the Code of Banking Practice and the bank’s own policies, as well as certain specific factors (such as ensuring that the bank had all the necessary information to assess the application and considered a customer’s entire financial position). In terms of how the customer is treated, we consider this in light of clause 1.2 of the Code of Banking Practice (particularly that the bank acted fairly and reasonably, and in a consistent and ethical way).

BOS would support provisions similar to:

* CONC 7.3.17 (A firm must not take steps to repossess a customer's home other than as a last resort, having explored all other possible options). In our experience banks do not proceed to mortgagee sale until all other options have been explored. However, such a provision would assist in stressing the importance of such an approach.
* CONC 7.3.11 (A firm must suspend the active pursuit of recovery of a debt from a customer for a reasonable period where the customer informs the firm that the customer, a debt counsellor, or another person acting on the customer’s behalf is developing a repayment plan). We have had cases where one division of a bank is considering a hardship application while another (e.g. the credit card division) is pursuing the customer for repayment. This is confusing for the customer, and some see it as harassment.
* CONC 7.5.3 (A firm must not ignore or disregard a customer’s claim that a debt has been settled or is disputed and must not continue to make demands for payment without providing clear justification and/or evidence as to why the customer's claim is not valid), and 7.14 (regarding practices where debt is disputed). BOS’s view is that the lender should not ignore a claim by the borrower that the debt is disputed (see, for example, <https://bankomb.org.nz/news-and-publications/case-notes/item/case-9741#.U9YcyI2SzLI>).

1. *What do/should responsible lenders do to assist borrowers to be informed of their rights? (eg: in relation to unforeseen hardship relief and access to dispute resolution schemes.)*

BOS considers that responsible lenders should inform borrowers of their rights with respect to hardship relief and dispute resolution schemes in disclosure documents.

The Code of Banking Practice requires that, if the customer is dissatisfied with the bank’s decision on a complaint, the bank must inform the customer that he or she may refer the complaint to its approved dispute resolution Scheme for further consideration, and provide contact details for that Scheme (clause 1.3(b)(iii)).

In terms of a customer accessing a lender’s hardship procedure, BOS considers that the lender should, as soon as it becomes aware the customer is experiencing hardship, advise the customer of the existence of the procedure as well as how to apply to have their situation considered and what the information the customer should supply. The lender’s staff should have sufficient training to recognise situations where such referral should be made.

1. *How do/should responsible lenders communicate with borrowers in relation to breaches or potential breaches of the agreement to ensure that they treat borrowers reasonably and in an ethical manner? (eg: in relation to staff training and policies and enforcement of those policies).*

In terms of communication with customers, BOS’s experience is that banks generally have well-established procedures for making contact, and such contact is generally reasonable and appropriate. However, communication failures do occur. BOS would support the inclusion in the Code of provisions similar to those in CONC 7.9.1 to 7.9.11 in order to set standards for appropriate contact/communication.

1. *What are the elements of a good internal complaints process?*

Standards New Zealand’s “ISO 10002:2014 Quality management -- Customer satisfaction -- Guidelines for complaints handling in organizations” provides valuable guidance on the process of handling complaints. The Code should build on this guidance by highlighting the essential elements of effective complaint handling in relation lending services.

In conclusion, BOS is supportive of the introduction of a Responsible Lending Code that promotes responsible lending and protects vulnerable consumers. As explained above, we support a flexible and scalable approach that targets irresponsible lending practices. The Code should also promote responsible lending by encouraging lenders to provide early, relevant, clear and concise disclosure of key information about the credit agreement. Please feel free to contact Senior Investigator Sarah Parker at [Sarah.Parker@bankomb.org.nz](mailto:Sarah.Parker@bankomb.org.nz) if you would like more information or clarification regarding our responses to the above questions.

Yours sincerely



**Deborah Battell**

Banking Ombudsman

1. The CONC guidance on this subject seems appropriate (i.e. in deciding on the level and explanation required to be given to the borrower, the lender should consider factors including the type of credit, the amount of credit and associated cost and risk to the borrower, the customer’s level of understanding of the explanation provided and the medium through which the credit transaction takes place): CONC 4.2.7. [↑](#footnote-ref-2)