

Section C: Dispute Resolution Processes

6. Application process

6.1 Lodging of Disputes

- a) A party to a Dispute may lodge the Dispute with FOS by referring the Dispute to FOS for resolution.
- b) FOS may assist Applicants with this process.
- c) A Financial Services Provider that lodges a Dispute with FOS must have obtained the Applicant's prior consent.

6.2 Time limits

- a) Where a Dispute relates to a variation of a Credit Contract as a result of financial hardship, an unjust transaction or unconscionable interest and other charges under the National Credit Code, FOS will not consider the Dispute unless it is lodged with FOS before the later of the following time limits:
 - (i) within two years of the date when the Credit Contract is rescinded, discharged or otherwise comes to an end; or
 - (ii) where, prior to lodging the Dispute with FOS, the Applicant received an IDR Response in relation to the Dispute from the Financial Services Provider - within 2 years of the date of that IDR Response
- b) In all other situations, FOS will not consider a Dispute unless the Dispute is lodged with FOS before the earlier of the following time limits:
 - (i) within six years of the date when the Applicant first became aware (or should reasonably have become aware) that they suffered the loss; and
 - (ii) where, prior to lodging the Dispute with FOS, the Applicant received an IDR Response in relation to the Dispute from the Financial Services Provider - within 2 years of the date of that IDR Response.

However, FOS may still consider a Dispute lodged after any of these time limits if FOS considers that exceptional circumstances apply.

6.3 Opportunity for internal dispute resolution

Subject to paragraph 6.4, where an Applicant lodges a Dispute with FOS:

- a) before complaining to the Financial Services Provider; or
- b) (i) within 21 days of the Applicant first requesting a variation of a Credit Contract as a result of financial hardship or postponement of enforcement proceedings, or a further 30 days from the date of any agreement made as a result of that request; or

(ii) within 21 days of the Applicant first requesting the Financial Services Provider to remedy the matter where the Dispute involves a default notice; or

(iii) in all other cases, within 45 days of the Applicant first requesting the Financial Services Provider to remedy the matter;

and before receipt of the Financial Services Provider's IDR Response;

FOS must notify the Financial Services Provider of the Dispute and give the Financial Services Provider -

c) (if paragraph a) applies) the whole of the period which would have applied under paragraph b); or

d) (if paragraph b) applies) the balance of the applicable period;

to provide an IDR Response.

6.4 FOS discretion to vary normal internal dispute resolution timeframes

Notwithstanding paragraph 6.3, FOS may:

- a) give the Financial Services Provider a longer period to resolve the Dispute if FOS considers special circumstances exist; or
- b) commence investigating or otherwise progressing the Dispute immediately if FOS considers the matter urgent.

6.5 Disputes lodged with other ASIC Approved EDR Schemes

For the purposes of these Terms of Reference, where a Dispute is referred to FOS by another ASIC approved external dispute resolution ("EDR") scheme, the time limit for bringing a Dispute to FOS will apply from the date when the Dispute was lodged with the other EDR scheme and the Dispute will be deemed to have been lodged with FOS on the date that it was lodged with the other EDR scheme.