DAILY BULLETIN

Thursday, 29 September

Keynote: **Sue Vroombout**, *General Manager*, **Retail Investor Division of the Australian Treasury**

Sue Vroombout offered a comprehensive snapshot of the regulatory framework for Phase 2 of the credit reforms. She recapped where we have been and gave insight on Treasury's views on the future direction of credit law reform, specifically in relation to Part 2 of Phase 2 of the reforms.

Treasury's key drivers have been -

1. a desire to move from generic regulation to product specific legislation
2. a desire to move from UCCC disclosure to a more flexible approach aimed at increased engagement between customers and borrowers (to achieve improved decision making by consumers)
3. a focus on protecting consumers who are disadvantaged such as the elderly, low income earners and those with limited access to credit, and
4. responding to development under the UCCC

With the *Enhancements Bill* being introduced into Parliament last week, observers would have seen that proposed door-to-door credit restrictions were not included. Treasury proposes to consult further and ensure that the restrictions target the real issues being seen with door to door credit. Final provisions may be included in the *Enhancements Bill* that currently is before Parliament or in a further bill proposed for early 2012.

The 2012 Bill is also likely to see a wholesale reassessment of pre-contractual disclosure requirements, seeing a replacement of the current precontractual statement and mandatory Q and A style forms.

Instead, a short form disclosure document – similar to the current key fact sheets – will be proposed. These will be product focussed, with separate sheets for home loans, credit cards, personal loans, small amount credit contracts consumer leases and a separate category for miscellaneous products. Confirming that consultation on the regulation of small business and investment lending would recommence soon.

Treasury hopes that the entire package will have been legislated by the end of 2012 – at which stage the work o rolling out the changes can begin in earnest.

Regulatory updates for credit – what's next & the year in review: **Andrea Beatty & Stephen Cavanagh**, *Partners,* **HWL Ebsworth**

Andrea and Stephen gave a detailed presentation, offering a "one stop shop" on regulatory changes in the past year and into the future. With a comprehensive outline of the recent regulatory changes which had and will have a major impact on the financial services industry and addressed the importance of regulatory compliance.

Andrea recapped the aims, the timetables and the implication of the national consumer credit regime, with key issues including the aims and implementation of the responsible lending regime and the new documentary disclosure requirements.

Outline of other key developments including amendments to the *Privacy Act* – with a consultation paper last Friday relating to a private right of action for serious privacy breaches. Also, commenting on the new ePayments Code and the new development with the release of the second tranche of "Future of Financial Advice" reforms. She also

recapped the coming changes with the Personal Property Securities regime to commence in early 2012 and the new ePayments Code commencing in March 2013.

Finally highlighting the new developments to start soon such as credit guides, quotes, credit proposals, key facts sheets and the new Bills aimed to implement Phase 2 of the National Consumer Credit Regime.

Stephen commented on the appointment of Mr Greg Medcraft as the new Chairman of ASIC and its priorities for the years ahead, and on implications for the financial sector of the recent Federal Court decision in *ACCC v Singtel Optus Pty Ltd (No.4)*. The case demonstrating the risks associated with breaching advertising related regulations due to the inadequacy of regulatory compliance resources. He also commented in detail on the exit fees ban, the growing importance of external dispute resolution schemes and whether it is appropriate to require organisations that are not signatories to industry codes to live up to the standards of those codes in the name of “good industry practice”.

ASIC regulatory focus and activities: **Greg Kirk**, *Senior Executive Leader, Deposit Takers, Credit and Insurance Providers,* **ASIC Regulatory focus and activities**

Opened by noting that ASIC was now approaching “business as usual” mode, with the majority of Phase 1 changes locked in. Then thanking industry organisations for their helpful input to the development of the law and ASIC policy over the last 2 years, saying that the input had significantly improved both the new laws and its implementation by ASIC.

Also noting, ASIC had observed that the responsible lending obligations had seen significant improvement in the documentation and procedures adopted by licensees. The implementation of a licensing regime may have led to some organisations with laxer standards departing the industry – a “sifting process”, and had caused a new focus from more mainstream organisations on the appropriateness of their lending policies.

By the close of registration – at midnight on 31 December – there had been 48,000 registrants, which has led to just over 6,000 licensees and approximately 23,000 credit representatives..

ASIC has been focussed on an “unlicensed” project to identify organisations that should be licensed but are not. Partly this is by reviewing advertisements for credit services, and there has been some follow up of organisations that applied for registration but did not obtain a licence.