

## **NCCP ACT amendments – hardship, leases, reverse mortgages, and small amount lending**

**By Jon Denovan of Gadens Lawyers, Sydney**

### **Key points**

Amendments to the National Consumer Credit Protection Act 2009 are likely arising from the *Consumer Credit and Corporations Legislation Amendment (Enhancements) Bill 2011* (Cth) presented to the Commonwealth Parliament on 21 September 2011. The key changes are summarised below. The changes are intended to commence on 1 July 2012.

The key features of the legislation are:

- new hardship provisions will make it easier for borrowers to apply for hardship relief
- a prohibition on taking enforcement action for 14 days after responding to a postponement of enforcement application
- courts can make orders to address unfair or dishonest conduct by finance brokers
- restrictions on the use of ‘independent’, ‘impartial’, ‘unbiased’, ‘financial counsellor’, and ‘financial counselling’
- extend the time for giving direct debit default notices from 10 business days to 14 days
- impose restrictions on reverse mortgages, most relevantly a no negative equity guarantee
- create a new regime for small amount credit contracts of \$2,000 or less, and impose a maximum establishment fee and monthly charge
- specify that the maximum ‘cost rate’ including interest and charges and fees to third parties such as brokers is 48% per annum
- amend the NCC so that consumer leases are regulated more like regulated loans.

A more detailed summary of the key provisions can be accessed [here](#)