

CREDIT ACT 1985

DECLARATION NO. 109 OF 1994

EXPLANATORY STATEMENT

The *Credit Act 1985* and Credit Regulations are the Territory's component of uniform legislation which regulates certain consumer credit transactions. The principal objectives of the legislation are to provide users of consumer credit with information about their rights and obligations and particulars of their contracts; to provide a single scheme of regulation and user protection to replace the previous fragmented and ineffective controls; and to ensure that the business of providing consumer credit is carried out fairly and on a sound commercial and financial basis.

In particular, Section 155 requires those holding themselves out as carrying on a business of providing credit or as a finance broker to be the holder of a credit providers licence or finance brokers licence whichever is applicable. Subsections 155(1)-155(3) relating to credit providers specifically.

The accompanying instrument exempts South Australian Asset Management Corporation (SAAMC) from the provisions of subsections 155(1) and 155(2) of the Act, the requirement to be licensed as a credit provider.

The exemption stems from the proposal that State Bank of South Australia (SBSA), on 1 July 1994, will transfer its banking business and a substantial part of its undertakings to Bank of South Australia Limited, by Acts of Parliament, and that at this time SBSA will change its name to SAAMC.

SAAMC will be responsible for the management and realisation of lending assets that have been judged unsuitable for inclusion in the lending portfolio of the new Bank, Bank of South Australia Limited. In the words of their Chief Counsel, DF Wicks QC, 'It is contemplated that SBSA will continue to carry on the business of providing credit only to the extent necessary to discharge or dispose of its remaining assets. There will be no new business which is not incidental in some way to the process of winding down.'

As SBSA has been exempt from the provisions of subsections 155(1) and 155(2) of the Act, by virtue of paragraph 156(1)(b) and its status as a bank and will be exempt up to 30 June 1994, it would be very onerous for SAAMC to be required to comply with this legislation in the course of winding down the business. The circumstances being such that the business was not required to comply in the first instance.

This Declaration shall take effect on and from the date of publication in the Australian Capital Territory Gazette.

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New South Wales, Victoria and Western Australia have also been approached by SBSA for exemptions of the nature that have been applied for in the ACT and upon consultation with these states we have found that they have no objection to the granting of such exemptions. Following our discussions with these jurisdictions and a review of the details we have no reason to believe that the granting of this exemption would be to the detriment of people who may deal with SAAMC.