

## Responsible Lending

From ASIC's regulatory guide, reviews, actions and *The Cash Store* case, ASIC has made its responsible lending compliance expectations very clear. In addition, *The Cash Store* case upholds the NCCP Act responsible lending obligations independently of ASIC's approach.

The key compliance requirements are:

- both brokers and credit providers must undertake independent credit assessments
- the customer's objectives should be collected beyond the immediate purpose
- the relative priorities of a customer's objectives should be collected
- the customer's requirements about product type, features and credit limit should be collected
- the customer's financial situation should be collected in detail, including actual living expenses
- benchmarking may be used to validate a customer's expenses but cannot replace the collection of actual living expenses
- the selling and financing of insurance products must not be unconscionable or misleading
- record-keeping must cover all aspects of responsible lending compliance
- scalability applies to how compliance with the obligations are managed, not the obligations themselves

Both brokers and credit providers must manage their responsible obligations independently and ensure comprehensive policies and procedures are in place to demonstrate compliance.

Failure to meet the NCCP obligations and the standards ASIC has set can result in very significant penalties, as *The Cash Store* case indicates.

Our training module on Responsible Lending provides more information – <http://creditwise.talentlms.com/catalog>

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*This Compliance Guide provides a high level explanation of how the current law may impact on finance sector businesses. However, the application of the law may vary according to circumstances and readers should seek legal advice for their specific situation.*