



**ASIC**  
Australian Securities &  
Investments Commission

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## **ASIC Corporations and Credit (Reference Checking and Information Sharing Protocol) Instrument 2024/647**

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I, Nathan Bourne, delegate of the Australian Securities and Investments Commission, make the following legislative instrument.

Date 7 August 2024

Nathan Bourne

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## Part 1—Preliminary

### 1 Name of legislative instrument

This is the *ASIC Corporations and Credit (Reference Checking and Information Sharing Protocol) Instrument 2024/647*.

### 2 Commencement

This instrument commences on the day after it is registered on the Federal Register of Legislation.

Note: The register may be accessed at [www.legislation.gov.au](http://www.legislation.gov.au).

### 3 Authority

This instrument is made under:

- (a) subsection 912A(3A) of the *Corporations Act 2001*; and
- (b) subsection 47(3A) of the *National Consumer Credit Protection Act 2009*.

### 4 Definitions and interpretation

- (1) In this instrument:

***acts as an intermediary*** has the same meaning as in section 9 of the Credit Act.

***authorised representative*** has the same meaning as in section 9 of the Corporations Act.

***clarification or update request*** means a request by a requesting licensee to a referee licensee to clarify specific information or provide an update on any unresolved matters mentioned in a reference provided by the referee licensee.

***Corporations Act*** means the *Corporations Act 2001*.

***Credit Act*** means the *National Consumer Credit Protection Act 2009*.

***credit assistance*** has the same meaning as in section 8 of the Credit Act.

***credit licensee*** has the same meaning as ***licensee*** in subsection 5(1) of the Credit Act.

Note: A credit licensee includes a mortgage intermediary (as defined in this section).

***credit representative*** has the same meaning as in subsection 5(1) of the Credit Act.

**current credit licensee**, in relation to an individual, means a credit licensee in respect of which the individual is a representative.

**current financial services licensee**, in relation to an individual, means a financial services licensee in respect of which the individual is a representative.

**current licensee** means a current credit licensee or a current financial services licensee.

**current mortgage intermediary**: a mortgage intermediary is a **current mortgage intermediary** in relation to an individual if:

- (a) the mortgage intermediary is acting as an intermediary in relation to a credit licensee; and
- (b) the individual is, or is a representative of, the credit licensee and, in that capacity:
  - (i) provides credit assistance in relation to credit contracts secured by mortgages over residential property; and
  - (ii) is a mortgage broker or a director, employee or agent of a mortgage broker.

**financial services licensee** has the same meaning as in section 9 of the Corporations Act.

**former credit licensee**, in relation to an individual, means a credit licensee in respect of which the individual:

- (a) was a representative at any time in the previous 5 years; and
- (b) is no longer a representative.

**former financial services licensee**, in relation to an individual, means a financial services licensee in respect of which the individual:

- (a) was a representative at any time in the previous 5 years; and
- (b) is no longer a representative.

**former licensee** means a former credit licensee or a former financial services licensee.

**former mortgage intermediary**: a mortgage intermediary is a **former mortgage intermediary** in relation to an individual if:

- (a) at any time in the previous 5 years:
  - (i) the mortgage intermediary acted an intermediary in relation to a credit licensee; and

- (ii) the individual is, or is or was a representative of, the credit licensee and, in that capacity, the individual:
  - (A) provided credit assistance in relation to credit contracts secured by mortgages over residential property; and
  - (B) was a mortgage broker or a director, employee or agent of a mortgage broker; and
- (b) the mortgage intermediary is not a current mortgage intermediary in relation to the individual.

**future mortgage intermediary:** a mortgage intermediary is a **future mortgage intermediary** in relation to an individual (**relevant mortgage broker**) if:

- (a) there are reasonable grounds to suspect that:
  - (i) the mortgage intermediary is acting, or will act, as an intermediary in relation to a credit licensee; and
  - (ii) the individual is, or is a current or prospective representative of, the credit licensee and, in that capacity, the individual:
    - (A) provides, or will provide, credit assistance in relation to credit contracts secured by mortgages over residential property; and
    - (B) is, or will be, a mortgage broker or a director, employee or agent of a mortgage broker; and
- (b) the mortgage intermediary is not a current mortgage intermediary in relation to the individual.

**mortgage broker** has the same meaning as in section 15B of the Credit Act.

**mortgage intermediary** means a credit licensee that is a **mortgage intermediary** within the meaning of subsection 15C(1) of the Credit Act.

**personal information** has the same meaning as in section 6 of the Privacy Act.

**Privacy Act** means the *Privacy Act 1988*.

**prospective representative:** see the definitions of **recruiting credit licensee** and **recruiting financial services licensee**.

**recruiting credit licensee** means a credit licensee that is considering employing or authorising an individual (**prospective representative**) who is:

- (a) a credit licensee or a financial services licensee; or
- (b) a former or current representative of a credit licensee or a financial services licensee;

as a representative of the licensee, where there are reasonable grounds to suspect that, if the individual becomes a representative of the licensee, the individual will:

- (c) provide credit assistance in relation to credit contracts secured by mortgages over residential property; and
- (d) be a mortgage broker or a director, employee or agent of a mortgage broker.

**recruiting financial services licensee** means a financial services licensee that is considering employing or authorising an individual (*prospective representative*) who is:

- (a) a financial services licensee or a credit licensee; or
- (b) a former or current representative of a financial services licensee or a credit licensee;

as a representative of the licensee, where there are reasonable grounds to suspect that, if the individual becomes a representative of the licensee, the individual will provide personal advice to retail clients about relevant financial products.

**recruiting licensee** means a recruiting credit licensee or a recruiting financial services licensee.

**referee licensee**, in relation to an individual, means:

- (a) a credit licensee or a financial services licensee from whom subsection 5(1) requires a recruiting licensee to take reasonable steps to obtain a reference in relation to the individual; and
- (b) a former licensee, former mortgage intermediary or current mortgage intermediary from whom a recruiting licensee requests a reference under subsection 5(4) in relation to the individual; and
- (c) a former licensee, current licensee, former mortgage intermediary or current mortgage intermediary from whom a future mortgage intermediary requests a reference under subsection 5(5) in relation to the individual.

**relevant financial products** has the same meaning as in section 9 of the Corporations Act.

**relevant mortgage broker**: see the definition of *future mortgage intermediary*.

***representative:***

- (a) in relation to a financial services licensee has the same meaning as in section 9 of the Corporations Act; and
- (b) in relation to a credit licensee has the same meaning as in subsection 5(1) of the Credit Act.

***requesting licensee:*** see subsection 6(1).

- (2) In this instrument, a reference to a reference, consent (given or withdrawn), notice, request, clarification or update, explanation or record is a reference to that thing in writing.

**4A Transitional**

- (1) A recruiting licensee that is considering employing or authorising an individual as a prospective representative of the recruiting licensee does not have to comply with section 5 in relation to the individual.
- (2) If a recruiting licensee relies on the exemption in subsection (1) in relation to an individual:
  - (a) this instrument (other than this section) does not apply in relation to the employment or authorisation of the individual; and
  - (b) the *ASIC Corporations and Credit (Reference Checking and Information Sharing Protocol) Instrument 2021/429* (as in force immediately before its repeal) applies in relation to the employment or authorisation of the individual.
- (3) This section is repealed at the end of 28 February 2025.

## Part 2—Protocol

### 5 Recruiting licensee and future mortgage intermediary—when a reference must or may be obtained

#### *When a recruiting licensee must obtain a reference*

- (1) A recruiting licensee that is considering employing or authorising an individual as a prospective representative of the recruiting licensee must take reasonable steps to obtain a reference about the individual from:
  - (a) where the individual:
    - (i) is a representative of a current financial services licensee and has been a representative of that licensee for 12 months or more—that licensee; and
    - (ii) is a representative of a current financial services licensee and has been a representative of that licensee for less than 12 months—that licensee and the most recent former financial services licensee (if any) of which the individual was a representative; and
    - (iii) is not a representative of a current financial services licensee, but was a representative of the most recent former financial services licensee for 12 months or more—that licensee; and
    - (iv) is not a representative of a current financial services licensee, but was a representative of the most recent former financial services licensee for less than 12 months—that licensee and the next most recent former financial services licensee (if any) of which the individual was a representative; and
    - (v) is a financial services licensee—that licensee; and
  - (b) where the individual:
    - (i) is a representative of a current credit licensee and has been a representative of that licensee for 12 months or more—that licensee; and
    - (ii) is a representative of a current credit licensee and has been a representative of that licensee for less than 12 months—that licensee and the most recent former credit licensee (if any) of which the individual was a representative; and
    - (iii) is not a representative of a current credit licensee, but was a representative of the most recent former credit licensee for 12 months or more—that licensee; and



- (iv) is not a representative of a current credit licensee but was a representative of the most recent former credit licensee for less than 12 months—that licensee and the next most recent former credit licensee (if any) of which the individual was a representative; and
- (v) is a credit licensee—that licensee.

Note: Where an individual is a representative of two or more current licensees, this subsection applies in relation to each current licensee.

### *Reasonable steps*

- (2) For the purposes of subsection (1), taking reasonable steps to obtain a reference from a referee licensee about an individual as a prospective representative includes:
  - (a) seeking the consent of the individual in accordance with section 6 of this Protocol; and
  - (b) if the consent is obtained—requesting a reference from the referee licensee in accordance with section 7 of this Protocol.

### *Sub-authorisations*

- (3) For the purposes of this section:
  - (a) a recruiting licensee that gives consent or is considering giving consent in relation to a specified individual:
    - (i) for the purposes of subsection 916B(3) of the Corporations Act to provide personal advice to retail clients in relation to a relevant financial product; or
    - (ii) for the purposes of section 65 of the Credit Act to provide credit assistance in relation to credit contracts secured by mortgages over residential property where that individual will be a mortgage broker or a director, employee or agent of a mortgage broker;

is taken to be considering authorising the specified individual as a prospective representative of the recruiting licensee; and
  - (b) a recruiting licensee that gives, has given, or is considering giving, consent in relation to a specified class of individuals (the membership of which might change from time to time):
    - (i) for the purposes of subsection 916B(3) of the Corporations Act to provide the personal advice specified in subparagraph (a)(i); or

- (ii) for the purposes of section 65 of the Credit Act to provide the credit assistance specified in subparagraph (a)(ii);

is taken to be considering authorising each individual that, on or after the day of commencement of this instrument, will fall within the specified class for the first time.

*Recruiting licensee—additional references*

- (4) Subject to section 6, a recruiting licensee may also request a reference in accordance with this Protocol about a prospective representative from any of the following:
  - (a) a former licensee in addition to those from whom subsection 5(1) requires the recruiting licensee to take reasonable steps to obtain a reference;
  - (b) a former mortgage intermediary;
  - (c) a current mortgage intermediary.

*Future mortgage intermediary—references*

- (5) Subject to section 6, a future mortgage intermediary may request a reference in accordance with this Protocol about a relevant mortgage broker from any of the following:
  - (a) a former licensee;
  - (b) a current licensee;
  - (c) a former mortgage intermediary;
  - (d) a current mortgage intermediary.

## **6 Requesting licensee—obligation to seek consent of individual**

- (1) If a recruiting licensee (*requesting licensee*) or future mortgage intermediary (*requesting licensee*) is required to take reasonable steps, or wishes, to obtain a reference about a prospective representative or relevant mortgage broker in accordance with this Protocol, the requesting licensee must:
  - (a) first seek the consent of the prospective representative or relevant mortgage broker; and
  - (b) seek the consent using:
    - (i) in the case of a recruiting licensee—the template consent form in Schedule 1; and

- (ii) in the case of a future mortgage intermediary—the template consent form in Schedule 2.

*Effect of not having consent of individual*

- (2) A requesting licensee that:
  - (a) has not obtained the consent of a prospective representative or relevant mortgage broker; or
  - (b) has obtained a consent that has subsequently ceased, or been withdrawn by the prospective representative or relevant mortgage broker;

must not, pursuant to this Protocol, request a reference from, or make a clarification or update request to, a referee licensee about the prospective representative or relevant mortgage broker.

Note: Unless withdrawn earlier, a consent will cease at the end of the period of 12 months commencing the day after it is given: see paragraph 7 of the template consent form in Schedule 1 and paragraph 7 of the template consent form in Schedule 2.

*Giving notice of withdrawn or ceased consent*

- (3) If, after a requesting licensee has requested a reference from, or made a clarification or update request to, a referee licensee:
  - (a) the prospective representative or relevant mortgage broker withdraws their consent or the consent ceases; and
  - (b) the referee licensee has not given a reference or a clarification or update (as the case may be);

the requesting licensee must give a notice to the referee licensee stating that the prospective representative or relevant mortgage broker has withdrawn their consent or the consent has ceased (as the case may be).

## **7 Requesting licensee—requesting a reference**

*Where this section applies*

- (1) This section applies if:
  - (a) a requesting licensee has, under section 6, obtained the consent of a prospective representative or a relevant mortgage broker to request a reference from a referee licensee; and
  - (b) the consent has not ceased or been withdrawn by the prospective representative or relevant mortgage broker.

*Providing a copy of the consent*

- (2) The requesting licensee must give a copy of the consent to the referee licensee at the time of requesting the reference.

*Use of template reference request*

- (3) The requesting licensee must request the reference using:
  - (a) if any of subparagraphs 5(1)(a)(i) to (iv) or 5(1)(b)(i) to (iv) or subsection 5(4) applies—the template reference request in Schedule 3; and
  - (b) if either of subparagraphs 5(1)(a)(v) or 5(1)(b)(v) applies—the template reference request in Schedule 4; and
  - (c) if subsection 5(5) applies—the template reference request in Schedule 5.
- (4) A requesting licensee may make minor amendments to the format of the relevant template reference request when requesting a reference, provided that the request includes all the information that is required by the template reference request.

*Clarification or update requests*

- (5) A requesting licensee who receives a reference about a prospective representative or relevant mortgage broker may make a clarification or update request within a period of 6 months commencing after the day on which the reference is received.

*No limitation*

- (6) Subject to section 6, nothing in this Protocol limits or prevents a requesting licensee from requesting additional information about a prospective representative or relevant mortgage broker from a referee licensee, provided:
  - (a) the additional information requested does not reduce the scope of any of the questions in the applicable template reference request; and
  - (b) the additional information is not sought by way of a clarification or update request.

## **8 Referee licensee—obligation to give reference**

- (1) A referee licensee that receives:
  - (a) a request for a reference under subsection 7(3); or
  - (b) a clarification or update request under subsection 7(5);must give the reference, clarification or update to the requesting licensee.

*Requirements for a reference, clarification or update*

- (2) The reference, clarification or update: must:
  - (a) include all information of which the referee licensee is aware and reasonably considers to be relevant to answer the questions in the request; and
  - (b) be complete, accurate and based on documented facts; and
  - (c) if a question cannot be answered—include an explanation as to why the question cannot be answered.

Note: For the avoidance of doubt, a referee licensee that has received information from ASIC under section 916G of the Corporations Act or section 73 of the Credit Act in relation to the prospective representative or the relevant mortgage broker is not required to share this information with another licensee in the performance of their reference checking and information sharing obligations under this Protocol.

*When reference, clarification or update must be given*

- (3) The referee licensee must give the reference, clarification or update to the requesting licensee:
  - (a) within 10 business days beginning on the day after receiving the request; or
  - (b) within such longer period as agreed between the requesting licensee and the referee licensee, provided the period is no longer than 30 business days beginning on the day after receiving the request.

*Limitation*

- (4) The referee licensee is not required to give information in relation to conduct of the prospective representative or relevant mortgage broker that occurred more than 5 years before the reference, clarification or update is given to the requesting licensee.
- (5) The referee licensee must not give a reference, clarification or update to a requesting licensee if the requesting licensee has notified the referee licensee that the prospective representative or relevant mortgage broker has withdrawn their consent or that the consent has ceased.

## **9 Agents**

- (1) The obligations imposed on a financial services licensee or credit licensee by this Protocol also apply in respect of any agent authorised by the licensee to collect, use, disclose and store personal information on its behalf in respect of a prospective representative or relevant mortgage broker for the purposes of reference checking and information sharing in accordance with this Protocol.

- (2) The licensee is responsible for the acts or omissions of its agents in relation to this Protocol.

## 10 Use of information

Information collected by a financial services licensee or a credit licensee about an individual in accordance with this Protocol:

- (a) must only be collected, used, disclosed or stored for the purpose of reference checking and information sharing in accordance with this Protocol; and
- (b) must not be collected, used, disclosed or stored for a purpose other than that for which it was collected unless the individual has consented to that use or disclosure or another exception under the Privacy Act applies.

## 11 No arrangement or agreements

A financial services licensee and a credit licensee must not enter into any arrangements or agreements with any person that limits its ability to share and disclose information in accordance with this Protocol.

## 12 Contact for reference checking and information sharing

A financial services licensee and a credit licensee must have in place adequate arrangements to ensure that a requesting licensee can readily identify how to contact them for the purposes of reference checking and information sharing in accordance with this Protocol.

## 13 Record-keeping

- (1) A financial services licensee and a credit licensee must keep records which demonstrate compliance with the requirements of this Protocol, including but not limited to records of the following matters:
  - (a) consents given, requested, refused, withdrawn or ceased;
  - (b) references given, received or requested;
  - (c) clarification or update requests, and clarifications or updates;
  - (d) any agreement with any agent in relation to reference checking and information sharing in accordance with this Protocol;
  - (e) any policies and processes for handling personal information of individuals obtained in accordance with this Protocol;
  - (f) complaints received in relation to the Protocol.
- (2) The records must be complete and accurate.

- (3) The records required to be kept by this section must be retained for 5 years after the day on which the last entry was made in the record.

## Schedule 1—Template Consent Form (Recruiting Licensee)

### Consent by prospective representative for recruiting licensee to collect, use, disclose and store information for reference checking purposes

[name of prospective representative] (*Prospective Representative/You*)

1. We, [Insert recruiting licensee name and licence number], our related entities and any agent(s) acting on our behalf (*Us/We*), request your consent to collect, use, disclose and store your personal information for the purposes of Us considering your suitability for employment or authorisation by Us.
2. We are seeking your consent to obtain a reference about You for the purposes of Us:
  - (a) complying with the ASIC Reference Checking and Information Sharing Protocol under the *ASIC Corporations and Credit (Reference Checking and Information Sharing Protocol) Instrument 2024/647* (the **Protocol**); and
  - (b) should You be employed or authorised by Us—complying with the general conduct obligations of a licensee under section 912A of the *Corporations Act 2001* or subsection 47(1) of the *National Consumer Credit Protection Act 2009*, which include taking steps to ensure that a licensee’s representatives comply with financial services laws or credit legislation and ensuring that representatives are adequately trained, and are competent, to provide financial services or engage in credit activities.
3. The personal information (**Information**) that may be collected, used, disclosed and stored by Us is likely to include, but is not limited to, information in relation to:
  - (a) (*where representative of a licensee*) the scope and length of your employment or authorisation by a financial services licensee or credit licensee;
  - (b) (*where You are the licensee*) the services or activities authorised by your financial services or credit licence and the length of time you have held the licence;
  - (c) (*where mortgage broker in relation to mortgage aggregator*) the scope and length of any arrangement under which a mortgage intermediary (i.e. a mortgage aggregator) acted as an intermediary in relation to You;
  - (d) your conduct in relation to financial services or credit activities authorised by your licence; or while you were employed or



- 
- authorised by the licensee; or while the mortgage intermediary acted as an intermediary in relation to You;
- (e) the circumstances surrounding your departure from the licensee or the cessation of the arrangement with the mortgage intermediary;
  - (f) your compliance audit record, including the results or outcomes of compliance audits;
  - (g) compensation that was given to a client either as a financial payment offered to a client or any other non-financial remedy given to a client, as a result of your activities;
  - (h) ASIC reportable breaches or reportable situations caused or contributed to by You;
  - (i) details of written warnings or reprimands relating to You, given by ASIC or the Financial Services and Credit Panel to a financial services licensee under subsection 921S(2) or 921T(2) of the *Corporations Act 2001*, or instruments given by the Financial Services and Credit Panel to a financial services licensee under subsection 921M(1) of the *Corporations Act 2001*;
  - (j) details of any unresolved inquiry or investigation concerning your conduct in progress at the time that the reference is given; and
  - (k) any clarification or updates relating to the matters reported in the reference for a period of up to 6 months commencing after the day on which the reference is given.
4. We will collect this Information from referee licensees, being:
- (a) *(where representative of a licensee)* one or more of the current and former licensees for whom You are or were a representative in the preceding 5 years;
  - (b) *(where You are a licensee)* You; and
  - (c) *(where mortgage broker in relation to mortgage aggregator)* one or more of the current or former mortgage intermediaries who acted as an intermediary in relation to You in the preceding 5 years.
5. The information we collect will only relate to the five-year period before the information is shared.
6. Information collected by Us will be collected, used, disclosed and stored by Us for the purposes described above, unless use or disclosure is required or authorised by law, including the *Privacy Act 1988 (Cth)*, or You consent to the collection, use, disclosure or storage for a different purpose.

7. Information collected by Us will be collected, used and disclosed for a period of 12 months commencing after the day You give consent, for the purposes described above, unless You have notified Us in writing that You withdraw this Consent. Unless it is withdrawn earlier, this Consent will cease at the end of that 12-month period.
8. Information collected by Us will be stored for 5 years in accordance with the Protocol.

### **Declaration of Prospective Representative**

I declare that I have read and understood the content of this consent form and consent to the collection, use and disclosure of this Information for a period of up to 12 months by [insert name of recruiting licensee], or until you are notified in writing that I have withdrawn it, whichever occur earlier.

I acknowledge that the defence of qualified privilege applies when a referee licensee shares Information in accordance with the Protocol. Licensees have a defence of qualified privilege against a defamation action or a breach of confidence action resulting from information shared in the course of complying with their obligations under the Protocol.

Note: This defence does not apply to any information a referee licensee shares with Us that they are not obliged to give under the Protocol (e.g. information about conduct that occurred more than 5 years before the reference was given or information that is additional to that required under the Protocol, including any further background checking we may undertake on You).

I understand that the Information collected will be stored for 5 years in accordance with the Protocol.

Full name (print):

\_\_\_\_\_

Date of birth:

\_\_\_\_\_

ASIC reference number:

\_\_\_\_\_

Signature:

\_\_\_\_\_

Date:

\_\_\_\_\_

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## Schedule 2—Template Consent Form (Future Mortgage Intermediary)

### Consent by relevant mortgage broker for future mortgage intermediary to collect, use, disclose and store information for reference checking purposes

[name of individual] (*You*)

1. We, [Insert future mortgage intermediary name and licence number], our related entities and any agent(s) acting on our behalf (*Us/We*), request your consent to collect, use, disclose and store your personal information for the purposes of Us considering your suitability for Us to act as a mortgage intermediary (i.e. a mortgage aggregator) in relation to You.
2. We are seeking your consent to obtain a reference about You for the purposes of Us complying with the ASIC Reference Checking and Information Sharing Protocol under the *ASIC Corporations and Credit (Reference Checking and Information Sharing Protocol) Instrument 2024/547* (the **Protocol**).
3. The personal information (**Information**) that may be collected, used, disclosed and stored by Us is likely to include, but is not limited to, information in relation to:
  - (a) (*where representative of a licensee*) the scope and length of your employment or authorisation by a financial services licensee or credit licensee;
  - (b) (*where mortgage broker in relation to mortgage aggregator*) the period for which a mortgage intermediary acted as an intermediary in relation to You;
  - (c) your conduct in relation to financial services or credit activities while you were employed or authorised by the licensee or while the mortgage intermediary acted as an intermediary in relation to You;
  - (d) the circumstances surrounding your departure from the licensee or the cessation of the arrangement with the mortgage intermediary;
  - (e) your compliance audit record, including the results or outcomes of compliance audits;
  - (f) compensation that was given to a client either as a financial payment offered to a client or any other non-financial remedy given to a client, as a result of your activities;
  - (g) ASIC reportable breaches or reportable situations caused or contributed to by You;

- 
- (h) details of written warnings or reprimands relating to You, given by ASIC or the Financial Services and Credit Panel to a financial services licensee under subsection 921S(2) or 921T(2) of the *Corporations Act 2001*, or instruments given by the Financial Services and Credit Panel to a financial services licensee under subsection 921M(1) of the *Corporations Act 2001*;
    - (i) details of any unresolved inquiry or investigation concerning your conduct in progress at the time that the reference is given; and
    - (j) any clarification or updates relating to the matters reported in the reference for a period of up to 6 months commencing after the day on which the reference is given.
  4. We will collect this Information from referee licensees, being:
    - (a) (*where representative of a licensee*) one or more of the current or former licensees for whom You are, or were, a representative in the preceding 5 years; and
    - (b) (*where mortgage broker in relation to mortgage aggregator*) one or more of the current or former mortgage intermediaries who acted as an intermediary in relation to You in the preceding 5 years.
  5. The information we collect will only relate to the five-year period before the information is shared.
  6. Information collected by Us will be collected, used, disclosed and stored by Us for the purposes described above, unless use or disclosure is required or authorised by law, including the *Privacy Act 1988* (Cth), or You consent to the collection, use, disclosure or storage for a different purpose.
  7. Information collected by Us will be collected, used and disclosed for a period of 12 months commencing after the day You give consent, for the purposes described above, unless You have notified Us in writing that You withdraw this Consent. Unless it is withdrawn earlier, this Consent will cease at the end of that 12-month period.
  8. Information collected by Us will be stored for 5 years in accordance with the Protocol.

### Your Declaration

I declare that I have read and understood the content of this consent form and consent to the collection, use and disclosure of this Information for a period of up to 12 months by **[insert name of future mortgage intermediary]**, or until you are notified in writing that I have withdrawn it, whichever occur earlier.

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I acknowledge that the defence of qualified privilege applies when a referee licensee shares Information in accordance with the Protocol. Licensees have a defence of qualified privilege against a defamation action or a breach of confidence action resulting from information shared in the course of complying with their obligations under the Protocol.

Note: This defence does not apply to any information a referee licensee shares with Us that they are not obliged to give under the Protocol (e.g. information about conduct that occurred more than 5 years before the reference was given or information that is additional to that required under the Protocol, including any further background checking we may undertake on You).

I understand that the Information collected will be stored for 5 years in accordance with the Protocol.

Full name (print):

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Date of birth:

---

ASIC reference number:

---

Signature:

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Date:

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## Schedule 3—Template Reference Request (Recruiting Licensee from Referee Licensee)

### Reference Request

[name of prospective representative being recruited] (the *individual*)

[Insert recruiting licensee name and licence number] requests a reference for the individual under the *ASIC Corporations and Credit (Reference Checking and Information Sharing Protocol) Instrument 2024/647* (the **Protocol**) for the purposes of:

- considering the individual’s employment or authorisation as a financial adviser or mortgage broker; and
- complying with the general conduct obligations of a licensee under section 912A of the *Corporations Act 2001* and section 47 of the *National Consumer Credit Protection Act 2009* (where the individual becomes employed or authorised by [Insert recruiting licensee name]).

### Questions

#### 1. Background information

- (a) Provide the name of the organisation, licence number, the person(s) who completed the reference and the date of completion of the reference.
- (b) Confirm:
  - (i) (*where representative of a licensee*) the individual’s role(s) and period of employment or authorisation by you as licensee; or
  - (ii) (*where mortgage broker in relation to mortgage aggregator*) the period for which you acted as a mortgage intermediary (i.e. a mortgage aggregator) in relation to the individual.
- (c) Provide a brief description of the individual’s main responsibilities.
- (d) Advise the ASIC reference number (if applicable) in relation to the individual.

#### 2. Compliance audits

Note: Question 2 only applies if the individual is currently, or was previously, a financial adviser or mortgage broker.

Complete the table in this question by providing information about compliance audits undertaken in the 5-year period preceding the date the reference is given. In completing the table, indicate whether the compliance audit results/outcome were about non-compliance with financial services laws or credit legislation, or non-compliance with licensee processes. Also include a description of any remedial action (see definitions below).

Date of compliance audit	Brief description of results/outcomes	Brief description of remedial action

### 3. Conduct of the individual

Note: Question 3 is to be answered in relation to the 5-year period preceding the date the reference is given.

- (a) Have you reported a breach or reportable situation to ASIC (whether under former section 912D or section 912DAA of the *Corporations Act 2001* or section 50B of the *National Consumer Credit Protection Act 2009*) in respect of the individual? [Yes/No]
- (b) If you answered Yes to Question 3(a), provide details on the relevant date, type and nature of the breach or reportable situation. Also include details of any remedial action.
- (c) Has the individual’s conduct or performance (including acts or omissions) in relation to any of the following:
  - (i) (where current or former representative of a licensee) the provision of financial services or engaging in credit activities while employed or authorised by you;
  - (ii) (where former representative of a licensee) the circumstances surrounding the individual ceasing to be employed or authorised by you;
  - (iii) (where current or former mortgage broker in relation to mortgage aggregator) engaging in credit activities while you were acting as a mortgage intermediary in relation to the individual; or
  - (iv) (where former mortgage broker in relation to mortgage aggregator) the cessation of your mortgage intermediary arrangement with the individual;

concerned the individual’s involvement in any of the following:

- (v) dishonesty [Yes/No]

- (vi) unprofessional conduct [Yes/No]
- (vii) conduct justifying instant dismissal or immediate termination of representative status [Yes/No]
- (viii) refusal or deliberate non-compliance in relation to the financial services laws or the credit legislation [Yes/No]
- (ix) gross incompetence or gross negligence [Yes/No]
- (x) a breach of the Financial Planners and Advisers Code of Ethics 2019 [Yes/No]

Note: The conduct need not involve a contravention of the law.

- (d) If you answered Yes to any of the matters in Question 3(c), provide a brief summary of the details, including relevant information in relation to internal assessments, external notifications or complaints against the individual in connection with the provision of financial services or engaging in credit activities, and any remedial action.
- (e) Has ASIC or the Financial Services and Credit Panel given you any of the following in relation to the individual:
  - (i) a copy of a written warning or reprimand under subsection 921S(2) or 921T(2) of the *Corporations Act 2001*? [Yes/No]
  - (ii) a copy of an instrument under subsection 921M(1) of the *Corporations Act 2001*? [Yes/No]
- (f) If you answered yes to Question (3)(e)(i) or (ii), provide a copy of the warning, reprimand or instrument and a copy of the statement of reasons for the decision given to you by ASIC or the Financial Services and Credit Panel.

#### 4. Unresolved matters

- (a) Is there an inquiry or investigation in progress by your organisation in relation to the individual in connection with the provision of financial services or engaging in credit activities, in relation to the 5-year period preceding the date the reference is given? [Yes/No]
- (b) If you answered Yes to Question 4(a), provide:
  - (i) a brief description of the nature of the circumstances that triggered the inquiry or investigation (for example a breach, reportable situation, complaint, compliance audit, external notification, internal assessment/review or other circumstance); and
  - (ii) details of the progress and status of the inquiry or investigation.



- (c) If you answered Yes to Question 4(a), was the individual made aware of the inquiry/investigation? [Yes/No]

### **Interpretation**

In this request, a word or an expression that is defined in section 4 of the Protocol has the same meaning in this request.

#### Additional definitions

In this request:

**client remedial action** includes:

- (a) corrective disclosure being given to a client; and
- (b) compensation being given to a client either as a financial payment or other non-financial remedy.

**complaint** means a “complaint” as defined in Australian / New Zealand Standard AS/NZS 10002:2014 *Guidelines for complaint management in organizations* published jointly by, or on behalf of, Standards Australia and Standards New Zealand, as in force or existing on 29 October 2014.

**compliance audit**, in relation to an individual, means an audit or review by or on behalf of a financial services licensee or credit licensee of the individual’s compliance with financial services laws, credit legislation and licensee policies and procedures.

**individual remedial action** includes:

- (a) additional training of an individual;
- (b) increased monitoring and supervision of an individual;
- (c) consequence management for an individual (including performance management, financial consequence or formal warnings); and
- (d) suspension of the authorisation of an individual.

**remedial action** includes client remedial action or individual remedial action.

**unprofessional conduct** of an individual includes the following kinds of conduct of the individual:

- (a) conduct which amounts to impropriety affecting professional character and which is indicative of a failure either to understand or to practise the precepts of honesty or fair dealing in relation to retail clients or the public;

- (b) unsatisfactory professional conduct, where the conduct involves a substantial or consistent failure to reach reasonable standards of competence and diligence; and
- (c) conduct which is, or could reasonably be considered as likely to be, prejudicial to the interests of a financial services licensee or a credit licensee or retail clients,

and need not involve a contravention of any law.

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## Schedule 4—Template Reference Request (Recruiting Licensee from Prospective Representative Licensee)

### Reference Request

[name of prospective representative being recruited]

[insert recruiting licensee name and licence number] requests a reference from you under the *ASIC Corporations and Credit (Reference Checking and Information Sharing Protocol) Instrument 2024/647* (the **Protocol**) for the purposes of:

- considering your employment or authorisation as a financial adviser or mortgage broker; and
- complying with the general conduct obligations of a licensee under section 912A of the *Corporations Act 2001* and section 47 of the *National Consumer Credit Protection Act 2009* (where you become employed or authorised by the recruiting licensee).

### Questions

#### 1. Background information

- (a) Provide your name and the date of completion of the reference.
- (b) Provide your licence number and adviser number (if applicable) and the period of time you have held the licence.
- (c) Provide a brief description of your main responsibilities and licence authorisations.

#### 2. Compliance audits

Note: Question 2 only applies if you are currently a financial adviser or mortgage broker.

Complete the table in this question by providing information about compliance audits undertaken in relation to the provision of financial services or engaging in the credit activities under your licence in the 5-year period preceding the date the reference is given. In completing the table, indicate whether the compliance audit results/outcome were about non-compliance with financial services laws or credit legislation, or non-compliance with licensee processes. Also include a description of any remedial action (see definitions below).

Date of compliance audit	Brief description of results/outcomes	Brief description of remedial action

### 3. Your conduct

Note: Question 3 is to be answered in relation to the 5-year period preceding the date the reference is given.

- (a) Have you reported a breach or reportable situation to ASIC (whether under former section 912D or section 912DAA of the *Corporations Act 2001* or section 50B of the *National Consumer Credit Protection Act 2009*) in respect of your conduct in relation to the provision of financial services or engaging in the credit activities under your licence? [Yes/No]
- (b) If you answered Yes to Question 3(a), provide details on the relevant date, type and nature of the breach or reportable situation. Also include details of any remedial action.
- (c) Has your conduct or performance (including acts or omissions) in relation to the provision of financial services or engaging in credit activities under your licence involved any of the following:
  - (i) dishonesty [Yes/No]
  - (ii) unprofessional conduct [Yes/No]
  - (iii) refusal or deliberate non-compliance in relation to the financial services laws or the credit legislation [Yes/No]
  - (iv) gross incompetence or gross negligence [Yes/No]
  - (v) a breach of the Financial Planners and Advisers Code of Ethics 2019 [Yes/No]

Note: The conduct need not involve a contravention of the law.

- (d) If you answered Yes to any of the matters in Question 3(c), provide a brief summary of the details, including relevant information in relation to, internal assessments, external notifications or complaints in connection with the provision of financial services or credit assistance, about or arising from your conduct or performance (including any act or omission).
- (e) Has ASIC or the Financial Services and Credit Panel given you:
  - (i) a written warning or reprimand under subsection 921S(1) or 921T(1) of the *Corporations Act 2001*? [Yes/No]

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- (ii) an instrument under subsection 921M(1) of the *Corporations Act 2001*? [Yes/No]
  - (f) If you answered yes to Question (3)(e)(i) or (ii), provide a copy of the warning, reprimand or instrument and a copy of the statement of reasons for the decision given to you by ASIC or the Financial Services and Credit Panel.

#### 4. Unresolved matters

- (a) Is there an inquiry or investigation in progress relating to your conduct in connection with the provision of financial services or engaging in credit activities under your licence, in relation to the 5-year period preceding the date the reference is given? [Yes/No]
- (b) If you answered Yes to Question 4(a), provide:
  - (i) a brief description of the nature of the circumstances that triggered the inquiry or investigation (for example a breach, complaint, compliance audit, external notification, internal assessment/review or other circumstance); and
  - (ii) details of the progress and status of the inquiry or investigation.

#### Interpretation

In this request, a word or an expression that is defined in section 4 of the Protocol has the same meaning in this request.

#### Additional definitions

In this request:

**client remedial action** includes:

- (a) corrective disclosure being given to a client; and
- (b) compensation being given to a client either as a financial payment or other non-financial remedy.

**complaint** means a “complaint” as defined in Australian / New Zealand Standard AS/NZS 10002:2014 *Guidelines for complaint management in organizations* published jointly by, or on behalf of, Standards Australia and Standards New Zealand, as in force or existing on 29 October 2014.

**compliance audit**, means an audit or review of a licensee’s compliance with financial services laws, credit legislation and licensee policies and procedures.

**other remedial action** includes additional training.

**remedial action** includes client remedial action or other remedial action.

**unprofessional conduct** of a licensee includes the following kinds of conduct of the licensee:

- (a) conduct which amounts to impropriety affecting professional character and which is indicative of a failure either to understand or to practise the precepts of honesty or fair dealing in relation to retail clients or the public;
- (b) unsatisfactory professional conduct, where the conduct involves a substantial or consistent failure to reach reasonable standards of competence and diligence; and
- (c) conduct which is, or could reasonably be considered as likely to be, prejudicial to the interests of a financial services licensee or a credit licensee or retail clients,

and need not involve a contravention of any law.

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## Schedule 5—Template Reference Request (Future Mortgage Intermediary)

### Reference Request

[name of relevant mortgage broker for whom a reference is sought] (*individual*)

[Insert future mortgage intermediary name and licence number] requests a reference for the individual under the *ASIC Corporations and Credit (Reference Checking and Information Sharing Protocol) Instrument 2024/647* (the **Protocol**) for the purposes of considering whether to act as a mortgage intermediary (i.e. a mortgage aggregator) in relation to the individual.

### Questions

#### 1. Background information

- (a) Provide the name of the organisation, licence number, the person(s) who completed the reference and the date of completion of the reference.
- (b) Confirm:
  - (i) (*where representative of a licensee*) the individual's role(s) and period of employment or authorisation by you as licensee; or
  - (ii) (*where mortgage broker in relation to mortgage aggregator*) the period for which you acted as a mortgage intermediary in relation to the individual.
- (c) Provide a brief description of the individual's main responsibilities.
- (d) Advise the ASIC reference number (if applicable) in relation to the individual.

#### 2. Compliance audits

Note: Question 2 only applies if the individual is currently, or was previously, a financial adviser or mortgage broker.

Complete the table in this question by providing information about compliance audits undertaken in the 5-year period preceding the date the reference is given. In completing the table, indicate whether the compliance audit results/outcome were about non-compliance with financial services laws or credit legislation, or non-compliance with licensee processes. Also include a description of any remedial action (see definitions below).

Date of compliance audit	Brief description of results/outcomes	Brief description of remedial action

### 3. Conduct of the individual

Note: Question 3 is to be answered in relation to the 5-year period preceding the date the reference is given.

- (a) Have you reported a breach or reportable situation to ASIC (whether under former section 912D or section 912DAA of the *Corporations Act 2001* or section 50B of the *National Consumer Credit Protection Act 2009*) in respect of the individual? [Yes/No]
- (b) If you answered Yes to Question 3(a), provide details on the relevant date, type and nature of the breach or reportable situation. Also include details of any remedial action.
- (c) Has the individual’s conduct or performance (including acts or omissions) in relation to any of the following:
  - (i) *(where current or former representative of a licensee)* the provision of financial services or engaging in credit activities while employed or authorised by you;
  - (ii) *(where former representative of a licensee)* the circumstances surrounding the individual ceasing to be employed or authorised by you;
  - (iii) *(where current or former mortgage broker in relation to mortgage aggregator)* engaging in credit activities while you were acting as a mortgage intermediary in relation to the individual; or
  - (iv) *(where former mortgage broker in relation to mortgage aggregator)* the cessation of your mortgage intermediary arrangement with the individual;

concerned the individual’s involvement in any of the following:

  - (v) dishonesty [Yes/No]
  - (vi) unprofessional conduct [Yes/No]
  - (vii) conduct justifying instant dismissal or immediate termination of representative status [Yes/No]
  - (viii) refusal or deliberate non-compliance in relation to the financial services laws or the credit legislation [Yes/No]



- (ix) gross incompetence or gross negligence [Yes/No]
- (x) a breach of the Financial Planners and Advisers Code of Ethics 2019 [Yes/No]

Note: The conduct need not involve a contravention of the law.

- (d) If you answered Yes to any of the matters in Question 3(c), provide a brief summary of the details, including relevant information in relation to internal assessments, external notifications or complaints against the individual in connection with the provision of financial services or engaging in credit activities, and any remedial action.
- (e) Has ASIC or the Financial Services and Credit Panel given you any of the following in relation to the individual:
  - (i) a copy of a written warning or reprimand under subsection 921S(2) or 921T(2) of the *Corporations Act 2001*? [Yes/No]
  - (ii) a copy of an instrument under subsection 921M(1) of the *Corporations Act 2001*? [Yes/No]
- (f) If you answered yes to Question (3)(e)(i) or (ii), provide a copy of the warning, reprimand or instrument and a copy of the statement of reasons for the decision given to you by ASIC or the Financial Services and Credit Panel.

#### 4. Unresolved matters

- (a) Is there an inquiry or investigation in progress by your organisation in relation to the individual in connection with the provision of financial services or engaging in credit activities, in relation to the 5-year period preceding the date the reference is given? [Yes/No]
- (b) If you answered Yes to Question 4(a), provide:
  - (i) a brief description of the nature of the circumstances that triggered the inquiry or investigation (for example a breach, reportable situation, complaint, compliance audit, external notification, internal assessment/review or other circumstance); and
  - (ii) details of the progress and status of the inquiry or investigation.
- (c) If you answered Yes to Question 4(a), was the individual made aware of the inquiry/investigation? [Yes/No]

#### Interpretation

In this request, a word or an expression that is defined in section 4 of the Protocol has the same meaning in this request.

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**Additional definitions**

In this request:

***client remedial action*** includes:

- (a) corrective disclosure being given to a client; and
- (b) compensation being given to a client either as a financial payment or other non-financial remedy.

***complaint*** means a “complaint” as defined in Australian / New Zealand Standard AS/NZS 10002:2014 *Guidelines for complaint management in organizations* published jointly by, or on behalf of, Standards Australia and Standards New Zealand, as in force or existing on 29 October 2014.

***compliance audit***, in relation to an individual, means an audit or review by or on behalf of a financial services licensee or credit licensee of the individual’s compliance with financial services laws, credit legislation and licensee policies and procedures.

***individual remedial action*** includes:

- (a) additional training of an individual;
- (b) increased monitoring and supervision of an individual;
- (c) consequence management for an individual (including performance management, financial consequence or formal warnings); and
- (d) suspension of the authorisation of an individual.

***remedial action*** includes client remedial action or individual remedial action.

***unprofessional conduct*** of an individual includes the following kinds of conduct of the individual:

- (a) conduct which amounts to impropriety affecting professional character and which is indicative of a failure either to understand or to practise the precepts of honesty or fair dealing in relation to retail clients or the public;
- (b) unsatisfactory professional conduct, where the conduct involves a substantial or consistent failure to reach reasonable standards of competence and diligence; and
- (c) conduct which is, or could reasonably be considered as likely to be, prejudicial to the interests of a financial services licensee or a credit licensee or retail clients,

and need not involve a contravention of any law.