

# ALERT

14 OCTOBER 2011

## *Personal Property Securities Act 2009* – Timeframes for commencement and other amendments

On 12 October 2011, the *Personal Property Securities (Registration Commencement) Bill 2011* (**Registration Commencement Bill**) was introduced to the House of Representatives and read a first time.

The *Personal Property Securities Act 2009* (**PPSA**) provides a new regime applicable to most categories of 'personal property'. In essence, the PPSA provides a national set of rules and a national online register concerning personal property interests and, in particular, the securitisation associated with those interests. Its application includes interests as between business, including sales on credit, charges, guarantees, hire purchase finance and retention of title, long term and finance leases, and debt factoring.

Currently, the PPSA is scheduled to commence in early 2012, before 1 February 2012. The Registration Commencement Bill will alter this timeframe so that the PPSA can commence after 1 February 2012. You may recall that the PPSA had already been twice delayed, with its original commencement date in May 2011 subsequently delayed to 31 October 2011, which in October was then postponed until early 2012.

Unfortunately, no definite timeframe for the commencement of the PPSA is provided in the Registration Commencement Bill. This will be determined by the Attorney-General on or before 1 February 2012. While

the PPSA may still commence on (or prior to) 1 February 2012, it is not anticipated that this will occur.

The delay to the commencement of the PPSA is the result of continued difficulties faced by the government in migrating data from the existing registers (for example, the ASIC Register of Company Charges and the Victorian Vehicle Securities Register (and equivalents in other states and territories)). The government states that the delay is required to manage the risk that issues may arise with the online registration system (Explanatory Memorandum).

As indicated above, the PPSA may still commence on or before 1 February 2012. While a further delay may occur, it would be risky for businesses to rely on this. Businesses should still use the next 3 months to ensure that they are PPSA-ready in order to protect their rights under the new regime.

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