

Office of the Australian Information Commissioner
GPO Box 5218
Sydney NSW 2001

6 May 2024

Lodgement via: consultation@oaic.gov.au

Dear Commissioner,

APPLICATION TO VARY THE CREDIT REPORTING CODE

The Mortgage and Finance Association of Australia (**MFAA**) welcomes the opportunity to consider the application made by the Australian Retail Credit Association (**ARCA**) to vary the *Privacy (Credit Reporting) Code 2014* (the **CR Code**).

The MFAA is Australia's peak industry body for the mortgage and finance broking industry with over 15,000 members. Brokers play a critical role in intermediated lending, providing access to credit and promoting choice in both consumer and business finance. Over time, consumers have increasingly sought the services of a mortgage and finance broker with the latest MFAA quarterly market share showing mortgage brokers are writing 71.8% of all new residential home loans¹ and approximately four out of ten small business loans² in Australia.

Further information about the MFAA can be found in **Attachment A**.

OUR SUBMISSION

The MFAA is generally supportive of the proposed variations to the CR Code. We see the CR Code as an important regulatory framework to govern credit reporting, and to that end supports consumers to access finance. While the CR Code does not specifically apply to mortgage and finance brokers, changes to the Code can impact on our members' ability to provide services to their customers. For this reason, we take the opportunity to provide the following feedback:

Soft enquiry framework

The MFAA is generally supportive of the introduction of a 'soft enquiry' framework. The introduction of a framework for soft enquiries will allow credit providers to provide potential customers with preliminary product information and an indication as to whether the customer would be considered for credit with that credit provider. As noted in our submission³ to ARCA on this matter, a soft enquiry should not be used by credit providers as a replacement for obtaining a 'hard enquiry' report once

¹ MFAA media release, [Mortgage brokers break market share record, again](#), 3 April 2024.

² Productivity Commission research paper [Small business access to finance: The evolving lending market](#) pg 44.

³ MFAA [submission](#) to Australian Retail Credit Association, 16 November 2023.

an application is lodged and we are pleased to see the CR Code clearly identify the purpose of a soft enquiry and that a hard enquiry continues to be required when assessing an application for credit.⁴

Access seeker provisions

As we have noted in our previous submission on this topic, any changes to the Code to establish a soft enquiries framework must not in any way affect the access seeker provisions on which brokers rely to conduct enquiries on behalf of their customers when supporting their customers to access credit. We have obtained an acknowledgement from ARCA this is an important and appropriate use of the access seeker provisions by our members.

With regards to the proposed amendments, we welcome the clarity provided as to the use of reports obtained via the access seeker provisions.

Education

Reducing potential for confusion is important and we believe education is key for consumers to understand the difference between a soft and hard inquiry, particularly because a lender still may decline their indicative assessment of a loan after a soft enquiry is obtained or change the rate which applies. It is important that consumers are educated about the information contained in a hard enquiry that may change any indicative information provided by the lender. This will assist both consumers – and by extension the brokers who are assisting them – manage expectations. Ensuring sufficient tools and resources are available, and which can be accessed via brokers as needed if consumers choose to use their services, will contribute to uplifting consumer knowledge about credit reporting.

With circa 70% of all consumers choosing to use a broker for their home lending needs, we would be pleased to support ARCA should opportunities arise to partner with the broking industry, with consumer education initiatives in relation to their credit report and credit reporting in general.

CLOSING REMARKS

The MFAA appreciates the opportunity to contribute to this consultation. We note the concurrent Independent Review of the Credit Reporting Framework and will also contribute to that review. If you wish to discuss this submission or require further information, please contact either me at [REDACTED] or Stefania Riotto at [REDACTED].

Yours sincerely

[REDACTED]

Naveen Ahluwalia
Executive Policy and Legal
Mortgage and Finance Association of Australia

⁴ ARCA application materials, Annexure 2, Subsection 16(7) of Privacy (Credit Reporting) Code 2024 (Version 3.0),

Attachment A

The MFAA's membership includes mortgage and finance brokers, aggregators, lenders, mortgage managers, mortgage insurers and other suppliers to the mortgage and finance broking industry.

The MFAA's role, as an industry association, is to provide leadership and to represent its members' views. We do this through engagement with governments, financial regulators and other key stakeholders on issues that are important to our members and their customers. This includes advocating for balanced legislation, policy and regulation and encouraging policies that foster competition and improve access to credit products and credit assistance for all Australians.