



Australian Banking
Association



INDEPENDENT REVIEW OF AUSTRALIA'S CREDIT REPORTING FRAMEWORK

Attorney General's Department

7 June 2024

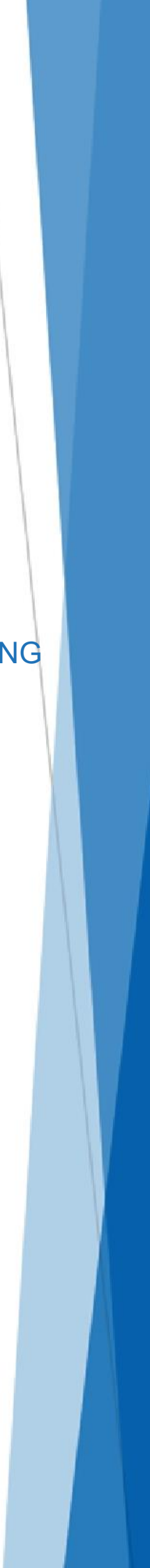




Table of Contents

Key recommendations	2
ABA submission to Independent Review of the Comprehensive Credit Reporting Framework	3
Response to consultation questions.....	3
1. Part 1 – The ‘what and why’ of credit reporting.....	3
2. Part 2 – Strategic, historical and international context.....	3
3. Part 3 – Australia’s Credit Reporting Framework.....	4
4. Part 4 – Impact of the Credit Reporting Framework.....	5
5. Part 5 – Credit data.....	6
Information categories to be considered for inclusion under the CCR framework.....	6
How information is categorised	6
Soft enquiries process	7
Information about financial hardship	7
Exception to permit suppression of repayment history and financial hardship information.....	8
6. Part 6 – Consumer protection and awareness	10
Protections for victims of financial abuse and family violence	10
Placing a ban on accessing a credit report.....	10
7. Part 7 – Access to and use of credit reports.....	12
8. Part 8 – Privacy, information security and regulatory oversight	14
9. Part 9 – Mandatory credit reporting.....	14
Buy Now Pay Later	14
Consumer auto loans.....	15
10. Other feedback.....	15
Attachment 1: Recommendations	16

Key recommendations

The ABA makes the following 5 key recommendations:

1. More types of information be included in the Comprehensive Credit Reporting (**CCR**) framework to support financial inclusion for consumers, reduce consumer burden, and enable better assessment by banks of credit worthiness.
2. CCR and the Consumer Data Right (**CDR**) remain as two separate frameworks. More evidence is needed to support the benefits of CDR before any adjustments are made to align requirements across these two schemes.
3. Credit eligibility information can be accessed and used by credit providers at an earlier stage of a customer's journey, so that a bank can help a customer avoid or manage a financial difficulty, rather than navigate a default event.
4. The CCR framework is extended to all Buy Now Pay Later providers and pay day lenders (regardless of contract value), and to consumer auto loans, on a mandatory basis.
5. New obligations relating to credit providers under this Review do not commence for a minimum period of 18 to 24 months to enable changes to banks' systems.

A full list of ABA's 16 recommendations is set out in **Attachment 1** to this submission.

Policy lead: Ellen Choulman, Director, Policy, ellen.choulman@ausbanking.org.au.

About the ABA

The Australian Banking Association advocates for a strong, competitive and innovative banking industry that delivers excellent and equitable outcomes for customers. We promote and encourage policies that improve banking services for all Australians, through advocacy, research, policy expertise and thought leadership.

ABA submission to Independent Review of the Comprehensive Credit Reporting Framework

Response to consultation questions

The Australian Banking Association (**ABA**) welcomes the opportunity to comment on the issues paper on the Independent Review (**Review**) of the Comprehensive Credit Reporting (**CCR**) framework, which is being conducted by Heidi Richards.

The ABA provides the following comments in relation to the Review. Our responses are provided on a thematic basis in response to specific questions in the issues paper.

The ABA would welcome the opportunity to provide further assistance to the Review if required.

1. Part 1 – The ‘what and why’ of credit reporting

1.1 How important is Australia’s credit reporting framework?

Australia’s credit reporting framework has benefits for both consumers seeking to build creditworthiness and providers of credit information in supporting a more comprehensive assessment of credit applications. The CCR framework also provides whole-of-economy benefits through the promotion of efficient and effective credit.

Credit reporting supports consumers to demonstrate their credit worthiness and manage their credit profile so they can access credit more quickly and effectively to suit their needs. Credit reporting supports banks’ responsible lending requirements so that customers can borrow within their means based on prior credit history. The framework also supports customers by allowing them to demonstrate good credit behaviour.

For banks, credit reporting has enabled the banking sector to assess customer applications more quickly, increased reliability of information, and introduced a standardised level of information that enables more consistency in assessment of applications. The use of credit reporting information has enabled banks to undertake more thorough and accurate credit risk assessments, which has assisted with reducing over-indebtedness and default, and supported the volume of credit that can be provided to credit worthy borrowers.

2. Part 2 – Strategic, historical and international context

2.1 Has the policy rationale for regulating credit reporting changed or remained the same since the legislative framework was adopted?

The ABA considers the policy rationale for regulating credit reporting is broadly consistent with its original objectives and continues to be an important feature of the credit reporting framework. However, we note the application of the CCR framework has evolved over time, mostly supported by advancements in technology and new entrants in the finance sector.

On the latter issue, the ABA believes the CCR framework should be extended to a greater number of participants and products, such as mandatory reporting for consumer credit liability Information for Buy Now Pay Later (**BNPL**) and pay day lenders (sections 5.4 and 9.1 of the submission refer).

3. Part 3 – Australia’s Credit Reporting Framework

3.1 Should credit reporting legislation be more aligned with financial services regulation, including the regulation of consumer credit, and the Consumer Data Right (CDR)?

The ABA notes the issues paper recognises that Australia’s credit reporting framework is complex, with policy and regulatory responsibility split across multiple departments and regulators. Its legislative framework spans several acts and legislative instruments, and these provisions interact with each other. Additional industry-led standards also support the operation of the framework.

Where it is appropriate to do so, the ABA supports the opportunity to explore greater alignment and harmonisation of definitions and concepts across all the *National Consumer Credit Protection Act 2009* (the **NCCP Act**) and the National Credit Code, with Part IIIA of the *Privacy Act 1988* and the CR Code, particularly in relation to hardship.

The ABA also notes the definition of ‘financial hardship arrangement’ does not include consumer credit accounts that are not regulated by the National Credit Code. Currently, a residential investment loan that was entered into before the commencement of the NCCP Act or a loan for personal investment purposes (which are both regulated forms of credit but not regulated under the NCCP Act) are not covered by provisions regulating financial hardship information reporting.

This means customers of these products in hardship receive a different reporting outcome (suppressed repayment history information, according to ASIC no action position) than customers of NCCP regulated credit (financial hardship information and moderated repayment history information). Banks have advised it can be difficult to understand which customer mortgages are not NCCP Act-regulated to determine the required reporting outcome, that is, whether to suppress repayment history information. This is often due to specific and nuanced exclusions. The ABA welcomes the opportunity to further discuss this issue as part of the Review.

With respect to CDR, the ABA opposes the application of the CDR framework to CCR. We provide our views regarding this point at section 5.5 of this submission.

3.2 Is the purpose and scope of CR Code appropriate? What provisions in the Act should be referred to the Code, and vice versa?

The ABA supports the purpose of the CR Code and, beyond its expansion to BNPL and pay day lenders, does not consider changes are required to the scope of the CR Code at this stage. The ABA believes that industry expert input to, and implementation of, the CR code is a practical way of ensuring that credit reporting rules are agile, responsive, and dynamic to the needs and requirements of regulated entities and customers. ABA members support the role performed by ARCA in working towards the needs of various participants in the credit reporting sector, including different sized credit providers, credit reporting bodies and consumers.

3.3 Do the regulators have sufficient powers, resources and expertise to regulate credit reporting effectively?

The ABA considers that while regulators have sufficient powers to regulate credit reporting, the landscape relating to credit reporting has evolved and become more complex over time. At present, multiple regulators govern different but related parts of the credit reporting framework.

For example, following the introduction of mandatory reporting under the NCCP Act, credit reporting for large ADIs is governed by ASIC under the NCCP Act and the OAIC under Part IIIA of the *Privacy Act 1988* and the CR Code. While the ABA recognises the necessary role of each regulator in this space, each of

these frameworks features a level of nuance and variation in definitions, concepts and obligations (such as varying definitions or terms for ‘default information’), which participants must navigate. This can create challenges in relation to potential duplication of requirements and unnecessary complexity within the framework.

4. Part 4 – Impart of the Credit Reporting Framework

4.1 What evidence is available to demonstrate whether comprehensive credit reporting has met its policy objectives?

The ABA notes that member banks are working with the Attorney General’s Department on this matter on a bilateral basis. We also understand that ARCA, as the representative body of the credit reporting industry, will be providing information on this issue in their submission.

Broadly, the ABA considers that CCR framework has met its policy objective of improving responsible lending decisions with respect to credit risk assessment, while acknowledging there are gaps relating to certain aspects of the scheme, such as BNPL and pay day lenders.

Banks have made significant investment to ensure appropriate consumption of CCR into their lending systems, processes, and decisions. For credit providers, this greater level of detail available provides a better indication of the consumers’ liabilities and probability of default. CCR assists credit providers to determine credit worthiness at application and assessment due to the retention periods and easily accessible data. It has also contributed to innovation in digital applications and credit decisions.

For consumers, CCR reduces the impost to gather and provide information of their current liabilities. CCR also assists consumers in ensuring upfront accurate disclosure of liabilities, and where there are increased credit provider obligations around applications and credit decisioning, timeframes for processing remain similar.

We note that while we believe CCR has met its policy objective, the CCR framework has not been flexible enough to adapt to significant changes in the market, such as BNPL, in a timely manner. The ABA recommends the Review consider how to build flexibility in the system to allow the law to respond and adapt to these changes more quickly, such as delegating legislative requirements that often require amendment to the CR Code, where appropriate.

4.2 How do lenders mitigate against inappropriate bias in automated and algorithmic lending decisions using credit scores or other credit reporting information?

Automated and algorithmic decisioning has enabled banks to better undertake responsible lending by reducing the incidence of undisclosed liabilities and decreasing the time to unconditional approval for lending applications. Banks have mature and comprehensive risk frameworks and governance controls in place to manage issues relating to the use of these tools. Banks also undertake routine reviews of projects relating to automated and algorithmic lending from an ethical standpoint prior to implementation of new processes or updates to existing processes.

More broadly, ABA members have observed that the use of automated or algorithmic decisioning can also reduce or in some cases eliminate bias, as the decisioning process is based on numeric outcomes, rather than assessment by an individual.

4.3 What has been the impact of Australia's concentrated credit reporting industry on the price of credit enquiries, reliability of service, and innovation?

The ABA supports greater competition in the credit reporting industry. We note that one of the CRBs has a dominant market position in terms of the volume of consumer data held. Requiring data sharing between existing CRBs may increase competition in a more effective way while supporting more consistency in reporting across the industry, compared with introducing new, smaller CRB competitors.

5. Part 5 – Credit data

5.1 What other types of credit-related information should be reported, or excluded, as part of Australia's credit framework?

The ABA supports the expansion of the types of credit information that can be exchanged to better assess credit worthiness and reduce the burden on customers having to provide additional details for credit assessments where such information cannot be sourced from a credit report. Opportunities to improve the credit reporting framework are set out below.

Information categories to be considered for inclusion under the CCR framework

Information category	Rationale
Expansion of 'Consumer Credit Liability Information', including: <ul style="list-style-type: none"> • Payment due date • Payment amount due • Payment amount made • Outstanding balance 	<ul style="list-style-type: none"> • Assist with identifying facilities that could be closed or merged to better support more or new lending for customers. • More holistic understanding of the total number of liabilities associated with a customer to affirm the customer does not take on debt they cannot manage. • Assist with responsible lending assessments as the information enables banks to verify actual repayment amounts on existing facilities and term and support better customer outcomes.
Interest only period for servicing of the loan	Helps banks understand the likely residual payments on an existing facility after expiry of an interest only period.
Utilities and telecommunications repayment history information	<ul style="list-style-type: none"> • Inability to repay utilities and communications bills may provide an early indication of financial stress, which may lead to hardship. This information can assist banks and telecommunications and utilities providers better support customers at an earlier stage of their financial difficulty. • Support consumers' ability to obtain credit where those consumers cannot demonstrate prior credit history (i.e. thin files). Further information is set out at section 7.3.
Disaster hardship indicator	Enables banks to more quickly understand whether a customer is impacted by hardship due to a natural disaster event, and to support the customer's ability to access disaster hardship packages at a point where this support is needed most.
Expansion of 'Repayment History Information' to include payment amount	See example following this table below.

How information is categorised

In addition to the credit-related information identified above, the ABA also considers changes could be made to how repayment history information is captured. Under the current CCR framework, whether a customer makes their repayments on time is represented by a number (0 – on time, 1 – behind in payment, and so forth). However, the numbering system does not account for or consider how much a consumer missed or failed to repay. For example, a customer may accidentally miss a repayment by \$1

due to incorrectly reading their credit card statement or recording an incorrect repayment amount on a banking app. This error would be recorded on a customer's file in the same way as a customer who genuinely did not make their full repayment.

The ABA also considers the Review should explore opportunities to better showcase positive repayment history information for those customers that consistently pay the balance of their debt on time or pay above the minimum amount owed.

The ABA welcomes the opportunity to participate in further consultation on these issues, noting that changes to the system in this regard would require careful consideration and further consultation with industry to ensure there are no unintended consequences to credit outcomes.

Soft enquiries process

In addition to expanding the types of credit reporting information included under the CCR framework, the ABA supports changes to the CCR framework to permit the introduction of a soft enquiries process for customers. We consider a soft enquires process would be beneficial to customers, removing the risk that shopping around for a better deal could adversely impact a customer's credit score, and promoting competition and customer choice for products. We note that the proposed revisions to the CR Code are currently with the OAIC for approval and contain provisions to introduce a soft enquiries process, as suggested above.

The ABA supports the inclusion of indicative approvals and pre-filling applications as use cases under this framework in addition to the use cases already being considered. These additional use cases would enable customers to compare different loan options and determine their potential borrowing capacity with different lenders more easily. The ability to prefill would also result in a more accurate, efficient, and simpler credit application process for customers and credit providers.

5.2 Has financial hardship reporting improved the quality of lending decisions and the suitability of loans?

Banks have advised that financial hardship information has positively contributed to the quality of lending decisions and loan suitability. Consumers are more aware of the implications of not making repayments (although further education is needed), and financial hardship information has given credit providers greater visibility over the repayment performance of accounts in hardship arrangements. Differentiating between standard hardship and disaster response driven hardship would provide further valuable context to financial hardship information data.

Banks continue to support the inclusion of financial hardship related information in the system to support customers from entering arrangements not suited to their circumstances, and to reduce poor credit outcomes for both the consumer and the bank.

As noted above, some banks are engaging with the Government directly on these matters.

5.3 Is financial hardship reporting dissuading some consumers from requesting financial hardship relief?

Information about financial hardship

While the ABA does not have data to measure the impact of financial hardship reporting on taking up a financial hardship arrangement, anecdotal feedback from banks suggests that some customers are dissuaded from requesting hardship relief because it will be contained in their credit report, particularly where the reason for hardship relates to a personal circumstance.

Generally, banks will engage with the customer to explain this information will stay on a customer's credit report for one year and be removed, and to clarify that the reason for the financial hardship arrangement will not be included in the report. Banks will also explain the difference between the impact of financial

hardship information on their credit report and future lending implications, as compared with overdue or missed repayment history information. However, banks have observed that despite clear messages on the role of hardship flags, there remains some customer misconception that entering a hardship arrangement has a greater detriment to credit history than a missed payment.

At an industry level, the ABA often conducts hardship campaigns across print and digital platforms and maintains resources in relation to financial hardship and credit reporting to assist with consumer education. This includes a fact sheet on 'Financial Hardship and Your Credit Report'¹ and a dedicated Financial Assistance Hub² to support customers navigate a period of financial difficulty with their bank.

We note that ARCA is currently undertaking a project to improve communication with customers on how financial hardship reporting is treated. ARCA have also published a guide on financial hardship assistance.³ The ABA and our members are working with ARCA and consumer stakeholders to assist with improving the quality of these communications and to ensure customers can access the support they need.

Exception to permit suppression of repayment history and financial hardship information

The ABA notes that recent legislation introduced a new requirement that commenced on 1 July 2022 for large ADIs to contribute financial hardship information for all eligible accounts.

At the time, the ABA sought that the Government implement an ongoing exception to this requirement to allow large ADIs to suppress repayment history information and financial hardship information for eligible accounts in situations where a customer has raised a risk of threat or harm perpetrated by an account holder to another person.

In July 2022, ASIC adopted a temporary no-action position to enable large banks to withhold the reporting of certain credit information on consumer credit reports where reporting the information could lead to consumer harm, including where a consumer may be the victim of family violence. However, there is no regulatory recognition of this requirement.

The ABA recommends the Government implement an ongoing exception to allow the suppression of repayment history information and financial hardship information for eligible accounts in cases where a customer has raised a risk of threat or harm perpetrated by an account holder to another person. The ongoing exception may be informed by a review of the measure and the outcomes achieved.

5.4 What are the potential implications of the proposed BNPL regulations on the credit reporting framework?

The proposed BNPL regulations provide that where the value of a Low-Cost Credit Contract is less than \$2,000, the BNPL provider must conduct a 'negative credit check' with a credit reporting body. If the value of the contract is \$2,000 or greater, the BNPL provider must seek to obtain from a credit reporting body information included in a negative credit check, as well as information about consumer's consumer credit liability information. This information aligns with the data contained in what is commonly known as a 'partial credit check' with a reporting body.

The ABA considers this framework should be expanded so that all BNPL providers (regardless of contract value) are required to provide consumer credit liability information and participate in the CCR framework on a mandatory basis to address consumer harms arising from customers operating multiple accounts across different providers.

We consider that CCR enables BNPL providers to obtain the clearest picture of a customer's credit liabilities and their ability to maintain them. We note that as the prevalence of BNPL products continue to

¹ <https://www.ausbanking.org.au/wp-content/uploads/2022/06/ABA-Consumer-Credit-Reporting-Short-Guide-2022-Accessible.pdf>.

² <https://www.ausbanking.org.au/financial-assistance-hub/>.

³ <https://www.creditsmart.org.au/assets/Downloads/temporary-financial-hardship-arrangement.pdf>.

grow, the gap created by an absence of credit reporting on BNPL products exacerbates the risks on consumers and reduces the effectiveness of the CCR regime to all credit providers.

The ABA considers there are strong policy reasons for making BNPL providers subject to this form of mandatory reporting. For example, in RG209, ASIC expresses an expectation that credit providers make enhanced inquiries as part of an unsuitability assessment in certain circumstances, specifically outlining an illustrative example where the applicant already holds multiple BNPL facilities. Making reporting of consumer credit liability information mandatory would enable other credit providers to verify BNPL holdings as part of a credit check and better and more consistently satisfy regulatory expectations. Expansion of CCR to all BNPL products would also assist in reducing the risk of customer harm across the financial system, by providing clearer and more complete picture of a customer's financial position.

5.5 How should the credit reporting framework be adjusted in light of other financial data sharing arrangements such as the CDR?

The CDR has been designed to utilise consumer data across sectors (whole-of-economy) to drive competition. By ensuring data holders are required to make CDR data available in near real time, the program was designed from the outset to apply to the widest array of 'use' cases for data recipients, without pre-empting what those use cases are. Comparatively, CCR is designed for a specific purpose and use case, with a monthly reporting cycle that generally aligns with a monthly repayment cycle, and typically requires less information than what is required under CDR. CDR also requires information to be shared in real time, for which there is a significant cost associated with sourcing information in this way that is not associated with CCR. Without a clear customer benefit, the ABA does not consider this to be a feature that is required under a CCR framework.

We note that under CDR, the following limitations exist that would add complexity into the CCR system:

- Customers need to consent to each of the accounts that will be shared.
- Customers can share information about closed accounts but only if they still have at least one active product with the relevant financial institution. This is because account information can only be shared from financial institutions with whom the customer has at least one active online account. Practically, this means that if a customer previously held a credit card with bank A (and no other bank A credit products) and that account was closed, the customer would not be able to provide data about that credit card under the CDR rules.
- Due to limitations on how CDR data can be used, it is more difficult (or in some cases banks are unable to) use CDR information in connection with credit assessments.

We also note that even in jurisdictions where open data schemes are well evolved, this has not removed the need for a comprehensive credit reporting mechanism (e.g. in the United Kingdom). On the contrary, the ABA understands it has intensified the need for an objective data source for recording credit information.

On this basis, the ABA does not consider the CDR to be a viable alternative to CCR.

We believe the CCR and CDR frameworks should remain as two separate processes, and more evidence is needed to support the benefits of CDR before any adjustments are made to align requirements across these two schemes. The schemes can work alongside and complement one another but regulation does not need to be aligned for either scheme to be operable.

6. Part 6 – Consumer protection and awareness

6.1 How can consumer understanding about credit reporting be improved?

The ABA is broadly supportive of measures to increase consumers' understanding of credit reporting. This includes simplifying credit reports to increase consistency across different types of credit reporting bodies' reports and providing greater education to users of credit reports so that consumers understand in plain English their purpose, contents, and the meaning of any differences or discrepancies in credit reports that are produced by different credit reporting bodies.

The ABA encourages the Government and ARCA to actively direct consumers towards existing educative materials (or develop these materials where they do not already exist) to support their understanding of:

- What a credit report is.
- What key information in a credit report means, such as a 'financial hardship flag'.
- How repayment history information can impact on your credit score.
- How to check your credit score without incurring a charge and why a consumer should check.
- How to amend your credit report through a credit reporting body or a credit provider without incurring a charge.
- Measures to improve your credit score.

We also consider that consumer education about financial hardship reporting could be improved. Hardship reporting is complex, and often poorly understood by consumers. We understand that some lenders have observed some customers reluctant to accept hardship assistance because of the credit reporting impacts. This is because other lenders can see a customer is or was in financial hardship, which can create the perception with the customer that they will not be able to access credit in the future.

ARCA is currently working with stakeholders to develop better consumer education materials, including simplified standardised scripting. Simplification of the hardship reporting requirements would assist with consumer education, as at present it can be difficult for a lender to know or explain to a customer how something may be treated by another lender.

6.2 Can the following arrangements be improved to better protect consumers at reasonable cost?

Protections for victims of financial abuse and family violence

The ABA supports greater protections for victims of financial abuse and domestic and family violence under the framework. We note our feedback on this subject at sections 5.3 and 6.4 of the submission.

Placing a ban on accessing a credit report

Under the credit reporting framework, consumers can request a ban or freeze on their credit report if they believe their identity may have been stolen or are a victim of fraud or likely fraud. While in place, credit information cannot be disclosed by a credit reporting body, and credit providers cannot access credit reporting information without the consumers specific permission.

The law prescribes that a credit file ban is for 21 days and that an extension may be granted if there is reasonable evidence to do so. We understand that this was drafted in the context of physical ID theft and was intended to provide time for a new physical ID to be secured. In the modern context, identity theft can occur at scale. Customers may not be aware of their data being compromised and the timeframes involved can be short or extended depending on the type of fraud and identity theft.

The ABA recommends the legislation is flexible in how long consumers seek to place, extend, and remove a credit file ban without the need for strict barriers. We consider a 21 day, or 12-month period is not fit for purpose and should be more tailored and flexible to the types of risks that customers face in the current environment. This could be reflected by the credit reporting body offering the customer a range of time options to suit their circumstances, as well as the option of keeping a ban in place indefinitely until it is lifted by the customer (particularly where the customer's data has been the subject of a data breach, but the customer has no immediate plans to access credit).

6.3 Should additional consumer protections or other regulatory provisions be applied to credit repair services?

The ABA considers that additional consumer protections should be applied to credit repair services to protect consumers, particularly those facing financial difficulty. We note that often, when people are in financial stress, it can affect their ability to make informed and considered decisions and make them more vulnerable to rushing into an agreement with a paid representative regarding their finances. This may not always be the best outcome for the customer.

The ABA considers that credit repair services should be subject to obligations that are in the consumer interest, such as:

- Advising customers up front that they can have corrections made for free with a credit provider or credit reporting body.
- Fair and reasonable fees and charges for their services.
- Educating customers on the process of credit reporting.
- Consequences resulting from poor conduct, particularly where that conduct is to the customer's detriment.

The ABA also considers that consumers should be made aware and better educated on free services and resources that may be available before they enter an arrangement with a credit repair service. Examples of services that consumers could be alerted to include Way Forward (a not for profit that provides free assistance to people struggling to repay multiple debts), MoneySmart, the National Debt Helpline and community legal services. The ABA notes some further suggestions regarding customer education are made at section 6.1 above.

To support customers engaging with credit repair services, Australian banks have also developed a common approach (guide) to communicating with these customers in cases where the credit repair service is not acting in the best interest of the customer. The guide states that if banks believe that a credit repair service is not acting appropriately or is not licensed, banks can refuse to deal with a credit repair service and communicate directly with the customer.⁴

6.4 How can the credit reporting complaints framework be improved?

Currently, the credit reporting complaints framework is primarily used by a customer to seek an amendment to their credit file. In part, this reflects the lack of consumer awareness of how credit files can be amended and is due to the complexity of the credit reporting framework generally. Ideally, the credit reporting complaints process should be used when a customer is dissatisfied with a bank's process of modifying a credit file or the bank declines to modify the credit file, rather than as the mechanism for amendment. While this may not be because of the framework as such, it reflects the fact that consumers are generally unaware of their credit file, how it is formed and how and why amendments are made. We note that there are similar concerns in relation to financial hardship information flags, where customers may have a flag but not understand what a financial hardship arrangement means.

⁴ <https://www.ausbanking.org.au/for-customers/debt-management-firms/>.

As we have submitted above, we consider the credit reporting complaints framework should be modified to include greater protections and considerations for victims of family and domestic violence. For example, banks apply corrections to a credit file from the date the bank is notified of a customer's circumstances. However, a customer may have been involved in this situation for a longer period than first reported and the framework precludes a bank from backdating this correction (other than where directed by AFCA). Greater flexibility in the law to enable banks to backdate corrections in domestic and family violence cases could reduce harms for consumers that are already facing highly stressful circumstances.

More broadly, the ABA considers the credit reporting complaints framework should be reviewed to support different types of customers, such as customers who speak a language other than English, First Nations customers and customers facing elder abuse. We consider it is imperative the framework be accessible and available in multiple formats, including languages other than English and written in Plain English formats, to support community needs.

7. Part 7 – Access to and use of credit reports

7.1 Should credit reports be able to be used for other purposes beyond a 'credit purpose'?

Use of credit eligibility information

The ABA supports access and use of credit eligibility information (**CEI**) by credit providers at earlier stages of a customer's journey with a bank to help the customer avoid or manage financial difficulty, rather than navigate a default event.

Currently, CEI can be accessed and used to assess credit, for collection purposes and to assist the individual avoid defaulting on their obligations. Credit providers use transaction and other data to help identify customers who may be experiencing early-stage financial difficulty so they may contact those customers to offer assistance before their situation becomes unmanageable. Such strategies have proven effective in the past to reduce potential consumer harm, and regulators have encouraged lenders to be proactive in their identification of and assistance to customers experiencing financial difficulty.

CEI can be a helpful input for these activities. However, the corresponding permitted purpose of 'avoiding significant risk of default' can be too restrictive in some circumstances. Some banks may interpret that purpose as requiring default to be imminent to qualify for access to CEI, whereas early-stage financial difficulty can be evidenced in behaviours that are well in advance of actual default on obligations (such as certain repayment behaviours and credit applications). It should be clear that credit providers may access and use CEI to help consumers before they get to the stage of almost defaulting on their credit.

Account management tools

In addition to the use of CEI, other jurisdictions overseas also permit the use of CCR data and account management tools to assist banks with informed decision making regarding a customer's credit exposure, that is, enabling banks to better and more holistically understand the potential risk associated with extending credit to a particular borrower, especially on unsecured debt.

The ability for credit providers to proactively help customers manage their debt by understanding all their financial relationships and performance through monthly files or daily alerts can support a more engaging experience for customers, who can be better supported in managing their debt levels. The ABA encourages the Review to consider opportunities for CCR data to be used in this way and would welcome further engagement on this matter.

Beyond these instances, the ABA does not support the use of a credit report for other purposes beyond a credit purpose. A credit report contains technical and detailed information that has been designed to be used for and confined to a 'credit purpose'. This information is not well understood outside of the CCR

sector or by consumers. Use of credit report information beyond its intended purpose may increase the risk of consumer harm due to the information being misused or misrepresented. Any extension of how credit reports are used must be supported by appropriate safeguards, requirements for use, and consumer education.

7.2 Should credit reports be accessible to a broader range of commercial entities, such as real estate agents?

The ABA does not support the provision of credit reports to a broader range of commercial entities, such as real estate agents. The purpose of the CCR framework is to encourage the free and efficient flow of credit across the economy to support financial inclusion. As noted above, the crediting reporting framework has been intricately designed so that consumer information is used by participants with expertise, supported by appropriate safeguards (including privacy requirements), for a credit purpose. Extension of this framework to further parties, such as real estate agents, is likely to result in unintended consequences on consumers with lower credit scores, including potential flow on impacts to individuals applying for rental properties. The ABA considers this proposal may exacerbate existing issues for individuals who are struggling to afford or access housing in the context of a difficult housing market and lack of housing supply.

7.3 Should non-financial participants such as telecommunications and utility providers be able to contribute repayment history and other positive reporting data?

The ABA considers the inclusion of non-financial participant information in credit reporting, such as telecommunications and utility providers, can assist with financial inclusion and enable banks to potentially lend to a segment of consumers that may not otherwise be able to obtain credit. Greater information can assist banks with better credit decisioning outcomes by enabling customers with ‘thin files’ and a limited credit history to demonstrate their ability to consistently repay debts. The inclusion of this information would be useful in cases where consumers are new to the country or have not had a previous credit product but can demonstrate repayment of bills over a period. Inclusion of telecommunications and utility provider data in repayment history information would assist these consumers better demonstrate a track record and reduce potential barriers to accessing credit.

This information would also be valuable in identifying early signs of financial stress. Banks typically observe that when a customer is facing financial difficulty, the customer will seek to repay their home loan with the bank but may forego repayment of smaller debts, such as telecommunications and utility bills. Reporting of repayment history information and financial hardship information by these sectors would provide credit providers an early indication of financial stress, which would allow banks to proactively engage with their customers to minimise arrears and support them during a period of difficulty. The experience of banks is that customers who are provided with financial hardship support earlier tend to recover faster and be less likely to need future support.

7.4 Do current access seeker arrangements adequately enable people to obtain appropriate assistance to gain access to their credit reporting information?

The ABA supports amendment to section 21G of Part IIIA of the *Privacy Act 1988* to specifically allow credit providers to disclose a credit applicant’s credit eligibility information to a broker representing the credit applicant, without having to rely on the access seeker provisions as a workaround. This would simplify processes for credit providers, reduce friction in the application process for consumers and support a more efficient and seamless outcome for consumers seeking credit.

We also support the extension of the framework to permit up-front pricing and indicative interest rate quote generation by credit providers under the 'soft enquiry' process, which ARCA is currently developing under the proposed amendments to the CR Code.

8. Part 8 – Privacy, information security and regulatory oversight

8.1 Should CRBs be required to register or obtain a licence?

The ABA considers that greater oversight of credit reporting bodies could improve and align processes across the credit reporting body sector where existing requirements do not enable this to occur.

Specifically, the ABA supports creation of obligations on credit reporting bodies to promptly load data provided by credit providers under mandatory CCR to improve the currency of consumer credit reports. For example, under the framework, credit providers have 45 days to report events, while credit reporting bodies do not have mandated timeframes in which to upload data. The practical impact of this difference is that credit providers could appear to be non-compliant with the timing requirements due to delays relating to credit reporting bodies. These delays can also mean that customers can have gaps or incorrect data on their credit report for a longer period, which may impact on those customers accessing credit until the data is corrected or updated.

The ABA considers that credit reporting bodies should be subject to timeframe of five to ten business days in which they must upload data into the framework.

9. Part 9 – Mandatory credit reporting

9.1 Should the scope of mandatory credit reporting be expanded to include other credit providers or other types of information, and if so, how should this be done?

Buy Now Pay Later

BNPL should be included within the scope of mandatory reporting under the CCR. The use of BNPL represents a growing portion of the financial services sector. As at March 2024, 2 in 5 Australians (40%) have used a BNPL service in the past 6 months. The number of Australians paying BNPL late fees has increased significantly since January 2020 when just 5% had paid a late fee in the last 12 months, compared to 20% in January 2024.

The CCR was a recommendation of the 2014 Financial Systems Inquiry and the Productivity Commission's Inquiry into Data Availability and Use. The Productivity Commission noted that the effective and efficient operation of credit markets relies upon credit providers being able to access sufficient and reliable information about borrowers as a basis for making lending decisions.

Applying this principle, the ABA believes that the increasing popularity of BNPL (and pay day lenders) and the higher levels of hardship experienced by some BNPL users means that the CCR is not well served by continuing to exclude BNPL from the mandatory regime.

The ABA believes that the CCR regime has been an important enhancement to Australia's credit reporting system to assist credit providers inform their credit decision and the amount of credit provided. However, even with the introduction of mandatory reporting, there is a lower level of data available for credit origination in Australia than in other equivalent economies, such as the United Kingdom or Singapore. We believe that the expansion of the CCR regime to BNPL providers would be a positive step that will lead to improvements to the amount, pricing, and types of credit available to individuals and businesses.

We note we have previously provided information to government on consumer harm experienced by some BNPL users. We would be pleased to reshare this information with Government to support consideration of these issues under the Review.

Consumer auto loans

The ABA considers that consumer auto loan providers should be included within the scope of mandatory reporting under CCR. Some ABA members have observed that customers with liabilities related to consumer auto loans from their transaction data have not been uncovered via CCR or declared by the customer. This suggests that consumer auto loans are not always disclosed through CCR, which can result in a bank being unaware of the loan's existence if the customer does not disclose the loan.

The ABA supports inclusion of consumer auto loans in the mandatory reporting framework to ensure that banks can identify these in each case and that large repayment commitments are highlighted and known to credit providers so that customers receive the best credit outcomes for their circumstances.

10. Other feedback

The ABA notes the significant cost of reconfiguring the technology systems to support changes to CCR, should there be any extensive changes to the framework.

The ABA requests that banks, as credit providers, be given sufficient lead and transitional time to implement any changes that arise out of the Review's recommendations. The length of time will depend on the nature of the changes and how they impact bank systems.

Broadly speaking, the ABA requests new obligations not commence for a minimum period of 18 to 24 months once effective (subject to size and impact of changes).



Attachment 1: Recommendations

Part 5 – Credit data

1. More types of information be included in the Comprehensive Credit Reporting (**CCR**) framework to support financial inclusion for consumers, reduce consumer burden, and enable better assessment by banks of credit worthiness.
2. How repayment history information is captured in the system be explored to better categorise customers' ability to repay loans.
3. A soft enquiries framework, with indicative approvals and pre-filling applications as additional use cases, is formally adopted for customers under the CCR framework.
4. An ongoing exception is implemented to allow the suppression of repayment history information and financial hardship information in certain circumstances.
5. CCR and the Consumer Data Right (**CDR**) remain as two separate frameworks. More evidence is needed to support the benefits of CDR before any adjustments are made to align requirements across these two schemes.

Part 6 – Consumer protection and awareness

6. Consumer education on credit reporting and financial hardship information is improved, including by actively directing consumers towards existing resources.
7. Credit reporting bodies offer different time options for how long a credit ban is in effect to accommodate for varying circumstances that may be faced by a customer.
8. The credit reporting complaints process is modified so that:
 - a. It is used when a customer is dissatisfied with a bank's process of modifying a credit file or the bank declines to modify the credit file, rather than as the mechanism for amending a credit file.
 - b. There are greater protections and considerations for victims of family and domestic violence.
9. Credit eligibility information can be accessed and used by credit providers at an earlier stage of a customer's journey, so that a bank can help a customer avoid or manage a financial difficulty, rather than navigate a default event.
10. Credit repair services are subject to obligations that are in the consumer interest, such as:
 - a. Advising customers up front that they can have corrections made for free with a credit provider or credit reporting body.
 - b. Fair and reasonable fees and charges for their services.
 - c. Educating customers on the process of credit reporting.
 - d. Consequences for poor conduct, particularly where the conduct is to the customer's detriment.

Part 7 – Access to and use of credit reports

11. Credit reports are not provided to a broader range of commercial entities, such as real estate agents.



12. Non-financial participant information is included in credit reporting, such as telecommunications and utility providers, to assist with financial inclusion for consumers who may not be able to obtain credit.
13. Section 21G of Part IIIA of the *Privacy Act 1988* is amended to specifically allow credit providers to disclose a credit applicant's credit eligibility information to a broker representing the credit applicant, without having to rely on the access seeker provisions as a workaround.

Part 8 – Privacy, information security and regulatory oversight

14. Credit reporting bodies are subject to greater oversight to improve and align processes across the credit reporting body sector (where existing requirements are insufficient), including the obligation to load data into the system within five to ten days, to improve the currency of credit reports.
15. The CCR framework is extended to all Buy Now Pay Later and pay day lenders (regardless of contract value), and to consumer auto loans, on a mandatory basis.

Other feedback

16. Any new obligations relating to credit providers under this Review does not commence for a minimum period of 18 to 24 months to enable changes to banks' systems.