

17 August 2009

Commercial Law e-alert

“Credibility for credit providers” – The *National Consumer Credit Protection Bill 2009*

Who will this affect?

- businesses which provide credit to consumers (eg. banks, credit unions and finance companies); and
- businesses which are involved in assisting consumers obtain credit (eg. mortgage brokers, finance brokers and financial planners).

Key features

- a national regime for consumer credit regulation to be administered and enforced by ASIC;
- credit providers and intermediaries to be required to hold an Australian credit licence;
- credit providers and intermediaries to be required to meet responsible lending standards when providing credit or credit assistance; and
- state-based Uniform Consumer Credit Code to be replaced with National Credit Code and expanded to cover residential investment property.

Federal Government introduces National Consumer Credit Protection Bill 2009 into Parliament

On 25 June 2009, the Federal Government introduced the *National Consumer Credit Protection Bill 2009* into Parliament, together with the *National Consumer Credit Protection (Transitional and Consequential Provisions) Bill 2009* and the *National Consumer Credit protection (Fees) Bill 2009*.

The proposed legislation establishes a single national regime for the regulation of consumer credit in Australia. In doing so, it introduces significant new obligations on lenders and providers of credit assistance.

When will it come into effect?

The three National Consumer Credit Protection Bills are currently before the Senate Economics Committee for consideration. The Committee is due to release its report on the Bills on 7 September 2009. It is anticipated that the Bills will then be passed in September 2009.

Key dates

If the Bills are passed in their present form:

- credit lenders and intermediaries must register with ASIC between **1 November 2009 and 31 December 2009**;
- credit lenders and intermediaries must apply for an Australia credit licence between **1 January 2010 and 30 June 2010**;
- the responsible lending conduct requirements will apply from **1 January 2010** for brokers and lenders who are not authorised deposit-taking institutions (“ADIs”) or registered finance companies (“RFCs”);
- the responsible lending conduct requirements will apply from **1 January 2011** for ADIs and RFCs;
- the remaining responsible lending obligations (such as disclosure requirements) will commence on **1 January 2011**; and
- credit lenders and intermediaries must be licensed by **1 July 2011**.

The Federal Government intends to introduce a second package of reforms into Parliament in mid 2010 which will build on the proposed reforms to enhance the regulatory framework. Phase 2 will include reforms to the law on credit card limit extensions, fringe lending issues and reverse mortgages.

Further information

We will continue to keep you informed of any developments in this area and will be running information sessions on the reforms later in the year.

In the meantime, if you would like further information or have questions about the impact of the proposed changes on your business, please contact:

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