



NEW NATIONAL CREDIT REGULATION LAWS - START DATE EXTENDED

It was reported last week that January 2010 is now likely to be the new start date for federal takeover of consumer credit regulation laws, six months later than originally envisaged. It is expected that Parliament will pass the enabling legislation in September this year, instead of July as was originally proposed.

Under the new laws, the Commonwealth will assume the **licensing and regulation of credit providers** (including **mortgage brokers**) and **margin lending**. Brokers will likely be made responsible for evaluating a customer's capacity to repay a loan.

Federal licensing requirements for Credit Providers is likely to fall somewhere between the Western Australian Licensing model and the onerous and complex Australian Financial Services License ('AFSL'). A self register system with ASIC will be initially set up with a rollover into a licensing module. ASIC already licenses financial planners and brokers where the consumer bears the risk. The new system will require ASIC to now license credit providers where the risk remains with the lender.

The purpose of the new National Licensing Scheme, as outlined by the Minister for Superannuation and Corporate Law, Senator Nick Sherry, is to raise standards and implement controls over credit providers. He made the following observations:

- The Licensing regime will be comprehensive. If a credit provider extends credit to retail clients then they will be required to be licensed.
- The Licensing regime applies to all credit providers as well as credit and mortgage brokers and advisors.
- The scheme will ensure that Lenders meet appropriate entry/education standards before they can offer their products and services to Australian Consumers.
- Once licensed, licensees will be required to meet continuing standards of conduct/education higher than those that currently exist at a State and Territory level; and
- The licensing requirements will ensure that those who do not meet these standards must either improve their conduct or leave the industry.

WHAT DOES THIS MEAN FOR OUR CLIENTS?

The new licensing scheme will have the **greatest impact upon small business non-bank credit operators**. Running a business while keeping abreast with the new information and conforming to the new requirements will be onerous and expensive - a cost likely to be passed on to the consumer and making the business less competitive.

Small business credit providers will need to get access to the information quickly and adopt internal streamline processes to comply with the licensing requirements. MacGillivrays can assist in these areas by advising as to what the requirements are, assist in making license applications and drafting documents required.

Contact our **Banking Service Partners, Craig Green** and **Richard Williams** to learn more.



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