

**Australian Securities and Investments Commission
National Consumer Credit Protection Act 2009 — Paragraph 109(3)(d) —
Declaration**

Enabling provision

1. The Australian Securities and Investments Commission (*ASIC*) makes this instrument under paragraph 109(3)(d) of the *National Consumer Credit Protection Act 2009* (the *Act*).

Title

2. This instrument is ASIC Class Order [CO 10/746].

Commencement

3. The provisions of this instrument commence as follows:
 - (a) sub-subparagraph 4(b)(i) commences on the day this instrument is registered under the *Legislative Instruments Act 2003*; and
 - (b) all other provisions commence on 1 July 2010.

Note: An instrument is registered when it is recorded on the Federal Register of Legislative Instruments (*FRLI*) in electronic form: see *Legislative Instruments Act 2003*, s 4 (definition of *register*). The FRLI may be accessed at <http://www.frli.gov.au/>.

Declaration

4. ASIC declares that the provisions to which Part 2-6 of the Act applies apply in relation to all persons as if regulation 8 of the *National Consumer Credit Protection Regulations 2010* were modified or varied as follows:
 - (a) in paragraph (1)(b) omit “is authorised to engage under a law of a State or Territory;”, substitute “was, immediately before 1 July 2010, authorised to engage under a law of a State or Territory;”;
 - (b) in subregulation (2):
 - (i) in paragraph (a) omit “licence;”, substitute “licence before 1 January 2011;”;
 - (ii) in paragraph (b) omit “are authorised to engage in credit activities under a law of a State or Territory;”, substitute “were, immediately before 1 July 2010, authorised to engage in credit activities under a law of a State or Territory;”;
 - (iii) in subparagraph (c)(i) omit “are required”, substitute “were required”;

- (iv) in subparagraph (c)(ii) omit “are not required”, substitute “were not required”;
- (v) in paragraph (d) omit “may be”, substitute “may have been”;
- (c) in subregulation (3) omit “was authorised to engage in under a law of a State or Territory;”, substitute “was, immediately before 1 July 2010, authorised to engage under a law of a State or Territory;”;
- (d) omit paragraph (4)(b), substitute:
 - “(b) were, immediately before 1 July 2010, authorised to engage in credit activities under a law of a State or Territory that:
 - (i) required the person to demonstrate that the person was a fit and proper person (however described); or
 - (ii) deemed the person to be ineligible to engage in credit activities if the person was not a fit and proper person (however described).”.

Note: The declaration in this instrument ensures that subregulations 8(1) to (4) of the *National Consumer Credit Protection Regulations 2010* have the effect that they would have had but for some drafting anomalies. As a result of those anomalies, those subregulations might not have had any operation as a practical matter.

Dated this 19th day of August 2010

Signed by Stephen Yen PSM
as a delegate of the Australian Securities and Investments Commission