

## **EXPLANATORY STATEMENT**

### **Select Legislative Instrument 2009 No.**

Issued by the Authority of the Treasurer

*National Consumer Credit Protection (Transitional and Consequential Provisions)  
Act 2009*

*National Consumer Credit Protection (Transitional and Consequential Provisions)  
Regulations 2009*

The *National Consumer Credit Protection (Transitional and Consequential Provisions) Act 2009* (the Act) applies to the provision of certain kinds of credit, to certain credit contracts and to related matters for the purposes of a transitional registration regime.

Section M500 of the Act provides that the Governor-General may make regulations prescribing matters required or permitted by that Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to that Act.

These Regulations deal with the registration of persons who engage in credit activities, including:

- the imposition of conditions on a registered person; and
- exemptions from the registration regime.

The Act does not specify any conditions that need to be satisfied before the power to make the Regulations may be exercised.

The Regulations are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Regulations will commence on **TBA**.

## ATTACHMENT

**DETAILS OF THE NATIONAL CONSUMER CREDIT PROTECTION (TRANSITIONAL AND CONSEQUENTIAL PROVISIONS) REGULATIONS 2009****Part 1 Preliminary**Regulation 1 – Name of Regulations

Regulation 1 provides that the name of the Regulations is the *National Consumer Credit Protection (Transitional and Consequential Provisions) Regulations 2009*.

Regulation 2 – Commencement

Regulation 1A.2 provides that the Regulations commence on **TBA**.

Regulations 3 to 5 – Definitions

Regulations 3 to 5 define words and expressions that are used in the Regulations. The meanings of terms such as ‘associate’ and ‘related body corporate’ are the equivalent of the same terms defined in the *Corporation Act 2001*.

**Part 3 Registration**Regulation 3.1 – The imposition of conditions on the registered person

Under the Act, subsection TL 60(7) provides that a registration is subject to any conditions as are prescribed by regulations. Regulation 3.1 sets out standard conditions that apply to all licensees.

The regulations impose conditions in relation to:

- changing particulars entered in the Australian Credit Register;
- the authorisation of credit agents and other persons to engage in a credit activity on behalf of the licensee; and
- notifying the Australian Securities and Investments Commission (ASIC) of certain matters relevant to the registration.

The conditions relate to a range of technical or practical arrangements that ensure ASIC has the current and relevant information, to enable it to effectively carry out its functions in respect of supervising registered persons.

These conditions are identical to the conditions prescribed in Regulation 2.2 of the *National Consumer Credit Protection Regulations 2009* which apply to an Australian Credit Licence.

**Part 5 Exemptions**

DEF 5 of the Act describes when a person is ‘engaging in credit activities’. A person needs to be either a registered person or the holder of an Australian Credit Licence where they engage in credit activities. However, to allow for the flexible application

of the Credit Bill TL190 provides that regulations may prescribe persons or activities that are exempt from licensing, or activities that are exempted from being ‘credit activities’.

The exemptions set out in Regulation 5.2, 5.2 and 5.3 are identical to the exemptions set out in Regulations 6.1, 6.2 and 6.3 of the *National Consumer Credit Protection Regulations 2009* and are intended to have the same effect.