**Exemption from the timing of disclosure provisions for Non-Bank Lenders**

On 13 May 2020, the Credit Contracts and Consumer Finance (Exemptions for COVID-19) Amendment Regulations (No 2) 2020 (the Regulations) came into force. The Regulations amend the Credit Contracts and Consumer Finance Regulations 2004 to prove an exemption for non-bank lenders for COVID-19 from some of the provisions relating to consumer credit contracts (the Exemption).

The Exemption sets out that a consumer credit contract is exempt from some provisions of the Credit Contracts and Consumer Finance Act 2003 (the Act) where:

* a non-bank lender is the creditor or manager of the contract in circumstances that relate to securitisation or covered bond arrangements; and
* the non-bank lender is not a mobile trader; and
* the debtor is experiencing, or reasonably expects to experience, financial difficulties due to the economic or health effects of COVID-19; and
* the contract is either an existing contract that is varied for the purpose of reducing those difficulties, or a replacement contract that is entered into for the purpose of reducing those difficulties; and
* the contract is not a high-cost consumer credit contract.

The Exemption applies to sections 17, 22(2) and (4), and 26(3) to the extent of the time limits for making disclosure and giving or sending terms, provided that the lender makes such disclosure as soon as is reasonably practicable.

The implications of this Exemption are such that the non-bank lender is *not* required to comply with section 17 which sets out that lenders must ensure that disclosure of as much of the key information concerning the consumer credit contract is made to every debtor under the contract before the contract is entered into, nor is a copy of all the terms required to be given or sent to every debtor before the contract is entered into.

Non-bank lenders do not need to comply with the section 22(2) requirement to make disclosure before any change to the consumer credit contract takes effect; nor do they need to comply with the section 22(4) requirement that any disclosure made at the lender’s discretion be made within 5 working days of the day on which the change takes effect, or the requirement that if the creditor is required to make continuing disclosure then to make disclosure at the same time as the creditor provides the debtor with the next continuing disclosure statement after the change takes effect.

The Exemption from section 26(3) means that where the non-bank lender takes a guarantee of a consumer credit contract, the creditor does *not* need to make disclosure within 5 working days of the day on which the change is agreed to by the debtor and creditor, or the day on which the change takes effect.

However, unlike the legislative exemption granted to registered banks in the practice of varying consumer credit contracts for the purpose of helping borrowers in response to the effects of COVID-19, this Exemption does *not* exempt non-bank lenders from the requirement to exercise the care, diligence and skill of a responsible lender when fulfilling the obligation to make reasonable inquiries into the likelihood of a borrower’s ability to make payments under the varied contract without suffering substantial hardship.