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5 August 2009

Mr Peter Hallahan  
Committee Secretary  
Senate Standing Committee on Legal and Constitutional Affairs  
PO Box 6100  
Parliament House  
Canberra ACT 2600

Email: [legcon.sen@aph.gov.au](mailto:legcon.sen@aph.gov.au)

Dear Mr Hallahan,

### **Personal Property Securities Bill 2009**

The Australian Finance Conference (AFC) continues to support the introduction of legislation to reform Australia's personal property securities regime.

We acknowledge the considerable work undertaken in simplifying the Personal Property Securities Bill that was the subject of the Committee's previous inquiry.

We are pleased there has been agreement to extend the commencement date of the Bill currently before the Committee until May 2011, with a commitment by the Government to ensure all necessary legislation and administrative arrangements, including IT, are in place by May next year. We are also pleased to note the Bill will be subject of review after 3 years of operation.

We continue to participate in the constructive processes being undertaken by the Attorney-General's Department to achieve the deadlines and to manage efficiently the not-insignificant transition and data migration issues.

The AFC is also engaging with the Department to seek to improve the utility of the purchase money security interest (PMSI) concept and its priority rule as it relates to the financing of goods. Briefly, these are –

1. To ensure goods financed for personal, household or domestic purposes are not excluded from the PMSI concept. The current draft of the Bill, at s14(2)(c), excludes these goods from the concept. This exclusion is new, and the AFC cannot understand the basis for its inclusion. The AFC has read the 24 July 2009 submission to the Committee by Mr Wappett from Piper Alderman and agree with his position and arguments on this point. AFC recommends the removal of s14(2)(c).

2. To ensure PMSI priority in financed non-inventory goods, at s62(3)(b)(i), is obtained by the registering the security interest within 10 days of the finance being provided, not within 10 days of the grantor taking possession of the goods. This issue was raised by the AFC submission to the Committee in its previous inquiry and continues to cause concern to its members, as financiers will not always be able to know when a grantor takes possession of goods to be financed, but they will know when they pay out the finance. The outcome being sought by the AFC is consistent with overall PPS policy, as the time at which finance is actually paid is when attachment will arise. The requirement at s62(3)(c) to declare on registration that a PMSI priority is being claimed reinforces the need for a financier to know when the time begins within which it must register. AFC's preferred position ensures that.

AFC representatives look forward to meeting with the Committee on 6 August.

Kind Regards,

Yours truly,

A handwritten signature in black ink, appearing to read 'Ron Hardaker', with a stylized, cursive script.

Ron Hardaker  
Executive Director

Attachment:

1. List of AFC Members



## AFC MEMBER COMPANIES

<p> Advance Business Finance  Alleasing  American Express  Australian Finance &amp; Leasing  Australian Motor Finance  Automotive Financial Services  Bank of Queensland  BMW Australia Finance  Capital Finance Australia  Caterpillar Finance Australia  CBA Asset Finance  Centrepont Alliance  CIT Group  Citigroup  CNH Group  Collection House  Credit Corp Group  De Lage Landen  Dun &amp; Bradstreet  Enterprise Finance  Esanda Finance  Flexigroup  Ford Credit Australia  GE Capital  General Motors Acceptance Corp  HP Financial Services  HSBC  Indigenous Business Australia  International Acceptance  John Deere Credit  Key Equipment Finance  Komatsu Corporate Finance  Leasewise Australia  Liberty Financial  Lombard Finance  Macquarie Group  Max Recovery </p>	<p> Members Equity Bank  Mercedes-Benz Financial  Nissan Finance  Once Australia  PACCAR Financial  Profinance  RABO Equipment Finance  RAC Finance  RACV Finance  Retail Ease  Ricoh Finance  RRAustralia  Service Finance  Sharp Finance  SME Commercial Finance  St. Andrews Finance  St. George  Suncorp  Suttons Motors Finance  The Leasing Centre  The Rock Building Society  Toyota Financial Services  Veda Advantage  Volkswagen Financial Services  Volvo Finance  Westlawn Finance  Westpac  Wide Bay Australia  Yamaha Finance </p> <p><u>Professional Associate Members:</u></p> <p> Allens Arthur Robinson  Bartier Perry  CHP Consulting  Clayton Utz  Corrs Chambers Westgarth  Finzsoft Solutions  Henry Davis York </p>
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