



## NEW NATIONAL CONSUMER CREDIT LAWS

Do you arrange premium funding? If so, from July 1, 2010, you need to have a credit licence or be a company representative of a credit licensee. If you registered with ASIC before June 30, 2010, you have until December 31 to obtain a licence or become a company representative.

Licensing of providers of consumer credit, credit assistance and intermediaries involved in those processes began on July 1. The start of licensing follows a three-month registration period which permitted businesses involved in supplying consumer credit to register with ASIC and continue without a licence for a grace period that expires on December 31, 2010. Registered businesses need to apply for an Australian credit licence or become an authorised representative of a credit licensee before December 31.

You can no longer register with ASIC to take advantage of the grace period. If entities or individuals have not registered, the law requires they stop engaging in credit activities until they are granted a credit licence or have become a representative of a credit licensee. There are civil and criminal penalties for businesses or individuals that provide regulated credit without a credit licence or authorisation.

An application by NIBA seeking exemptions for insurance brokers from the requirement to register and/or obtain credit licences was rejected.

The *National Credit Act* requires people who engage in the following credit activities to be licensed:

- providing credit under a credit contract or consumer lease;
- benefitting from mortgages or guarantees relating to a credit contract;
- providing credit services in relation to a credit contract or consumer lease; and
- providing other prescribed credit activities.

Intermediaries are required to be licensed. There may be a chain of intermediaries between the consumer and the lender and the vital element is that the intermediary's role, wholly or partially, is to secure a credit contract with a credit provider. Everyone in the chain must be licensed. Some people or organisations are exempted, including registered tax agents, point-of-sale retailers, lawyers and receivers and liquidators.

Underwriting agencies and insurance brokers involved in referring clients to insurance premium funders will be subject to the National Credit Code. Businesses involved in premium funding will be regulated by the new national consumer credit laws.

If you have not registered, you must not engage in credit activities until you obtain a credit licence or become a credit representative of a licensed credit provider, otherwise you will face civil and criminal penalties.

No doubt premium funders will be keen to facilitate a process for underwriting agencies and brokers to continue to refer business without needing to secure a licence. If you have not registered with ASIC and do not wish to apply for a credit licence, you should approach the premium funders immediately with a view to becoming a credit representative of the funder. You can be a credit representative of more than one funder.

A credit licensee must provide details to ASIC of all credit representatives. Further credit representatives will still be subject to the National Credit Code but the reporting requirements will be managed by the licensee. Times are changing and the work involved in referring clients to premium funders will be affected by the new national consumer credit laws.