Article Information

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Responsible lending changes consultation released today

On 4 November 2020, the Treasury released a suite of proposed consumer credit legislative reforms for public consultation.

The Treasury released a suite of proposed legislative reforms for public consultation which is open until 20 November 2020, namely:

- *National Consumer Credit Protection Amendment (Supporting Economic Recovery) Bill 2020: A new regulatory framework for the provision of consumer credit* (**Bill**);
- *National Consumer Credit Protection Amendment (A New Regulatory Framework for the Provision of Consumer Credit) Regulations 2020* (**Regulations**); and
- *National Consumer Credit Protection (Non-ADI Credit Standards) Determination 2020* (**Standards**).

These proposed reforms follow Treasurer Josh Frydenberg's announcement on 25 September 2020 that changes will be made to Australia's consumer credit framework identified in the *National Consumer Credit Protection Act 2009* (Cth) (**NCCP Act**) to reduce the timeframe for individuals and small businesses to access credit while still upholding protections for vulnerable consumers. Subject to legislation passing, the reforms will commence on 1 March 2021.

In summary, the intended reforms will:

- remove responsible lending obligations from the NCCP Act, except for small amount credit contracts (**SACCs**) and consumer leases;
- clarify the application of consumer lending laws to small business lending; and
- implement a new framework which will apply key elements of APRA's ADI lending prudential standards to non-ADIs (except for SACCs and consumer leases). ADIs will still be expected to comply with APRA's prudential standards.

National Consumer Credit Protection Amendment (Supporting Economic Recovery) Bill 2020: A new regulatory framework for the provision of consumer credit

From 1 March 2021, the existing responsible lending obligations will only apply to SACCs, SACC-equivalent loans provided by ADIs and consumer leases. ADIs will no longer be expected to abide by responsible lending obligations, rather they will be subject to APRA's prudential standards. Non-ADIs will need to follow lending standards as part of a new risk-based regulatory framework for consumer credit, based on obligations similar to those imposed on ADIs.

The best interests obligations currently legislated for mortgage brokers will be extended to all credit assistance providers.

National Consumer Credit Protection Amendment (A New Regulatory Framework for the Provision of Consumer Credit) Regulations 2020

The proposed Regulations will limit or repeal the provisions made redundant from the Bill's removal of responsible lending obligations for credit contracts other than SACCs, SACC-equivalent loans provided by ADIs and consumer leases.

National Consumer Credit Protection (Non-ADI Credit Standards) Determination 2020

The Standards will ensure non-ADI credit providers implement systems, policies and processes relating to non-ADI credit conduct, rather than impose individual conduct-level requirements. This will shift the credit assessment criteria from a 'one-size-fits-all' prescriptive framework for lenders and borrowers and instead support risk-basked lending which is

tailored to the needs and circumstances of the borrower and the particular credit product.

The Standard is similar to key aspects of APRA's prudential lending standard APS 220 Credit Risk Management which relates to an ADI's lending standards and ensuring the borrower is able to repay.