

Financial Services Flash

AIRD & BERLIS LLP
Barristers and Solicitors

Manitoba's *The Consumer Protection Act* (*High-Cost Credit Products*)

By: David Stevens and Haley Wong*

On September 1, 2016, amendments to Manitoba's *The Consumer Protection Act* (CPA), enacted by *The Consumer Protection Amendment Act* (High-Cost Credit Products), will come into effect. The CPA is amended to include a new Part XXV about high-cost credit products, introducing new disclosure and licensing requirements for lenders offering high-cost credit products to Manitoba consumers. Lenders who offer high-cost credit products nationally will have to adopt these new procedures when offering those products in Manitoba.

A high-cost credit product is a loan or a line of credit that meets the criteria set out in section 1(2) of Regulation 7/2016 under the CPA. The first example of a high-cost credit product given in the Regulation is a loan with an "annual interest rate" that exceeds 32%. Another example of a high-cost credit product is a loan which meets the following criteria: (i) the principal loan amount is no more than \$5,000, (ii) the high-cost credit agreement terms include (a) the payment of interest at a rate of up to 32% and one or more high-cost credit fees, and (b) the repayment of the loan over a term not exceeding two years, and (iii) the loan is not secured by any personal property pledged as collateral. A high-cost credit fee, as defined in the Regulation, means a fee, charge, penalty or other amount that is or may be payable by a borrower to a high-cost credit grantor or third party under the high-cost credit agreement. The new Part XXV of the CPA does not apply to mortgages on personal property, credit cards or margin loans. It also does not apply to high-cost credit grantors that are corporations without share capital and carrying on its activities without pecuniary gain for its members.

The CPA is amended to include further licensing requirements for lenders that offer, arrange or provide high-cost credit products. Section 241(1) mandates that these lenders obtain a licence before offering or providing any high-cost credit products in Manitoba. Licences are location specific so a lender who owns a store front in Manitoba is required to obtain a separate licence for each store location. There are additional requirements for posting prominent signs at each store location where the credit grantor offers or provides high-cost credit products. These signs must clearly state, among other requirements, that the product is a high-cost credit product and separately list each component of the cost of credit for that high-cost credit product.

Part XXV of the CPA also includes expanded disclosure requirements for high-cost credit products granted to borrowers in Manitoba. National lenders with high-cost credit products being offered in Manitoba will have to adopt a specialized form in connection with offering high-cost credit products to Manitoba borrowers. For each high-cost credit product, a high-cost credit grantor must give the borrower a prescribed form that states that the product is a high-cost product and provides further information to satisfy the broad disclosure requirements found under section 249(2). If there is no prescribed form, under section 249(5), the high-cost credit grantor may use its own form to provide the necessary information if the form has been approved by the director of the Consumer Protection Office.

The borrower's rights include the right to receive the prescribed form and a copy of the high-cost credit agreement with reasonable time to review the agreement and ask questions before entering into it. Under section 252(1), the borrower of a high-cost credit product also has the right to cancel the high-cost credit agreement within 48 hours, excluding Sundays and holidays, after entering into the agreement.

If you have questions regarding any aspect of how money services businesses are regulated in Canada, please contact a member of the Aird & Berlis LLP Financial Services Group. Details can be found on our [Financial Services, Insolvency and Restructuring](#) web page, by clicking on [members](#).

[Click here to view our other newsletters](#)
or visit www.airdberlis.com

**Haley Wong is an articling student at Aird & Berlis LLP*

This *Financial Services Flash* offers general comments on legal developments of concern to business organizations and individuals and is not intended to provide legal opinions. Readers should seek professional legal advice on the particular issues that concern them.

© 2016 Aird & Berlis LLP

Financial Services Flash may be reproduced with acknowledgment.