

FINANCIAL HARDSHIP: unregulated credit and guarantors

This fact sheet explains how we can assist with financial hardship applications that:

- relate to unregulated credit contracts, and
- are made by guarantors for regulated or unregulated credit contracts.

What is unregulated credit?

The National Credit Act regulates credit used for personal, household or domestic purposes, or for residential property purposes.

Unregulated credit refers to any type of credit that is not regulated by the National Credit Act. It includes credit used for personal investment purposes other than residential investment, and commercial purposes.

What is a guarantor?

A guarantor is a third party that has agreed to offer additional security support so that a borrower can obtain a loan. This security support may be in the form of a personal guarantee (untied to any particular asset) or give security over a particular asset.

If the loan borrower fails to meet their repayment obligations, the credit provider may rely on the guarantee and require the guarantor to pay the debt.

Can any kind of consumer ask their credit provider for financial hardship assistance?

At law, only consumers who are borrowers of regulated loans are entitled to financial hardship assistance.

This means that consumers with unregulated loans, and any type of guarantors (for regulated or unregulated credit), cannot legally require credit providers to consider a request for financial hardship assistance.

Can CIO help guarantors and consumers with unregulated credit?

Yes, when assisting with a complaint, we are not limited to considering obligations at law. We will also have regard to industry codes, good industry practice and the principle of fairness.

We consider that it is good industry practice, and a matter of fairness, that financial hardship considerations are extended to guarantors of regulated credit, and guarantors and borrowers of unregulated credit.

Our Rules also impose obligations on our members to reasonably consider a request for a financial hardship arrangement, regardless of the type of credit or consumer.

This means that we expect our members to consider any request for financial hardship assistance in good faith.

What can CIO do?

You can make a complaint to CIO if your financial services provider is a member of CIO. We may be able to help negotiate a suitable financial hardship arrangement for you and our members have a responsibility to work with us to resolve your complaint.

The different ways that we can help include:

- negotiating a payment arrangement
- giving you time to sell your property or refinance the loan, or
- suggesting another reasonable proposal to help you to repay the loan eventually.

In working out how we may help, we will consider the situations of both you and your financial services providers.

To read more about financial hardship, see Position Statement Issue 2: Financial Hardship and our Financial Hardship Guide.

cio.org.au/hardship