



Privacy (Credit Reporting) Code 2024 (Version 3.0)

I, name of maker, title of maker, make the following legislative instrument.

Dated

Name of maker **DRAFT ONLY—NOT FOR SIGNATURE**

Title of maker

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Part 1—Preliminary

1 Name

This instrument is the *Privacy (Credit Reporting) Code 2024 (Version 3.0)*.

2 Commencement

- (1) This instrument commences on [date] 2024, with the exception of the provisions listed in subsection (2).
- (2) The following provisions commence six months after the date mentioned in subsection (1):
 - (a) section 5, definitions of *hard enquiry*, *ineligibility criteria* and *soft enquiry*;
 - (b) Schedule 2, subsection 4(3);
 - (c) Schedule 2, subsections 7(3) to 7(5);
 - (d) Schedule 2, subsections 14(6) to 14(8);
 - (e) Schedule 2, subsections 16(6) to 16(8);
 - (f) Schedule 2, paragraph 19(6)(c); and
 - (g) Schedule 2, paragraph 22(2)(g).

Commented [A1]: Proposal 43

3 Authority

- (1) This instrument is a CR Code described in section 26N of the Act.
- (2) This instrument is included on the Codes Register under paragraph 26T(5)(b) of the Act.

Note: This instrument is the Registered CR Code described in section 26M of the Act.

4 This CR Code

The operative provisions of this CR Code are set out in Schedule 2 to this instrument.

5 Definitions

Note: A number of expressions used in this instrument are defined in Divisions 1 and 2 of Part II of the Act, including (but not limited to) the following:

- (a) consumer credit liability information;
- (b) CP derived information;
- (c) CRB derived information;
- (d) credit;
- (e) credit eligibility information;
- (f) credit information;
- (g) credit provider
- (h) credit reporting body;
- (i) credit reporting information
- (j) default information;
- (k) financial hardship arrangement;

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- (l) financial hardship information;
 - (m) information request;
 - (n) payment information;
 - (o) regulated information;
 - (p) repayment history information
 - (q) serious credit infringement.

In this instrument:

Act means the *Privacy Act 1988*.

ban notification service means a free of charge service offered by a credit reporting body where the body will notify an individual of requests from a credit provider, mortgage insurer or trade insurer for credit reporting information relating to that individual when a ban period is in effect.

Commented [A2]: Proposal 31

ban period has the meaning given in subsection 20K(3) of the Act.

capacity information means information as to whether the relevant individual is:

- (a) solely liable for the credit;
- (b) jointly liable for the credit;
- (c) the guarantor in respect of the credit; or
- (d) in relation to credit in respect of which information is first disclosed by the credit provider to a credit reporting body on or after [date], a trustee in respect of the credit.

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correction period, in the context of a correct request, means a period of 30 days from the date on which the correction request is made.

correction request means a request by an individual to correct information about the individual under sections 20T or 21V of the Act.

credit ID information means any of the following numbers (for accounts other than credit card and debit card accounts) or the first six and last four digits of any of the following numbers (for credit card and debit cards accounts):

- (a) the number allocated by the credit provider for the consumer credit provided to the relevant individual;
- (b) any previous number allocated by the credit provider for the consumer credit provided to the relevant individual; and
- (c) where a transfer event has occurred – the number allocated by the previous credit provider for that consumer credit.

credit-related personal information means each of the following (as applicable in the relevant context):

- (a) credit information;
- (b) credit reporting information;
- (c) credit eligibility information; or
- (d) regulated information.

day on which the consumer credit is entered into means

- (a) in the case of credit provided with a telecommunications or utility service, for consumer credit liability information disclosed after [date].

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the day that a service is first provided, where the credit provider has generated one or more active accounts within its systems; and

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- (b) in all other cases:
- (i) for consumer credit liability information disclosed up to and including 14 February 2021, the day that, under the terms and conditions of the consumer credit, the credit is made available to the individual; or
 - (ii) for consumer credit liability information disclosed from 14 February 2020, the day that, the consumer credit is unconditionally approved by the credit provider, and the credit provider has generated the consumer credit account within its credit management system.

day on which the consumer credit is terminated or otherwise ceases to be in force means

- (a) in the case of credit provided with a telecommunications or utility service, for consumer credit liability information disclosed after [date], the day that service provision ceases and on which there is no right to have a service reconnected under an existing contract; and

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- (b) in all other cases, the earliest of:
- (i) the day that the debt owed under the credit is repaid and there is no ability to defer payment of further debt under the credit;
 - (ii) the day that either the credit provider determines or the individual and the provider agree that all outstanding payment obligations arising under the credit have been waived or otherwise discharged and the provider cannot undertake further enforcement action in respect to any outstanding debt owed by the individual under the credit; and
 - (iii) the day that the provider charges off the full balance of the credit after deciding that the outstanding balance is a loss due to the likelihood that the amount may not be recoverable, although the provider maintains the legal ability to take enforcement action in respect to any outstanding debt owed by the individual under the credit.

Commented [A9]: Proposal 15

destroy, in the context of an obligation on a credit reporting body or credit provider to destroy information, has a meaning affected by section 1A of Schedule 2 to this CR Code.

hard enquiry in relation to an individual is an information request other than a soft enquiry.

hardship request means a financial hardship or payment difficulties notification or request that is regulated under legislation or an industry code. This does not include a once-off, short term payment extension that is not so regulated.

ineligibility criteria of a credit provider means criteria that are:

- (a) documented in the provider's credit policy for particular credit; and
- (b) used by the provider to identify specific credit reporting information held by the credit reporting body or derived in response to the soft enquiry by

the credit reporting body that would mean that a person with that specific credit reporting information is ordinarily ineligible for the particular credit (without using any other information held by the credit provider about the individual).

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maximum amount of credit available under the consumer credit means:

- (a) where no credit limit applies to revolving credit, a charge card contract or the sale of goods or supply of services where credit is provided – no fixed limit;
- (b) in the case of revolving credit with a credit limit – the credit limit that applies at the time the consumer credit liability information is disclosed to a credit reporting body;
- (c) in the case of credit where the principal amount is not repayable until a fixed date and, until that time, payments of interest only are required to be made – the principal amount of the credit;
- (d) in the case of credit where payments of the principal amount must be made throughout the term of the credit – the amortised maximum principal amount of the credit, calculated on the basis that the individual makes the minimum only principal repayments throughout the term of the credit;
- (e) for consumer credit liability information disclosed on or after [date] and in the case of a reverse mortgage, the principal amount of credit, whether fully drawn down or not, even where this may differ from the amount owing under the credit;
- (f) for consumer credit liability information disclosed up to and including 30 June 2019:
 - (i) in the case of credit provided for the purposes of the acquisition of particular goods or services, the applicable credit limit;
 - (ii) in the case of credit provided by a supplier of goods or services where the contract specifies the amount of the credit or the credit limit – that amount; and

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month means a period:

- (a) starting at the start of any day (the **start day**) of one of the calendar months; and
- (b) ending on any of the following days, as determined by the credit provider:
 - (i) immediately before the start of the corresponding day of the next calendar month; or
 - (ii) where the day before the corresponding day of the next calendar month is a non-business day, the end of the next business day following that day; or
 - (iii) if there is no such day – at the end of the next calendar month; or
 - (iv) the end of a day that is between 27 and 30 days after the start day; or
 - (v) where the day before the start day is a non-business day, the end of a day that is 25 or 26 days after the start day.

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non-participating credit provider has the meaning given in the Act, but does not include a credit provider that:

- (a) has represented to an individual who they have provided with credit that they may disclose credit reporting information or credit eligibility information about the individual to a credit reporting body (unless the provider has subsequently advised the individual in writing that they will not make the disclosures and has, in fact, not made any such disclosures); or
- (b) acquires the rights of another credit provider in relation to the repayment of an amount of credit, unless that second provider was a non-participating credit provider.

Note: Credit providers described in paragraphs (a) and (b) are bound by this CR Code: see section 1 of Schedule 2 to this instrument.

ordinary monthly payment means the payment that becomes due and payable in relation to the consumer credit in a month (but does not include any payments that are overdue from previous months).

overdue payment arrangement means an arrangement, which is not a variation FHA, that is put in place in relation to payments owed by the individual that are or will become overdue.

Note: An overdue payment arrangement may also be a temporary FHA in the circumstances set out in subsection 8A(10) of Schedule 2 to this instrument.

Regulations means the Privacy Regulation 2013.

reverse mortgage has the meaning given in the *National Consumer Credit Protection Act 2009*.

Commented [A14]: CCLI Issue B

section 21D(3) notice means a written notice of the kind described in paragraph 21D(3)(d) of the Act stating that the credit provider intends to disclose default information to a credit reporting body.

Note 1: A section 21D(3) notice must be given before default information can be disclosed to a credit reporting body: see section 21D of the Act and section 9 of Schedule 2 to this instrument.

Note 2: A section 21D(3) notice may include information about the availability of, or how to request, assistance on the grounds of financial hardship.

Commented [A15]: Proposal 21

section 6Q notice means a written notice of the kind described in paragraph 6Q(1)(b) of the Act informing the individual of the overdue payment and requesting that the individual pay the amount of the overdue payment.

Note: In order for information to be default information, a section 6Q notice must be given: see section 6Q of the Act and section 9 of Schedule 2 to this instrument.

soft enquiry means an information request, made by a credit provider in relation to the individual, that has been identified to the credit reporting body as a soft enquiry and seeks information to make an indicative assessment of one or more of the following:

- (a) whether the individual is ineligible for particular consumer credit, based on the credit provider's ineligibility criteria;
- (b) whether the individual is ineligible for particular consumer credit within a range of consumer credit of a similar nature offered by the credit provider, based on the credit provider's ineligibility criteria;

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- (c) the price for consumer credit the individual would be charged, based on their creditworthiness;
 - (d) whether a person is ineligible for commercial credit, based on the credit provider's ineligibility criteria;
 - (e) whether a person is ineligible for particular commercial credit within a range of consumer credit of a similar nature offered by the credit provider, based on the credit provider's ineligibility criteria; and
 - (f) the price for commercial credit a person would be charged, based on the indicative creditworthiness of the individual.

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temporary FHA means an agreed financial hardship arrangement which involves temporary relief from or deferral of the individual's obligations in relation to consumer credit (as described in subparagraph 6QA(1)(d)(ii) of the Act).

Note: During a temporary FHA, payments will typically continue to accrue under the terms of the consumer credit, however repayment history information will reflect the terms of the temporary FHA (as set out in paragraph 8(2)(b) and subsection 8(5) of Schedule 2 to this instrument, rather than the contractual obligation under the consumer credit. At the end of the arrangement, the individual will need to pay the payments that have accrued under the terms of the consumer credit or agree with the credit provider to another financial hardship arrangement that deals with those overdue payments. If they do not, repayment history information will show those payments as missed.

transfer event means an event whereby the rights of a credit provider in relation to the repayment of an amount of consumer credit are acquired by an acquirer.

variation FHA means an agreed financial hardship arrangement which:

- (a) involves a permanent variation to the terms of the consumer credit (as described in subparagraph 6QA(1)(d)(i) of the Act); and
- (b) meets the requirements of subsection 8A(11) of Schedule 2 to this instrument.

Note: A variation FHA is a change to the terms of the consumer credit which may involve an 'ongoing' change (e.g. for the remaining term) or a change for a defined period (i.e. not the remaining term of the consumer credit). Both of these changes are considered to be 'permanent' variations because the consumer credit is changed, but the length and application of these changes can differ. Repayment history information will be based on the terms of the consumer credit, as varied by the variation FHA: see paragraph 8(2)(a) and subsection 8(4) of Schedule 2 to this instrument. No arrears will accrue if the individual makes all the payments required under the varied contract.

6 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Repeals

Privacy (Credit Reporting) Code 2014 (Version 2.3)

1 The whole of the instrument

Repeal the instrument.

Note: The *Privacy (Credit Reporting) Code 2014 (Version 2.3)* was included on the Codes Register under subsection 26T(5)(b) of the Act on 1 July 2022.

Schedule 2—The CR Code

Division 1—Preliminary

1 Application of this CR Code

- (1) This section is made for the purposes of subsection 26N(2) of the Act.

Note: Subsection 26N(2) of the Act provides that the CR Code must:

- (a) bind all credit reporting bodies;
 - (b) specify which credit providers are bound by the code; and
 - (c) specify any other entities subject to Part IIIA of the Act that are bound by the code.
- (2) This CR Code binds:
- (a) all credit reporting bodies;
 - (b) all credit providers other than non-participating credit providers; and
 - (c) all affected information recipients.

1A Obligations to destroy information

Obligations on credit reporting bodies

- (1) Subject to subsection (2), an obligation on a credit reporting body to destroy credit information or credit reporting information requires the body to ensure it irretrievably destroys the information.
- (2) Where it is not possible for a credit reporting body to irretrievably destroy credit-related personal information held in electronic format, the body must take steps to put the information beyond use.
- (3) For the purposes of subsection (2), information is beyond use if the credit reporting body:
- (a) irretrievably omits the relevant information from the databases that it utilises for the purposes of making disclosures permitted under Part IIIA of the Act; and
 - (b) is not able to use, and will not attempt to use, the information, including for the purposes of deriving CRB derived information; and
 - (c) is not able to disclose, and will not attempt to disclose, the information; and
 - (d) surrounds the information with appropriate technical and organisational security; and
 - (e) commits to irretrievably destroy the information if, or when, this becomes possible.

Obligations on credit providers

- (4) Subject to subsection (5), an obligation on a credit provider to destroy credit reporting information or credit eligibility information requires the provider to take reasonable steps to ensure it irretrievably destroys the information.

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- (5) Where it is not possible for a credit provider to irretrievably destroy credit-related personal information held in electronic format, the provider must take steps to put the information beyond use.
 - (6) For the purposes of subsection (5), information is beyond use if the credit provider:
 - (a) is not able to use, and will not attempt to use, the information, including for the purposes of deriving CP derived information; and
 - (b) is not able to disclose, and will not attempt to disclose, the information; and
 - (c) surrounds the information with appropriate technical and organisational security; and
 - (d) commits to irretrievably destroy the information if, or when, this becomes possible.

Division 2—Credit reporting agreements and arrangements

2 Credit reporting system arrangements

- (1) This section is made for the purposes of subsection 20N(3), subsection 20Q(2), section 21Q and section 21S of the Act.

Agreements between credit reporting bodies and credit providers

- (2) An agreement entered into by a credit reporting body with a credit provider to meet the requirements of subsection 20N(3) and subsection 20Q(2) of the Act must oblige both parties to comply, to the extent applicable from time to time, with Part IIIA of the Act, the Regulations and the registered CR Code.

Note: As part of their obligations in connection with the quality and security of credit reporting information, credit reporting bodies must enter into agreements with credit providers that meet the requirements of subsection 20N(3) and 20Q(2) of the Act.

Training of employees

- (3) Credit reporting bodies, credit providers, mortgage insurers and trade insurers must take reasonable steps:
 - (a) to inform employees who handle credit reporting information or credit eligibility information of the requirements of Part IIIA of the Act, the Regulations and this CR Code that relate to information of these types; and
 - (b) to train employees who handle credit reporting information or credit eligibility information in the practices, procedures and systems that are designed to achieve compliance with those requirements.

3 Open and transparent management of credit reporting information

- (1) This section is made for the purposes of section 20B of the Act.

Note: Among other things, section 20B of the Act requires credit reporting bodies to have a clearly expressed and up-to-date policy about its management of credit reporting information.

Availability of credit reporting information management policy

- (2) A credit reporting body must publish its policy about the management of credit reporting information on its website.

Division 3—Collection of information

4 Credit providers' information collection procedures

- (1) This section is made for the purposes of subsection 21C(1) of the Act.

- Note: Subsection 21C(1) of the Act requires credit providers, at or before they collect personal information about an individual that they likely to disclose to a credit reporting body, to
- (a) notify the individual of the name and contact details of the credit reporting body, as well as any other matters specified in the registered CR code, or
 - (b) otherwise ensure that the individual is aware of those matters.

Notification does not require consent

- (2) For the avoidance of doubt, a credit provider's obligation under subsection 21C(1) of the Act to notify an individual of certain matters does not require the provider to obtain the individual's consent to the disclosure of information to a credit reporting body.

Matters that credit providers must notify or otherwise make individuals aware of – soft enquiries

- (3) At or before the time a credit provider collects personal information about an individual that the provider is likely to disclose to a credit reporting body by making a soft enquiry, the provider must notify or otherwise ensure that the individual is made aware of the following matters:
- (a) the nature and effect of the soft enquiry, including:
 - (i) the types of information the credit provider will disclose to, and request from, the credit reporting body;
 - (ii) how the information disclosed in response to the soft enquiry may be used by the provider;
 - (iii) that information relating to the soft enquiry cannot be disclosed to a credit provider, including in a credit score or credit rating calculated by a credit reporting body; and
 - (iv) in general terms, the effect of a statement (if any) about financial hardship information on the provider's ability to give the relevant indicative assessment or assessments that are the purpose of the soft enquiry;
 - (b) how the individual may obtain:
 - (i) the credit provider's policy about the management of credit-related personal information required by section 21B of the Act; and
 - (ii) the credit reporting body's policy about the management of credit-related personal information required by section 20B of the Act; and
 - (c) the individual's rights to:

Commented [A17]: Proposal 24

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- (i) access the information from the credit provider; and
 - (ii) request the credit provider to correct the information; and
 - (iii) make a complaint to the credit provider.

Commented [A18]: Proposals 24 and 43

Matters that credit providers must notify or otherwise make individuals aware of – other disclosures

- (4) At or before the time a credit provider collects personal information about an individual that the provider is likely to disclose to a credit reporting body for any purpose other than making a soft enquiry, the provider must notify or otherwise ensure that the individual is made aware of the following matters:

Commented [A19]: Proposals 24 and 43

(a) if the likely disclosure is a hard enquiry:

- (i) that the individual's consent to the disclosure being made is not required;
- (ii) that a record of the hard enquiry may be used and, as relevant, disclosed for the purposes of the credit reporting body or a credit provider assessing the individual's credit worthiness, including calculation of a credit score or credit rating (subject to any other use or disclosure limitations under the Act, the Regulations or this CR Code); and

(iii) in general terms, how the hard enquiry may affect a credit score or credit rating calculated by a credit reporting body in relation to the individual;

Commented [A20]: Proposals 24 and 43

- (b) the credit reporting body may include the information in reports provided to credit providers to assist them to assess the individual's credit worthiness;
- (c) that if the individual fails to meet their payment obligations in relation to consumer credit or commits a serious credit infringement, the credit provider may be entitled to disclose this to the credit reporting body;
- (d) how the individual may obtain:
 - (i) the credit provider's policy about the management of credit-related personal information required by section 21B of the Act; and
 - (ii) the credit reporting body's policy about the management of credit-related personal information required by section 20B of the Act; and
- (e) the individual's rights to:
 - (i) access the information from the credit provider; and
 - (ii) request the credit provider to correct the information; and
 - (iii) make a complaint to the credit provider.
- (f) the individual's rights to request the credit reporting body:
 - (i) not to use their credit reporting information for the purposes of pre-screening of direct marketing by a provider; and
 - (ii) not to use or disclose credit reporting information about the individual, if the individual believes on reasonable grounds that the individual has been, or is likely to be, a victim of fraud.

How credit providers may notify individuals

- (5) A credit provider may comply with its obligations under subsection 21C(1) of the Act and this section to notify or ensure an individual is aware of specified matters (the **notifiable matters**) by:
- (b) publishing a clearly expressed statement of the notifiable matters on its website; and
 - (c) at or before the time of collection of the personal information from the individual, notifying the individual or otherwise making the individual aware of the following:
 - (i) that the credit provider's website includes information about credit reporting, including the credit reporting bodies to which the provider is likely to disclose the individual's credit information; and
 - (ii) a brief description of the key issues contained in the statement of notifiable matters; and
 - (d) providing details of the credit provider's website and ensuring that the notifiable matters are prominently displayed on the website; and
 - (e) making it clear to the individual that they can request to have the statement of notifiable matters provided in an alternative form – such as a hard copy.

5 Practices, procedures and systems

Restrictions on the collection, use and disclosure of personal information

- (1) A credit reporting body must not:
- (a) collect personal information about an individual's activities in relation to consumer credit that is not credit information;
 - (b) use personal information about an individual's activities in relation to consumer credit that is not credit information to derive CRB derived information; or
 - (c) disclose personal information about an individual's activities in relation to consumer credit that is not credit information or credit reporting information
- unless subsections (3) or (4) apply to the information.
- (2) A credit provider must not disclose to a credit reporting body or another provider personal information about an individual's activities in relation to consumer credit that:
- (a) was disclosed to the provider by a credit reporting body and that is not credit reporting information; or
 - (b) was derived (wholly or in part) from personal information about an individual's activities in relation to consumer credit that was disclosed to the provider by a credit reporting body and that is not credit reporting information

unless subsection (4) applies to the information.

Note: A credit provider includes an organisation or small business operators that is acting as an agent of a credit provider in some circumstances: see section 6H of the Act.

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- (3) This subsection applies to personal information that:
- (a) is either credit ID information or capacity information; and
 - (b) is collected at the same time as the credit information or credit reporting information.
- (4) This subsection applies to personal information that:
- (a) is either credit ID information or capacity information; and
 - (b) is disclosed at the same time as the credit information or credit reporting information.

Capacity information

- (5) For the avoidance of doubt, this CR Code does not impose an obligation on a credit provider to disclose credit information about an individual to a credit reporting body where the individual is a trustee in respect of the credit.

Note: A credit provider may have other obligations to disclose information.

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Restrictions on standardisation of consumer credit numbering conventions

- (6) A credit reporting body and a credit provider must not agree or implement procedures to standardise the provider's numbering conventions for consumer credit.

Practices, procedures and systems of credit providers

- (7) A credit provider must have reasonable practices, procedures and systems, given the size and complexity of its business, that are designed to cover obligations under Part IIIA of the Act, the Regulations and this CR code.
- (8) The practices, procedures and systems described in subsection (7) must require the credit provider to:
- (a) ensure it does not disclose information to a credit reporting body that it is prohibited from disclosing;
 - (b) advise the relevant credit reporting body as soon as practicable if the provider becomes aware that it has disclosed information to the body that it is prohibited from disclosing;
 - (c) ensure that it only discloses credit information that is accurate, up-to-date and complete;
 - (d) if it identifies that credit information that it has disclosed to a credit reporting body is not accurate, up-to-date and complete:
 - (i) advise the body of this as soon as is practicable; and
 - (ii) take reasonable steps to address the disclosure;
 - (e) if it becomes aware that credit reporting information disclosed to it by a credit reporting body is not accurate, up-to-date, complete and relevant having regard to the purpose of the disclosure, advise the body of that fact as soon as practicable;
 - (f) where requested by a credit reporting body:
 - (i) take reasonable steps to review its credit-related personal information management practices, procedures and systems to assess whether

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- credit information it has disclosed to credit reporting bodies is accurate, up-to-date and complete;
 - (ii) take reasonable steps to rectify any issues that are identified; and
 - (iii) advise the body of the results of the review and the action taken to rectify issues.
- (g) take reasonable steps to assist a credit reporting body to ensure that its credit reporting information is accurate, up-to-date, complete and relevant, having regard to the purposes for which it is used or disclosed, and to rectify any issues that are detected.

Practices, procedures and systems of credit reporting bodies

- (9) A credit reporting body must have reasonable practices, procedures and systems that are designed to cover obligations under Part IIIA of the Act, the Regulations and this CR Code.
- (10) The practices, procedures and systems described in subsection (9) must require the credit reporting body to:
- (a) use the information disclosed by credit providers in relation to individuals' dates of birth to identify any information disclosed by a provider that:
 - (i) relates to an act, omission, matter or thing that occurred or existed before the relevant individual turned 18; and
 - (ii) that the provider is prohibited from disclosing.
 - (b) identify, as soon as practicable, whether collected information includes information that the body is prohibited from collecting and, if so, to destroy the prohibited information;
 - (c) where the body destroys information on the basis that its collection was prohibited, notify the relevant credit provider of the destruction as soon as practicable;
 - (d) undertake regular testing of the credit information and credit reporting information that the body uses and discloses to ensure that it is accurate, up-to-date, complete and relevant, having regard to the purpose for which it is used or disclosed;
 - (e) take reasonable steps to initiate, as soon as practicable, targeted testing of its credit reporting information, where the body is informed, or identifies, that credit reporting information in relation to an individual is not accurate, up-to-date, complete and relevant, having regard to the purpose for which it is used or disclosed;
 - (f) where the body identifies that credit reporting information in relation to an individual is not accurate, up-to-date, complete and relevant, having regard to the purpose for which the information is used or disclosed, rectify the situation, including by destroying any information in accordance with its obligations;
 - (g) where the body identifies credit information that is not accurate, up-to-date and complete, raise this, where reasonable, with the credit provider that disclosed the information and request that provider:
 - (i) take reasonable steps to review its credit information management practices, procedures and systems;
 - (ii) rectify any issues that are identified; and
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- (iii) advise the body of the results of the review; and
 - (h) report about its testing, undertaken in accordance with paragraph (d), and any material findings or material changes to procedures, to credit providers with which it has an agreement of the kind referred to in subsections 20N(3) or 20Q(2) of the Act.

Division 4—Credit information

6 Consumer credit liability information

- (1) This section is made for the purposes of subsection 6(1) and section 21D of the Act.

Note 1: Consumer credit liability information is defined in subsection 6(1) of the Act, and includes:

- (a) the name of the credit provider;
- (b) whether the provider is a licensee;
- (c) the type of consumer credit;
- (d) the day on which the consumer credit is entered into;
- (e) the terms or conditions of the consumer credit that relate to repayment of the amount of the credit; and that are prescribed by the Regulations;
- (f) the maximum amount of credit available under the consumer credit;
- (g) the day on which the consumer credit is terminated or otherwise ceases to be in force.

Note 2: Section 21D of the Act outlines when a credit provider may disclose credit information (including consumer credit liability information) to a credit reporting body.

Type of consumer credit

- (2) A credit reporting body must, in conjunction with other credit reporting bodies and credit providers, contribute to the development and maintenance of common descriptors of the types of consumer credit.
- (3) A credit provider must use the descriptors referred to in subsection (2) when disclosing information to a credit reporting body about the type of consumer credit that they have provided to individuals.

Meaning of other kinds of consumer credit liability information

- (4) When collecting, using or disclosing information under the Part IIIA of the Act, the Regulations and this CR Code, the following types of consumer credit liability information have the meaning given in this instrument:
 - (a) the day on which the consumer credit is entered into;
 - (b) the maximum amount of credit available under the consumer credit; and
 - (c) the day on which the consumer credit is terminated or otherwise ceases to be in force.
- (5) When credit is terminated or otherwise ceases to be in force in the manner described in subparagraph (b)(iii) of the definition of that term, and the date on which that occurred is disclosed to a credit reporting body, the individual is no

longer able to incur further debt (other than that arising from interest, fees or other charges in respect to the debt) under the credit.

Credit provider disclosures of consumer credit liability information

- (6) Subject to subsection (7), where a credit provider chooses to disclose consumer credit liability information about an individual to a credit reporting body, the provider must do one of the following:
- (a) in a single disclosure, disclose:
 - (i) the name of the provider; and
Note: This is information contemplated by paragraph (a) of the definition of consumer credit liability information in the Act.
 - (ii) whether the provider is a licensee; and
Note: This is information contemplated by paragraph (b) of the definition of consumer credit liability information in the Act.
 - (iii) all of the information contemplated by paragraphs (c) to (f) of the definition of consumer credit liability information in the Act, except information that is not then reasonably available;
 - (b) in a single disclosure, disclose
 - (i) its name; and
Note: This is information contemplated by paragraph (a) of the definition of consumer credit liability information in the Act.
 - (ii) the day the consumer credit is entered into (unless that information is not then reasonably available).
Note: This is information contemplated by paragraph (d) of the definition of consumer credit liability information in the Act.
- (7) Where:
- (a) a credit provider chooses to disclose consumer credit liability information about an individual to a credit reporting body; and
 - (b) the consumer credit to which the information relates is terminated or otherwise ceases to be in force:

the provider must disclose the day on which the credit is terminated or ceases to be in force to the body within 45 days of that day.

7 Information requests

- (1) This section is made for the purposes of subsections 6N(d) and 6N(e) of the Act.

Note 1: Subsection 6N(d) of the Act provides that credit information includes “a statement that an information request has been made in relation to the individual by a credit provider, mortgage insurer or trade insurer;”.

Note 2: Subsection 6N(e) of the Act provides that credit information includes “the type of consumer credit or commercial credit, and the amount of credit, sought in an application:

- (i) that has been made by the individual to a credit provider; and
- (ii) in connection with which the provider has made an information request in relation to the individual;”.

- (2) Where:

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- (a) a credit provider makes an information request to a credit reporting body in connection with an application for consumer credit; and
 - (b) the amount of credit sought is unknown or incapable of being specified

the credit information that the credit reporting body may collect and disclose may include that an unspecified amount of consumer credit is being sought from the credit provider.

Purpose of soft enquiries framework

- (3) The purpose of this CR Code in relation to soft enquiries is to set out the only means by which credit providers may access credit reporting information to undertake assessments (whether indicative or otherwise) in relation to credit, where information about the relevant enquiry will not be disclosed to credit providers, mortgage insurers and trade insurers which subsequently request the disclosure of credit reporting information about the individual. Other than as provided for in the provisions related to soft enquiries in this CR Code, any access of credit reporting information by a credit provider in connection with the assessment of an application for credit should result in a hard enquiry that is recorded by the credit reporting body.

Restrictions on schemes or arrangements inconsistent with purpose of soft enquiries framework

- (4) A credit reporting body, credit provider, mortgage insurer or trade insurer must not participate or otherwise be involved in schemes or arrangements which have a purpose or effect that is inconsistent with the purpose of the soft enquiries framework in subsection (3).

Information to accompany a soft enquiry

- (5) When making a soft enquiry a credit provider must disclose the following information to the credit reporting body:
 - (a) the date the information request was made to the body;
 - (b) the name of the entity that made the information request;
 - (c) a statement that the information request is a soft enquiry;
 - (d) the type of credit that the information request relates to; and
 - (e) the amount of credit sought (if the amount is capable of being specified and is known).

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8 Repayment history information

- (1) This section is made for the purposes of sections 6V and 21D of the Act.

Note: Credit information about an individual includes 'repayment history information' about that individual. Under section 6V of the Act, repayment history information is information about:

- (a) whether or not an individual has met an obligation to make a monthly payment that is due and payable in relation to the consumer credit (including if that obligation is being determined by reference to a financial hardship arrangement);
- (b) the day on which the monthly payment is due and payable;

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- (c) if the individual makes the monthly payment after the day on which the payment is due and payable – the day on which the individual makes that payment.

The Act contains additional restrictions about when repayment history information can be collected and disclosed.

- (2) For the purposes of disclosing repayment history information and the definition of repayment history information in section 6V of the Act:
 - (a) if the payment obligation for that month is not being determined by reference to a temporary FHA:
 - (i) consumer credit is *overdue* if, after any payments made during that month are taken into account, on the last day of the month to which the repayment history information relates, there remained at least one overdue payment in relation to which the grace period has expired as determined by reference to the terms of the consumer credit; and
 - (ii) the grace period allowed by the credit provider for an overdue payment under subparagraph (i) must be at least 14 days, beginning on the date that the provider's systems first classified the payment as being in arrears; or
 - (b) if the payment obligation for that month is being determined by reference to a temporary FHA – the individual will have met their obligations under the temporary FHA if, after any payments made during that month are taken into account, on the last day of the month to which the repayment history information relates, there are no overdue payments as determined by reference to the financial hardship arrangement.

Requirements relating to disclosure of repayment history information

- (3) Where a credit provider discloses repayment history information about consumer credit provided to an individual, the provider must take reasonable steps to ensure that:
 - (a) it does not disclose repayment history information about that credit more frequently than once each month; and
 - (b) for each month, after any payments made during that month are taken into account, it only discloses whichever of the following is applicable:
 - (i) that the consumer credit was not overdue for that month or, if the payment obligation for that month is being determined by reference to a temporary FHA, the individual has met their obligations under the temporary FHA for that month; or
 - (ii) that there was an amount overdue in relation to the consumer credit for that month or, if the payment obligation for that month is being determined by reference to a temporary FHA, the individual has not met their obligations under the temporary FHA for that month; and
 - (c) the disclosure is expressed in the manner set out in subsection (4) and (5).

Repayment history information – no temporary FHA

- (4) If the payment obligation for that month is not being determined by reference to a temporary FHA, the disclosure of repayment history information is to be

expressed as a code representing the following (as determined by reference to the terms of the consumer credit):

- (a) where the consumer credit is not overdue – “Current up to and including the grace period”; or
- (b) where there is an amount overdue in relation to the consumer credit, the age of the oldest outstanding payment, expressed as a code as follows:
 - (i) “1” – 15-29 days overdue
 - (ii) “2” – 30-59 days overdue
 - (iii) “3” – 60-89 days overdue
 - (iv) “4” – 90-119 days overdue
 - (v) “5” – 120-149 days overdue
 - (vi) “6” – 150-179 days overdue
 - (vii) “X” – 180 or more days overdue.

Repayment history information – temporary FHA

- (5) If the payment obligation for that month is being determined by reference to a temporary FHA, the disclosure of repayment history information is to be expressed in the following manner:
 - (a) where the individual has met their obligations under the temporary FHA – the same code set out in paragraph 8(4)(a) (meaning, in this case, “Current”); or
 - (b) where the individual has not met their obligations under the temporary FHA – the same code set out in subparagraph 8(4)(b)(i) (“1”, meaning, in this case, the payment is one or more days overdue).

Note: While subsection 8(5) requires the use of some of the same codes as in subsection 8(4), the meaning of those codes when used under subsection 8(5) is not the same.

8A Financial hardship information

- (1) This section is made for the purposes of sections 6QA and 21EA of the Act.

Note 1: Section 6QA of the Act sets out the definition of financial hardship arrangement and financial hardship information. A financial hardship arrangement exists where a credit provider and an individual (who is or will be unable to meet their obligations under the credit received from the provider) make an arrangement affecting the individual’s monthly payment obligations. These arrangements can be either a permanent variation to the terms of the credit (a variation FHA) or temporary relief or deferral of the individual’s obligations (a temporary FHA). Repayment history information is calculated by reference to the affected payment obligations. When repayment history information is calculated in this way, financial hardship information may also exist.

Note 2: Section 21EA of the Act provides that if a credit provider discloses repayment history information about an individual in relation to a monthly payment and financial hardship information exists in relation to that payment, the financial hardship information must also be disclosed.

Disclosing financial hardship information

- (2) Financial hardship information may be disclosed in relation to consumer credit if the individual’s payment obligation for a month under that consumer credit is affected by a financial hardship arrangement.

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- (3) For the purposes of subsection (2), an individual's payment obligation for a month is **affected** by a financial hardship arrangement if the financial hardship arrangement is active on the later of:
- (a) last day of the month to which the repayment history information that could be disclosed for that month relates; and
- Note: See section 8 for further information about disclosing repayment history information.
- (b) if a grace period applies for that month, the last day of the grace period allowed by the credit provider (the **assessment day**).
- (4) For the purposes of subsection (3), a financial hardship arrangement will be **active** where:
- (a) if the arrangement is a variation FHA: a payment due in that month (as determined by reference to the terms of the consumer credit) was affected by the financial hardship arrangement and that payment was the first payment affected by the arrangement; and
 - (b) if the arrangement is a temporary FHA: a payment due in that month (as determined by reference to the terms of the consumer credit) was affected by the financial hardship arrangement and no other payments (as determined by reference to the terms of the consumer credit) that are unaffected by the arrangement have subsequently fallen due in that month (whether or not those subsequent payments have been paid).
- (5) If two or more financial hardship arrangements are active on the assessment day, the financial hardship information and repayment history information that may be disclosed is to be determined by reference to the financial hardship arrangement that requires the lowest payment obligation for that month.
- Note: It is possible for more than one financial hardship arrangement to be 'active' for a month. However, a credit provider can only disclose repayment history information and, therefore, financial hardship information in relation to one of those arrangements: see paragraph 8(3)(a).
- (6) If the consumer credit is held jointly by two or more individuals and a financial hardship arrangement is made between any of those individuals and the CP, financial hardship information may be disclosed in relation to all individuals who hold the consumer credit.
- Note: If a credit provider complies with the conditions associated with making a financial hardship arrangement with one individual who holds the consumer credit, the need not e.g. obtain the agreement or consent to the financial hardship arrangement of other individuals who jointly hold the consumer credit. The provider may need to consider whether it would be appropriate to notify those other individuals.
- (7) Subject to subsections (14) and (15), if a credit provider discloses financial hardship information in a month in relation to consumer credit, the provider must also disclose repayment history information in relation to that consumer credit for that month.
- (8) An individual will satisfy the conditions of paragraph 6QA(5)(b) of the Act if the individual pays their ordinary monthly payment in the month plus all amounts overdue from previous months, and that payment is made by the last day of the month.

Note: Information about a temporary FHA is not financial hardship information where the conditions of subsection 6QA(5) of the Act are met, including that was equal to, or greater than, the amount the individual would have been obliged to pay apart from the arrangement.

Timing of commencement of financial hardship arrangements

- (9) For the avoidance of doubt, a financial hardship arrangement is made when the individual and a credit provider agree to the arrangement and not when a hardship request is made. However, the commencement date of a financial hardship arrangement may be backdated:
- (a) to no earlier than the day the hardship request was made by the individual:
 - (i) if the credit provider has unreasonably or unnecessarily delayed agreeing to the arrangement, having regard to the time that the provider acting reasonably would have taken and any conduct of the individual that contributed to the delay; or
 - (ii) otherwise, where the credit provider considers that the backdated commencement date more accurately reflects the date the arrangement ought to have commenced, having regard to all the circumstances; or
 - (b) if:
 - (i) the individual requests a credit provider to backdate the commencement date of the financial hardship arrangement on the basis that the individual was not able to make a hardship request at an earlier time because of the unavoidable consequences of circumstances beyond the individual's control, such as illness or natural disaster; and
 - (ii) the credit provider is satisfied that this is the case.

Temporary FHAs

- (10) For the purposes of the definition of temporary FHA:
- (a) an overdue payment arrangement is presumed to be a temporary FHA if the individual will not pay at least their ordinary monthly payments within the next month. This presumption does not apply if:
 - (i) the credit provider reasonably believes that the individual's inability to meet their obligations in relation to the consumer credit is the result of a mismanagement of funds in the short term; or
 - (ii) the individual has not provided the information that the credit provider reasonably requested to assess the reason for the individual's inability to meet their obligations in relation to the consumer credit; or
 - (iii) the individual explicitly states that they do not want to make a hardship request.
 - (b) an overdue payment arrangement is presumed not to be a temporary FHA if the individual is to pay at least their ordinary monthly payments (without immediately paying all amounts that are currently overdue) within the next month. This presumption does not apply if:
 - (i) the arrangement directly follows, and is in response to, an earlier temporary FHA; or

Note: This will apply to arrangements that are commonly called 'payment test periods' (or 'serviceability periods') or 'catch-up periods' that follow an earlier temporary

FHA, and which relate to the overdue payments (as determined by the terms of the consumer credit) that have accrued during that temporary FHA.

- (ii) even if the individual makes those payments, the consumer credit is likely to still be overdue after 7 months; or
- (iii) the individual has made a hardship request and the individual and credit provider have explicitly agreed to a temporary FHA.
- (c) if a credit provider does not agree to a hardship request, an overdue payment arrangement directly following that refusal is presumed to be a temporary FHA unless the provider tells the individual that the arrangement is not a financial hardship arrangement.

Note: This subsection relates to the arrangements that are put in place between the individual and the credit provider for the purposes of the credit reporting system. A provider must separately consider whether the individual has given a 'hardship notice' under the National Credit Code. If an individual gives a hardship notice, the provider would have obligations under sections 72 or 177B of the National Credit Code. If the individual gives a 'hardship notice', the provider is not required to agree to a temporary FHA.

Variation FHAs

- (11) For the purpose of the definition of variation FHA, an agreement between the individual and a credit provider to vary the terms of the consumer credit is a variation FHA if:
 - (a) the agreement is made:
 - (i) following and in response to a temporary FHA; or
 - (ii) in response to a hardship request; and
 - (b) one or more of the following types of variations has been agreed:
 - (i) reducing the monthly payment obligations that are to fall due under the consumer credit (whether for the remainder of the term of the credit or a shorter period) so that if the individual satisfies those obligations (and not the previous obligations) the credit provider would treat the consumer credit as not being overdue (as determined by reference to the terms of the consumer credit); and
 - (ii) treating payments that are already overdue in relation to the consumer credit as being no longer overdue (as determined by reference to the terms of the consumer credit) without the individual paying those overdue amounts;
 - (iii) extending the term of the consumer credit;
 - (iv) waiving debt under the consumer credit (whether that debt is made up of principal, interest, fees or other charges), including where the CP agrees to permanently cease efforts to collect the debt;
 - (v) reducing the interest rate, fees or other charges payable in relation to the consumer credit (unless this is done as an incidental part of an overdue payment arrangement); or
 - (vi) changing the repayment terms in relation to the consumer credit from principal and interest to interest only or extending a current interest only period (whether for the remainder of the term of the credit or a shorter period).

Providing information about RHI and FHI to be disclosed

- (12) If an overdue payment arrangement or variation FHA is put in place, a credit provider must take reasonable steps to provide the individual with information that describes the repayment history information and, if relevant, the financial hardship information that may be disclosed to a credit reporting body as a result of the arrangement. This information:
- (a) must relate to the specific type of arrangement that is put in place (i.e. temporary FHA, variation FHA or other type of arrangement that is not a financial hardship arrangement);
 - (b) is not otherwise required to be tailored to the specific circumstances of the individual;
 - (c) may be given verbally or in writing;
 - (d) if given in writing, may be given by provision of an electronic link to a website that includes the information that relates to the specific type of arrangement that is put in place;
 - (e) must be given at the time the arrangement is put in place or as soon as practicable afterwards;
 - (f) if the arrangement is an overdue payment arrangement, is not required to be given if the payment or payments subject to the arrangement are due to be made within the grace period that applies to the overdue payments under subsection (3); and
 - (g) if the arrangement is a variation FHA and is to be the last step to finalise the individual's hardship arrangements following an earlier temporary FHA, may be provided when that temporary FHA was made (and in conjunction with the information given about that temporary FHA).

Expression of financial hardship information

- (13) Where a credit provider discloses financial hardship information about consumer credit provided to an individual, the provider must take reasonable steps to ensure that the disclosure is expressed using one of the following codes:
- (a) "V" — representing financial hardship information relating to a variation FHA; or
 - (b) "A" — representing financial hardship information relating to a temporary FHA.

Transitional matters

- (14) If an arrangement is made on or after 1 July 2022 in response to a hardship request made before that date (and where the arrangement would otherwise be a financial hardship arrangement), the credit provider may treat that arrangement as not being a financial hardship arrangement;
- (15) If an individual and a credit provider have prior to 1 July 2022 agreed to an arrangement affecting the monthly payment obligations of the individual which is a temporary relief or deferral of the individual's obligations in relation to consumer credit and, on or after 1 July 2022 the individual and the provider agree to:

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- (a) an extension of that temporary relief or deferral – the credit provider may treat that further period as not being a financial hardship arrangement;
 - (b) a variation FHA that directly follows and relates to that earlier arrangement – the credit provider is not required to disclose financial hardship information in relation to that variation FHA even if the provider discloses repayment history information in the month that the arrangement is made.

Restrictions on requesting financial hardship information

- (16) A credit provider or mortgage insurer must take reasonable steps to ensure that it does not seek the disclosure of financial hardship information from a credit reporting body in circumstances in that the body is not permitted to disclose that information to the provider or insurer.

Note: Subsection 20E(4A) of the Act prohibits credit reporting bodies from disclosing financial hardship information to a credit provider for the purpose of collecting payments that are overdue in relation to consumer credit or commercial credit and for certain other purposes. Credit reporting bodies are also prohibited from disclosing financial hardship information to a mortgage insurer in some circumstances.

9 Default information

Restrictions on disclosing default information

- (1) Subject to subsection (2), a credit provider must not disclose an overdue payment in relation to consumer credit to a credit reporting body as default information if:
 - (a) the individual has made a hardship request (whether via a variation of the terms and conditions of the consumer credit or new consumer credit); and
 - (b) either:
 - (i) the credit provider is in the process of deciding the individual's hardship request, including if the provider is waiting upon information from the individual for the purposes of making that decision; or
 - (ii) if the credit provider decides to refuse the individual's hardship request – until at least 14 days after the provider has notified the individual of this decision.
- (2) Subsection (1) does not apply if:
 - (a) the hardship request referred to in that subsection is made on a basis that the credit provider reasonably believes is materially the same as the basis on which a previous hardship request was made; and
 - (b) the previous request was made during the previous 4 months.

Timing and content of notices relating to default information

- (3) The following requirements must be met before a credit provider discloses default information about an individual to a credit reporting body:
 - (a) the credit provider must give the consumer the section 6Q notice and a section 21D(3) notice separately;
 - (b) the credit provider must give the section 6Q notice before the section 21D(3) notice;

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- (c) the credit provider must not give the section 21D(3) notice less than 30 days after the giving of the section 6Q notice;
 - (d) the credit provider must not give the section 21D(3) notice with other correspondence that a reasonable person would conclude materially reduces the prominence of the messages in the notice;
 - (e) the credit provider must give the section 6Q notice and section 21D(3) notice by sending them to the individual's last known address at the time of despatch. The section 6Q notice and section 21D(3) notice may be sent by electronic communication.

Note 1: Under the Act, information is not default information unless a section 6Q notice is provided. Default information may not be disclosed unless a section 21D(3) notice is given.

Note 2: Electronic disclosure should comply with other related legal obligations, including under the *Electronic Transactions Act 1999*.

Note 3: Either a section 6Q notice or a section 21D(3) notice may be combined with a notice given for the purposes of section 88 of the National Credit Code (Schedule 1 to the *National Consumer Credit Protection Act 2009*). Where a credit provider combines a notice under the Act with a notice under section 88 of the National Credit Code, all of the requirements set out in the National Credit Code apply to that combined notice.

Default information – timing of disclosure

- (4) A credit provider must only disclose default information to a credit reporting body:
 - (a) at least 14 days after the date on which the section 21D(3) notice was given by the credit provider to the individual; and
 - (b) no later than 3 months after that date.

Default information – amount that is disclosed as overdue

- (5) Where a credit provider discloses default information to a credit reporting body, the amount that is disclosed as the amount that is overdue must:
 - (a) not exceed the amount specified in the section 21D(3) notice:
 - (i) plus an additional amount to reflect interest, fees and other amounts that are owing as a result of the overdue payment, other than the acceleration of the entire liability for the consumer credit, which have accrued by the time of the disclosure; and
 - (ii) less any part payments received in cleared funds prior to the date of disclosure by the provider to the body; and
 - (b) have been overdue for at least 60 days, except the component of the amount referred to in subparagraph (i) above; and
 - (c) subject to subsection (6), not include an amount of an overdue payment that was previously disclosed as default information in relation to that consumer credit.
- (6) Where a credit provider discloses default information to a credit reporting body:
 - (a) the amount specified as overdue may be subsequently updated to reflect the accrual of interest, fees and other amounts that are owing as a result of the overdue payment, other than the acceleration of the entire liability for the consumer credit;

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- (b) where the amount of an overdue payment is the result of the acceleration of the entire liability for the consumer credit and includes an amount previously disclosed as default information, the credit provider must request the credit reporting body destroy the previously disclosed default information;
 - (c) where a credit reporting body is requested under (b) to destroy default information, the body must destroy the default information
 - (d) where an amount is updated under paragraph (a), the original date of disclosure of default information remains the date from which the relevant retention period runs.

10 Payment information

- (1) For the purposes of the definition of payment information in Section 6T of the Act, the amount of the overdue payment to which the information relates is taken to be paid when one of the following occurs:
 - (a) payment is received in cleared funds of the full amount of the overdue payment, including all interest, fees and other amounts that are included in the amount specified as overdue in the default information;
 - (b) payment is received in cleared funds of part of the amount of the overdue payment and the credit provider accepts this amount in full settlement of the overdue payment; or
 - (c) the credit provider waives the payment.

Note: Payment information is a statement that an overdue payment that has previously been disclosed as default information has now been paid: see section 6T of the Act.

- (2) Where a credit provider has an obligation to disclose to a credit reporting body payment information relating to an individual and the individual asks the provider to disclose this information, the provider must take reasonable steps to disclose the payment information within 3 business days of the later of:
 - (a) the individual's request; and
 - (b) the date when the overdue payment is taken to be made in accordance with subsection (1)

unless the provider has reasonable grounds for requiring a longer period of time to disclose the information.

11 Publicly available information

- (1) This section is made for the purposes of subsection 6N(k) and section 20C of the Act.

Note: Certain types of publicly available information are credit information and therefore may be collected, disclosed and used subject to the restrictions in the Act.

- (2) For the avoidance of doubt, publicly available information does not include:
 - (a) originating process issued by a Court or Tribunal; or
 - (b) any judgment or proceedings where the individual's rights have been subrogated to an insurer; or
 - (c) any judgment or proceedings that is otherwise unrelated to credit;

because that information does not relate to the individual's credit worthiness.

- (3) A credit reporting body must only collect publicly available information about an individual where each of the following is satisfied:
- (a) the information is collected from an agency or a state or territory authority;
 - (b) the content of the information is generally available to members of the public;
 - Note: The content of the information is generally available even where:
 - (a) it is available in a different form from that provided to a credit reporting body, or
 - (b) a fee must be paid to obtain the information.
 - (c) the information relates to activities conducted within Australia or its external Territories; and
 - (d) the information relates to the individual's creditworthiness.

12 Serious credit infringements

- (1) This section is made for the purposes of subsection 6N(1) and section 21D of the Act.

Note 1: A credit provider's opinion that an individual has committed a serious credit infringement is credit information and may be collected, disclosed and used subject to the restrictions in the Act.

Note 2: A serious credit infringement is defined in the Act as:

- (a) an act done by an individual that involves fraudulently obtaining consumer credit, or attempting fraudulently to obtain consumer credit; or
- (b) an act done by an individual that involves fraudulently evading the individual's obligations in relation to consumer credit, or attempting fraudulently to evade those obligations; or
- (c) an act done by an individual if:
 - (i) a reasonable person would consider that the act indicates an intention, on the part of the individual, to no longer comply with the individual's obligations in relation to consumer credit provided by a credit provider; and
 - (ii) the provider has, after taking such steps as are reasonable in the circumstances, been unable to contact the individual about the act; and
 - (iii) at least 6 months have passed since the provider last had contact with the individual.

Disclosure of serious credit infringements: fraudulently obtaining credit

- (2) Where a credit provider discloses to a credit reporting body that, in the provider's opinion, an individual has committed a serious credit infringement as described in paragraph (a) of the definition of that term in the Act, the provider must be able to reasonably establish that:
- (a) when obtaining or attempting to obtain consumer credit, the individual made, or arranged for someone else to make, a material false statement to the credit provider or knowingly allowed the provider to rely upon a material false statement or premise; and
 - (b) the individual did this knowing that the statement or premise was untrue and, with intent to deceive the credit provider, aware that the false statement or premise was likely to materially affect the provider's decision about whether or not to provide credit to the individual.

Disclosure of serious credit infringements: fraudulently evading obligations under credit

- (3) Where a credit provider discloses to a credit reporting body that, in the provider's opinion, an individual has committed a serious credit infringement as described in paragraph (b) of the definition of that term in the Act, the provider must be able to reasonably establish that:
- (a) the individual made, or arranged for someone else to make, a material false statement to the credit provider or knowingly allowed the provider to rely upon a material false statement or premise; and
 - (b) the individual did this knowing that the statement or premise was untrue and with intent to evade the individual's obligations in relation to consumer credit by deceiving the credit provider as to a material fact.

Disclosure of serious credit infringements: intention to no longer comply by an individual who cannot be contacted

- (4) Before a credit provider discloses to a credit reporting body that, in the provider's opinion, an individual has committed a serious credit infringement as described in paragraph (c) of the definition of that term in the Act, the provider must have disclosed an overdue payment to which the serious credit infringement relates to the body as default information.
- (5) In order to establish that reasonable steps have been taken to contact an individual for the purposes of subparagraph (c)(ii) of the definition of serious credit infringement in the Act, the credit provider must:
- (a) attempt to make contact with the individual where possible by phone, email and mail;
 - (b) if the contact attempts described in paragraph (a) suggest that any of the individual's contact details are no longer current, take reasonable steps to ascertain new contact details and, where new contact details are ascertained, repeat the previous contact attempts using the new contact details;
 - (c) in phone messages (where these can be left with an automatic answering service or with an adult) and emails, take reasonable steps to provide its contact details and ask the individual to contact the provider as a matter of urgency;
 - (d) in mailed letters:
 - (i) give particulars of the default; and
 - (ii) state that if a period of 6 months elapses without contact with the individual about the default the credit provider intends to disclose the default to a credit reporting body as a serious credit infringement and explain the effect of that disclosure; and
 - (e) retain such evidence of attempts to contact the individual as is reasonable in the circumstances.
- (6) If an individual makes contact with the credit provider at any time during the 6 month period beginning on the later of:
- (a) the date of the section 6Q notice; or
 - (b) the date of last contact with the individual;
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the 6 months period referred to in paragraph (c)(iii) of the definition of serious credit infringement recommences.

Note: In this situation, the credit provider will then be unable to disclose its opinion that a serious credit infringement has been committed until a new period of 6 months has passed without contact with the individual.

- (7) If a credit provider discloses payment information or new arrangement information to a credit reporting body that relates to an overdue amount that is the subject of a serious credit infringement disclosure (based on paragraph (c) of the definition of that term in the Act), the body must destroy the information relating to the serious credit infringement.

Division 5—Dealing with credit information

13 Transfer of rights of credit provider

- (1) This section is made for the purposes of subsection 6K and section 21D of the Act.

Note: Section 6K of the Act sets out when an organisation or small business operator who acquires rights in respect of credit is treated as a credit provider.

- (2) Subsection (3) applies if:
- (a) an acquirer acquires the rights of a credit provider (the *original credit provider*) in relation to the repayment of an amount of consumer credit; and
 - (b) the original credit provider notifies the individual to whom that consumer credit was provided of the transfer event; and
 - (c) prior to the transfer event, the original credit provider had disclosed to a consumer credit liability information or default information about the consumer credit to a credit reporting body.
- (3) The original credit provider and acquirer must ensure that disclosure is made to the credit reporting body of:
- (a) the transfer event within 45 days of its occurrence including the name of the acquirer; and
 - (b) any information that is thereafter required to be disclosed under Part IIIA of the Act, the Regulations or this CR Code.
- (4) For the purposes of the disclosure of information described in paragraph (3)(b), the acquirer is taken to have made any disclosures by the original credit provider in relation to that credit that were made prior to the transfer event.

14 Permitted CRB disclosures

- (1) This section is made for the purposes of sections 20E, 20F and 21G of the Act.

Note: Section 20E of the Act contains restrictions about when a credit reporting body may disclose credit reporting information. Bodies may disclose credit reporting information to credit providers, mortgage insurers and/or trade insurers in the circumstances set out in section 20F of the Act, many of which relate to the provider or insurer requesting the information for specific purposes. Section 21G of the Act puts in place a similar framework restriction how providers may disclose credit eligibility information

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- (2) Before a credit reporting body discloses credit reporting information to a credit provider, mortgage insurer or trade insurer, the body must have taken reasonable steps to ensure that the provider or insurer has been notified of the requirements of Part IIIA of the Act, the Regulations and this CR Code about limitations on use and disclosure of credit reporting information.
- (3) Subsections (4) and (5) apply where:
- (a) in response to a request:
 - (i) a credit reporting body discloses credit reporting information to a credit provider, mortgage insurer or trade insurer; or
 - (ii) a credit provider discloses credit eligibility information to an entity to which a permitted CP disclosure may be made; and
 - (b) the credit reporting body, credit provider, mortgage insurer or trade insurer (as applicable) subsequently becomes aware that the credit reporting information or credit eligibility information was about an individual other than the individual that was the subject of the request.
- (4) The recipient of the information described in subsection (3) must:
- (a) advise the disclosing credit reporting body or credit provider of the mistake as to identity, unless it was the disclosing body or provider that identified the mistake);
 - (b) destroy the disclosed information; and
 - Note: Section 1A has information about obligations to destroy information
 - (c) take reasonable steps to ensure that any derived information that is based on the disclosed information is not disclosed or used for the purpose of assessing the credit worthiness of the individual to whom the information relates
- (5) The credit reporting body or credit provider that disclosed the information described in subsection (3) must:
- (a) advise the recipient of the information of the mistake as to identity (unless it was the recipient of the information that identified the mistake); and
 - (b) take reasonable steps to review its disclosure practices, procedures and systems so that similar mistakes are minimised in the future.
 - Note: Section 5 sets out requirements about practices, procedures and systems of credit reporting bodies and credit providers.

Permitted use or disclosure in connection with a soft enquiry

- (6) A credit reporting body must not disclose credit reporting information in response to a soft enquiry unless the information is:
- (a) personal insolvency information;
 - (b) a credit provider's opinion that the individual has committed a serious credit infringement in relation to credit provided by the provider to the individual;
 - (c) default information;
 - (d) a statement as to whether the body holds financial hardship information in relation to the individual (but otherwise no other information relating to the financial hardship information);
 - (e) consumer credit liability information;
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- (f) credit reporting information that is a summary or aggregated record derived only from information listed in paragraphs (a) to (e); and
 - (g) a credit score or credit rating derived from information that the credit reporting body holds that identifies no other particular credit information held by the body.

Note: The credit reporting body's ability to disclose credit reporting information to the credit provider will also depend on any other relevant limitations, including whether the credit provider holds an Australian credit licence under the National Credit Act.

- (7) A credit reporting body must not disclose information relating to a soft enquiry or any information derived from that information (such as a credit score or credit rating) to a credit provider, mortgage insurer or trade insurer other than as provided for under section 20M of the Act.

Note: Section 20M of the Act allows the use or disclosure of credit reporting information that is de-identified.

Restrictions on schemes or arrangements to obtain information in reliance on the access seeker provisions

- (8) A credit reporting body must not participate or otherwise be involved in schemes or arrangements which have a purpose or effect of influencing a person to obtain, in reliance on the access seeker provisions of section 20R of the Act and section 19 of this CR Code, credit reporting information about an individual, or information derived from credit reporting information about an individual, where it is reasonably likely that the information will be disclosed to a credit provider or related bodies corporate of the provider to assess the creditworthiness of the individual.

15 Security of credit reporting information

- (1) This section is made for the purposes of section 20Q of the Act.

Note: Section 20Q of the Act requires credit reporting bodies to take reasonable steps to protect credit reporting information from misuse, interference and loss, unauthorised access, modification or disclosure. Bodies must also enter into agreements with credit providers requiring them to protect information in this way.

Information security obligations

- (2) A credit reporting body and a credit provider must maintain reasonable practices, procedures and systems to ensure the security of electronic transmission and storage of credit reporting information and credit eligibility information.

16 Use and disclosure of credit-related personal information by CPs and affected information recipients

- (1) This section is made for the purposes of Subdivision D of Division 3 of Part IIIA of the Act.

Note: Subdivision D of Division 3 of Part IIIA of the Act contains a framework restricting the use and disclosure of credit eligibility information. Within that subdivision, section 21H sets out permitted uses of credit eligibility information by credit providers in relation to individuals. Sections 21J to 21N set out permitted disclosures of credit eligibility information to different parties.

Purposes for which credit eligibility information and regulated information must not be disclosed or used

- (2) A credit provider or an affected information recipient must not use or disclose credit eligibility information or regulated information for the purposes of:
 - (a) assessing the likelihood that the individual to which the information relates may accept an invitation to apply for, or an offer of, any of the following:
 - (i) credit;
 - (ii) a variation of the amount of, or terms on which, credit is provided;
 - (iii) insurance in relation to mortgage credit or commercial credit; or
 - (iv) a variation of amount of, or terms on which, insurance in relation to mortgage credit or commercial credit is provided;
 - (b) targeting or inviting an individual to apply for, or accept an offer of, any of the following:
 - (i) credit;
 - (ii) a variation of the amount of, or terms on which, credit is provided;
 - (iii) insurance in relation to mortgage credit or commercial credit; or
 - (iv) a variation of amount of, or terms on which, insurance in relation to mortgage credit or commercial credit is provided;
 - (c) direct marketing.
- (3) Subsection (2) applies despite anything else in this CR Code except subsection (4).
- (4) Subsection (2) does not apply to the following uses of credit eligibility information or regulated information by a credit provider or affected information recipient:
 - (a) using the information to assess an application for credit or insurance in relation to mortgage credit or commercial credit;
 - (b) where an application for credit or insurance in relation to mortgage credit or commercial credit is received, using the information to assess the application, and offer or invite the applicant to apply for a different product where the original product is unsuitable;
 - (c) using the information to exclude an individual from receiving a direct marketing communication on the basis that the individual is at significant risk of defaulting in relation to credit into which the individual has entered.

Restrictions on the disclosure of credit reporting information to assist individuals to avoid default

- (5) A credit reporting body must only disclose credit reporting information to a credit provider, for the purposes of enabling the provider to assist the individual to avoid defaulting on his or her obligations in relation to consumer credit provided by the provider to the individual where either:
 - (a) the credit provider confirms to the credit reporting body that it is aware of circumstances that reasonably indicate that the individual may be at significant risk of defaulting in relation to those obligations; or
 - (b) the credit reporting body is aware that an event has occurred in relation to the individual that is an event of the kind that the credit provider has

identified could, if it were to occur, reasonably indicate that the individual may be at significant risk of defaulting in relation to those obligations.

Note: Section 21H of the Act permits credit providers to use credit eligibility information about an individual (that is disclosed by a credit reporting body) to assist that individual to avoid defaulting on their obligations under credit provided by that provider.

Restrictions on schemes or arrangements to obtain information in reliance on the access seeker provisions

- (6) A credit provider, mortgage insurer or trade insurer must not participate or otherwise be involved in schemes or arrangements which have a purpose or effect of influencing a person to obtain, in reliance on the access seeker provisions of section 20R of the Act and section 19 of this CR Code, credit reporting information about an individual, or information derived from credit reporting information about an individual, where it is reasonably likely that the information will be disclosed to the provider, mortgage insurer, trade insurer or their related bodies corporate to assess the creditworthiness of the individual.

Restrictions on use and disclosure of information obtained in response to a soft enquiry provisions

- (7) A credit provider must not use or disclose information disclosed to it in response to a soft enquiry or any information derived from that information for any purpose other than
- (a) the specific indicative assessment or assessments for which it was requested; or
 - (b) the internal management purposes of the credit provider (that do not also involve a consumer credit related purpose or commercial credit related purpose)

unless the provider has made a hard enquiry in relation to the individual to which the information relates.

Note: For example, a credit provider must not use information obtained in response to a soft enquiry, or information derived from that information, to assess whether to provide indicative, in-principle or unconditional approval for an application by a person for credit, unless a hard enquiry has also been made. Derived information would include the price advised to the person following the soft enquiry.

Indicative assessments following soft enquiries are not refusals of applications

- (8) An indicative assessment based on information disclosed in response to a soft enquiry that a person is ineligible for credit, and any related disclosures of the assessment, do not amount to a refusal of the application.

Disclosures to individuals where credit reporting information is used to assess an application for credit

- (9) Where a credit provider obtains credit reporting information about an individual from a credit reporting body and, within 90 days of obtaining that information, refuses an application for consumer credit made by the individual (whether alone or jointly with other applicants), the provider must provide a written notice of refusal that:

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- (a) meets the requirements of subsection 21P(2) of the Act;
 - (b) explains the individual's right to access their credit reporting information without charge during the 90 days following the date of the credit provider's notice of refusal and how to request the relevant credit reporting body to provide access to that information;
 - (c) contains a statement to the effect that it is important for individuals to be proactive in checking the accuracy of the credit reporting information that credit reporting bodies hold about them;
 - (d) states that the credit provider relies upon information from a number of sources when deciding whether to refuse consumer credit including information provided by the individual and credit reporting information disclosed by one or more credit reporting bodies;
 - (e) provides information about factors that are often taken into account when refusing credit, which may include:
 - (i) the adequacy of the applicant's level of income and other resources to meet repayments of credit;
 - (ii) the extent of the applicant's indebtedness and other commitments;
 - (iii) the security of the applicant's employment; and
 - (iv) the applicant's credit history including previous bankruptcy, defaults, serious credit infringements, high number of credit applications and unsatisfactory repayment history; and
 - (f) refers to the credit provider's processes for:
 - (i) accessing and correcting credit eligibility information; and
 - (ii) making complaints.

Note: Section 21P of the Act permits requires credit providers who refuse applications for consumer credit wholly or partially on the basis of credit eligibility information to provide the relevant individual(s) with a written notice.

- (10) The written notice referred to in subsection (9) and section 21P of the Act must be given to the individual either at the time the credit provider notifies the individual of the refusal decision or within 10 business days of that date.

17 Protections for victims of fraud

- (1) This section is made for the purposes of section 20K of the Act.

Note: Section 20K of the Act allows individuals to request a 'ban period' if they believe on reasonable grounds that they have been, or are likely to be, a victim of fraud. Credit reporting information relating to an individual may not generally be used or disclosed when a ban period is in effect. A credit ban may be extended where the credit reporting body has reasonable grounds to believe that the relevant individual has been, or is likely to be, a victim of fraud.

Ban notification services

- (2) From [date], a credit reporting body:
 - (a) must operate a ban notification service for individuals in relation to whose credit reporting information a ban period is in effect;
 - (b) may require an individual, before they can receive notifications as part of the ban notification service, to expressly consent in writing to the use of their credit reporting information for the provision of notifications; and

Commented [A24]: 12 months after commencement

Note: If a credit ban is in place, a credit reporting body may not use or disclose the individual's credit reporting information without the individual's express written consent (or unless required by or under an Australian law or court/tribunal order): see subsections 20K(1) and (2) of the Privacy Act.

(c) may:

- (i) collect contact information from individuals to facilitate the provision of notifications as part of the ban notification service; and
- (ii) provide, with the individual's consent, those contact details to another body in the circumstances described in subparagraph (3)(b)(iv) below for the purpose of that body operating a ban notification service.

Commented [A25]: Proposal 31

Steps credit reporting bodies must take when a consumer requests a ban period

- (3) Where an individual believes on reasonable grounds that they have been, or are likely to be, a victim of fraud and the individual requests a credit reporting body not to use or disclose their credit reporting information, the body must immediately:
- (a) include on the credit reporting information held in relation to the individual a notation about the individual's request and retain the notation for the duration of the ban period; and
 - (b) explain to the individual:
 - (i) the effect and duration of the ban period, including that the individual may not be able to access credit during the ban period; and
 - (ii) that they may request a ban notification service (if such a service is offered by the body); and
 - (iii) that they may request a ban period with other credit reporting bodies; and
 - (iv) that the individual can consent to the credit reporting body (the *first body*) notifying the credit reporting bodies nominated by the individual (each a *notified body*) that the individual has requested that the notified bodies not use or disclose the individual's credit reporting information (an *additional ban period request*) and, if relevant, provide a ban notification service.
- (4) Where an individual makes an additional ban period request as described in subsection (3):
- (a) the first body must, as soon as reasonably practicable, provide each notified body with the individual's additional ban period request;
 - (b) a notified body must treat the additional ban period request provided by the first body as if it had been provided directly by the individual (with the exception of complying with sub-paragraphs (3)(b)(iii) and (iv) above).

Commented [A26]: Proposal 31

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Notifying other entities of a ban period

- (5) Where a credit reporting body receives a request from a credit provider, mortgage insurer or trade insurer for credit reporting information about an individual in relation to whose credit reporting information a ban period is in effect, the body must inform the provider or insurer of the ban period and its effect.

Ban notification service – notifying an individual of a request to access for credit reporting information

- (6) If a credit reporting body informs a credit provider, mortgage insurer or trade insurer of a ban period under subsection (5), and the individual has requested a ban notification service, the body must notify the individual of the request for credit reporting information using the contact details provided.

Commented [A28]: Proposal 31

Extending ban periods – additional obligations on credit reporting bodies

- (7) Where there is a ban period in relation to credit reporting information about an individual with a credit reporting body, the body must notify the individual not less than 5 business days before the end of the ban period:
- (a) of the date the ban period is due to finish;
 - (b) about the individual's rights to extend the ban period; and
 - (c) what, if any, information the credit reporting body requires to support the individual's allegation of fraud.

Note: The evidence the credit reporting body may require is affected by subsection (10).

Commented [A29]: Proposal 29

- (8) Where an individual seeks to extend a ban period with a credit reporting body, the individual can consent to that body (the *first body*) notifying the bodies it previously notified under subsection (4) (each a *notified body*) of the request to extend to the ban period.
- (9) Where an individual makes a request to extend a ban period as described in subsection (8):
- (a) the first body must, as soon as reasonably practicable, provide each notified body with the ban period extension request and any supporting material provided by the individual; and
 - (b) a notified body must treat the ban period extension request provided by the first body as if it had been provided directly by the individual.

- (10) In the context of a ban extension request, when forming a view about whether there are reasonable grounds that an individual has been, or is likely to be, a victim of fraud, a credit reporting body:

- (a) may ask the individual:
 - (i) why they believe they have been, or are likely to be, a victim of fraud; and
 - (ii) why they have requested the ban period be extended; and
- (b) may only request additional information from the individual if their responses to the matters described in paragraph (a), or the circumstances of the individual's request, indicate that there are reasonable grounds to believe the individual has not been, or is not likely to be, a victim of fraud.

Commented [A30]: Proposal 29

18 Credit reporting body use of credit reporting information to facilitate a credit provider's direct marketing

- (1) This section is made for the purposes of section 20G of the Act.

Note: Section 20G of the Act deals with the use or disclosure of credit reporting information for the purposes of direct marketing.

Restrictions on the use of credit reporting information

- (2) A credit reporting body must not use credit reporting information for the purposes of developing any tool or service for provision to a credit provider or affected information recipient for the purposes of assisting them to:
- (a) assess the likelihood that an individual may accept an invitation to apply for, or an offer of, any of the following:
 - (i) credit;
 - (ii) a variation of the amount of, or terms on which, credit is provided;
 - (iii) insurance in relation to mortgage credit or commercial credit; or
 - (iv) a variation of amount of, or terms on which, insurance in relation to mortgage credit or commercial credit is provided;
 - (b) target or invite an individual to apply for, or accept an offer of, any of the following:
 - (i) credit;
 - (ii) a variation of the amount of, or terms on which, credit is provided;
 - (iii) insurance in relation to mortgage credit or commercial credit; or
 - (iv) a variation of amount of, or terms on which, insurance in relation to mortgage credit or commercial credit is provided;
- (3) A credit reporting body must not provide a tool or service of the kind described in subsection (2) to a credit provider or affected information recipient.

Restrictions on eligibility criteria for use of credit reporting information in the context of direct marketing

- (4) A credit provider must not nominate eligibility requirements to be used by a credit reporting body to assess, in accordance with section 20G of the Act, whether or not an individual is eligible to receive the direct marketing communications of the provider, that indicate that the individual is experiencing, or may in the future experience, difficulty in meeting repayments under their existing credit unless it is to exclude such individuals from the direct market communication.

Note: Subsection 20G(2) of the Act permits credit reporting bodies to use credit reporting information for the purposes of direct marketing by, or on behalf of, a credit provider in certain circumstances. For this subsection to apply, the body must use the information to assess whether the individual is eligible to receive the direct marketing communications, having regard to eligibility requirements nominated by the provider: see subsection 20G(3) of the Act.

Requests to opt out of use of credit reporting information for direct marketing

- (5) A credit reporting body must give effect, as soon as practicable, to a request by an individual not to use their credit information for the purposes of direct marketing.

Note 1: An individual may request that a credit reporting body not use credit information about them for the purposes of direct marketing by, or on behalf of, a credit provider: see subsections 20G(2) and 20G(5) of the Act.

Note 2: Requests to credit reporting bodies may be made through the body's website facility (if any), by telephone, mail, email or other means.

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- (6) A credit reporting body must keep a confidential register of individuals who have made a request of the kind referred to in subsection (5).

Division 6—Access to, and correction of, credit information

19 Access

- (1) This section is made for the purposes of sections 20R and 21T of the Act.

Note 1: Section 20R of the Act sets out a regime for access seekers and individuals to access credit reporting information relating to the individual. Individuals and access seekers may request access; credit reporting bodies must respond within 10 working days. Access must be free if a request of that nature has not been made in the previous 3 months.

Note 2: Section 21T of the Act sets out a similar regime for credit eligibility information held by credit providers. Providers must give access to this information without charge on request.

Evidence requirements for access to credit information

- (2) Where a person requests a credit reporting body or credit provider to provide them with access to credit reporting information or credit eligibility information, the body or provider must not provide access without first obtaining such evidence as is reasonable in the circumstances to satisfy itself of:
- (a) the identity of the person making the request; and
 - (b) that person's entitlement to access the information.

Other requirements for services to access credit reporting information

- (3) When a credit reporting body provides a service through which an individual (whether personally or through another access seeker) may obtain their credit reporting information, the body must:

- (a) provide information about how the individual may obtain their credit reporting information from other credit reporting bodies; and
- (b) provide a means of requesting the credit reporting information other than through the body's website.

Note: A credit reporting body may also provide the service through their website.

Free access for individuals who have had an application for consumer credit declined

- (4) Where an individual requests a credit reporting body to provide access to the individual's credit reporting information, the body must not charge a fee for giving access to the information if the individual provides the body with evidence that, not more than 90 days previously, a credit provider refused a consumer credit application made by the individual.
- (5) Subsection (4) applies:
- (a) even where the request for access is made through another access seeker; and
 - (b) regardless of whether the credit reporting body has provided the individual with access to credit reporting information free of charges at any time in the previous 3 months.

Commented [A31]: Proposal 32

Commented [A32]: Proposal 33

Note: Subsections 20R(5) and (6) of the Act generally provide that a credit reporting body may charge an access seeker where a request for access has been made in the previous 3 months.

Requirements for free access services offered by credit reporting bodies

- (6) Where a credit reporting body provides credit reporting information to an access seeker free of charge as required by the Act, the Regulations or this CR Code:
- (a) the body must provide the access seeker with access to:
 - (i) all credit information in relation to the individual currently held in the databases that the body utilises for the purposes of making disclosures permitted under Part IIIA of the Act;
 - (ii) all current CRB derived information about the individual that is available; and
 - (iii) the individual's credit rating as set out in this section;
 - (b) the body must present the information clearly and accessibly and provide reasonable explanation and summaries of the information to assist the access seeker to understand the impact of the information on the individual's credit worthiness;
 - (c) the body must include a statement about whether or not persons that are not access seekers in relation to the information may access that information;
 - (d) the body may only provide the access seeker with a direct marketing communication where the access seeker has provided his or her consent to receipt of this communication by opting in to providing this consent; a pre-ticked consent box does not constitute opting in; and
 - (e) if the access seeker has requested a physical copy of the information, the body must provide the information in that form.

Commented [A33]: Proposal 43

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Requirements for fee-based services offered by credit reporting bodies

- (7) If a credit reporting body has a service whereby an individual (whether personally or through another access seeker) may for a fee obtain their credit reporting information (a *fee-based service*):
- (a) the information made available by the credit reporting body about the fee-based service must prominently state that individuals have a right to obtain their credit reporting information, including their credit rating, free of charge in the following circumstances:
 - (i) if the access request relates to a credit provider's decision to refuse the individual's consumer credit application; and
 - (ii) if the access request relates to a decision by a body or provider to correct credit reporting information or credit eligibility information about the individual; and
 - (iii) in addition to the access described in subparagraphs (i) and (ii), once every 3 months; and
 - (b) the credit reporting body must take reasonable steps to ensure that its service through which individuals may obtain their credit reporting information free of charge is as available and easy to identify and access as its fee-based service; and

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- (c) if the individual (either personally or through another access seeker) requests a physical copy of the information through the fee-based service, the credit reporting body must provide the information in that form.

Commented [A35]: Proposal 33

Access to credit eligibility information

- (8) For the purposes of section 21T of the Act, a credit provider:
- (a) must take reasonable steps to provide an accessible means for an individual to obtain access to credit eligibility information about them; and
 - (b) should, unless unusual circumstances apply, provide access to the individual within 30 days of the request; and
 - (c) must present the information clearly and accessibly and provide reasonable explanations and summaries of the information to assist the access seeker to understand the impact of the information on the individual's credit worthiness; and
 - (d) must advise the individual:
 - (i) that, in order to ensure that they have access to the most up-to-date information, they should additionally request access to the credit reporting information held by credit reporting bodies about them; and
 - (ii) how they may obtain their credit reporting information from credit reporting bodies.

Commented [A36]: Proposal 32

Provision of derived information

- (9) Where a credit reporting body provides an access seeker with CRB derived information about the individual or a credit provider provides an access seeker with CP derived information about the individual, the information may be provided in a way that preserves the confidentiality of the methodology, data analysis methods, computer programs or other information that is used to produce the derived information.

Credit ratings

- (10) If the business of a credit reporting body involves deriving more than one form of credit rating or credit score for individuals:

Note 1: Section 20R of the Act generally requires credit reporting bodies to provide access to credit ratings upon request by an access seeker.

Note 2: An example of multiple forms of credit ratings or credit scores is where different ratings or scores are derived using calculations based on different sets of credit information.

- (a) the credit rating required to be given under Section 20R of the Act is the rating derived from the calculation that is used to provide credit ratings or credit scores to credit providers using the broadest range of information available to the body and, if there is more than one such calculation, the one that is most accurate, relevant and up to date; and
- (b) if the body imposes a charge for giving a credit rating derived using a different calculation to that described in paragraph (a) to access seekers, the body must give the individual (whether directly or through an agent) the option to receive that rating for free once every 3 months.

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- (11) If a credit reporting body refers access seekers to a service under which a third party offers to give the access seeker the individual's credit score or credit rating (on a more regular basis than quarterly), the body must:
- (a) prominently state when referring to the third party service that the individual has a right to receive their credit rating free of charge under section 20R of the Act; and
 - (b) take reasonable steps to ensure that the free service is as available and easy to identify and access as the referral to that other service.
- (12) If a credit reporting is unable to derive a credit rating for an individual because the body holds insufficient credit information about the individual, the body must explain that to the access seeker and give the access seeker an explanation of the credit information that the body needs to hold to be able to derive a credit rating. This explanation may be given by reference to another document that is reasonably accessible.
- (13) When giving a credit rating to an access seeker, the credit reporting body must:
- (a) explain the nature and purpose of a credit score and how the credit rating provided under this section relates to that score;
 - (b) categorise the total scale into no less than five bands;
 - (c) describe those bands, including the credit score ranges they represent, and use appropriate descriptors for those bands that relate to the credit worthiness of individuals within each band;
 - (d) state which band the credit score for the individual sits within; and
- Note: This can, but does not have to, involve the body providing a precise credit score for the individual.
- (e) give an explanation statement of the kind described in subsection (14).
- (14) For the purposes of this section and subsection 20R(1A) of the Act, the statement referred to in subsection (13) must include:
- (a) an explanation of the types of credit information held by a credit reporting body and the general impact of that information on an individual's credit score—this explanation may be given by reference to another document that is reasonably accessible; and
 - (b) in relation to the band in which the individual's credit rating sits, a description of the particular types of credit information that the credit reporting body reasonably believes are the most important for people who sit within that band and why that information may be important (which may include a description of the importance of the absence of the particular type of credit information to a credit score within that band). For the purposes of this paragraph, the body would ordinarily describe 3 – 5 types of credit information which typically have the biggest impact on the credit score of individuals within that credit rating band
 - (c) other than for the highest band, and based on the relative importance of the types of credit information, a statement about the common things that individuals within the band can do to improve their credit rating; and
 - (d) an explanation of how credit providers may, and may not, access and use a credit rating or credit score in the assessment or management of credit, including how the credit rating or credit score relates to other elements of credit assessment or management (such as responsible lending)
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assessments)—this explanation may be given by reference to another document that is reasonably accessible.

- (15) A credit reporting body must review the assumptions used in developing the explanation statement described in subsection (14) no less than every 12 months, or otherwise when the body makes a significant change to the calculations used to derive credit ratings.
- (16) Where a credit reporting body provides access to credit reporting information to an access seeker and that information includes repayment history information or financial hardship information:
- (a) the information must not be given to the access seeker using codes other than those disclosed to the credit reporting body by the relevant credit provider, except for:
 - (i) repayment history information disclosed under section 8, which may be represented in a graphical form; and
 - (ii) codes or other information that the body reasonably believes will assist the access seeker to better understand the individual's credit history; and
 - (b) the body must include the following statement in relation to the particular type of financial hardship information that is provided to the access seeker:
 - (i) where financial hardship information relating to a variation FHA is provided in relation to a particular month: "This loan was varied in this month and repayment history reflects the new payments required"; and
 - (ii) where financial hardship information relating to a temporary FHA is provided in relation to a particular month: "There was an arrangement for this loan in this month and the repayment history reflects that arrangement".
- Note: Subsection 8A(13) requires credit provider to take reasonable steps to ensure that financial hardship information relating to a variation FHA is expressed as "V", and financial hardship information relating to a temporary FHA is expressed as "A".
- (17) If a credit reporting body gives a credit score or credit rating to an access seeker, and the credit reporting information held by the body includes financial hardship information, the body must explain that the financial hardship information was not included in the calculation of that credit score or credit rating.

20 Correction of information

- (1) This section is made for the purposes of sections 20T and 21V of the Act.

Note 1: Section 20T of the Act sets out a regime for individuals to seek correction of information relating to them from credit reporting bodies. A credit reporting body must correct the information if it is inaccurate, out-of-date, incomplete, irrelevant or misleading for a purpose for which it is held. The body may consult in order to form a view about these matters. Correction requests, and correcting information as a result, must be free for the individual.

Note 2: Section 21V of the Act sets out a substantially similar regime for correction requests to credit providers.

Correction requests to credit providers that do not participate in the credit reporting system

- (2) Where:
- (a) a credit provider received a correction request from an individual; and
 - (b) that provider does not:
 - (i) disclose credit information to a credit reporting body; or
 - (ii) request a body to disclose information to it; and
 - (c) the correction request relates to information that the provider does not hold;
- the provider is able to comply with subsections 21V(3) and 21W(3) of the Act by taking the steps outlined in subsection (3).
- (3) For the purposes of subsection (2), the credit provider may, within 30 days of the individual's correction request:
- (a) consult with other credit reporting bodies or providers to identify an entity that holds the relevant information; and
 - (b) give the individual a written notice:
 - (i) explaining that it does not hold the relevant information and does not participate in the credit reporting system and so the correction has not been made; and
 - (ii) informing the individual of an entity that holds the information to which the correction request relates and providing contact details for that entity; and
 - (iii) stating that if the individual is not satisfied with the response to the request the individual may access a recognised external dispute resolution scheme of which the provider is a member or to which it is subject, or make a complaint to the Commissioner.

Consulting on correction requests – necessary steps

- (4) When a credit reporting body or credit provider (the **first responder**) consults another body or provider (the **consulted entity**) in the context of a correction request:
- (a) the first responder must take reasonable steps to provide the consultation request to the consulted entity within five business days of the correction request being made; and
 - (b) the first responder must, when making the consultation request, notify the consulted entity of the date on which the correction period ends; and
 - (c) the consulted entity must take reasonable steps to respond to the consultation request as soon as practicable, and not less than five business days before the end of the correction period (unless the consultation request is made less than five business days before the end of correction period, in which case the response must be provided as soon as practicable); and
 - (d) where the consulted entity will be unable to respond to the consultation request by the end of the correction period:
 - (i) it must advise the first responder of the delay, the reasons for the delay and the timeframe within which it expects to respond to the consultation request; and

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- (ii) the advice in sub-paragraph (i) must be provided at least five business days before the end of the correction period, unless the correction request is made after this time, in which case the advice must be provided as soon as practicable; and
 - (iii) the expected timeframe nominated under sub-paragraph (i) must be reasonable.

Requesting extensions to correction periods

- (5) If a credit reporting body or credit provider forms the view that it will not be able to resolve an individual's correction request within the correction period, the body or provider must as soon as practicable:
 - (a) notify the individual of the delay, the reasons for the delay and the timeframe within which it expects to respond to the consultation request; and
 - (b) seek the individual's agreement to an extension for a period that is reasonable in the circumstances; and
 - Note: Under the Act, a credit reporting body or a credit provider must correct information within a period of 30 days that starts on the day on which the individual requests correction, or such longer period the individual has agreed to in writing: see subsections 20T(2) and 21V(2) of the Act.
 - (c) advise that the individual may complain to:
 - (i) a recognised external dispute resolution scheme of which the body or provider is a member or to which it is subject – and provide the contact details for that scheme; or
 - (ii) in the case of a provider that is not a member of, or subject to, such a scheme, to the Commissioner; and
 - (d) if the individual has not agreed to the requested extension, provide a response to the correction request within the timeframe sought for extension.

Correcting credit-related personal information - general

- (6) A correction request may relate to a single piece of credit-related personal information, or multiple pieces of credit-related personal information.

Note 1: A credit provider of credit reporting body may need to consult with more than one other provider or body if the correction request relates to multiple pieces of information: see subsection (4) and subsections 20T(3) and 21V(3) of the Act.

Note 2: There are further requirements for certain correction requests relating to multiple pieces of information: see subsections (9), (10) and (11).

- (7) If a credit reporting body or credit provider receives a correction request, they must determine whether the credit-related personal information needs to be corrected as soon as practicable.
- (8) If a credit reporting body or credit provider is satisfied that credit-related personal information needs to be corrected (whether in response to a correction request, or under sections 20S or 21U of the Act), the relevant obligation to take reasonable steps to correct the information will be satisfied where the body, provider, or body or provider consulted in relation to the correction request (as applicable):

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- (a) corrects the credit information, where this correction is in response to a correction request, within five business days of determining the correction should occur and otherwise as soon as practicable; and
 - (b) takes reasonable steps to ensure that any future derived information is based on the corrected credit information; and
 - (c) takes reasonable steps to ensure that any derived information based on the uncorrected credit information is not disclosed or used for the purpose of assessing the credit worthiness of the individual to whom the information relates.

Correcting credit information – corrections about multiple enquiries

(9) Subsections (10) and (11) apply to correction requests where:

- (a) the request relates to one or more statements that an information request has been made in relation to the individual, where credit was not approved by the credit provider following the information request(s); and
- (b) the individual states:
 - (i) which piece or pieces of credit-related personal information are the subject of the correction request; and
 - (ii) that the relevant information requests referred to in paragraph (a) were caused by fraud (including identity fraud).

(10) When a credit provider or credit reporting body receives a correction request of the kind described in subsection (9), the provider or body must, in considering what evidence to ask for to determine whether the information should be corrected, have regard to:

- (a) the burden on the individual of providing the evidence;
- (b) the availability of other information which could be used to determine whether the information needs to be corrected; and
- (c) information which is likely to be needed for consultation with other providers and bodies under subsection (4).

(11) When a credit provider or credit reporting body is consulted on a correction request of the kind described in subsection (9), the provider or body must, before seeking additional evidence to determine whether one or more pieces of information should be corrected, have regard to:

- (a) the information the individual who made the request provided along with that request;
- (b) the burden on the individual of providing any additional evidence;
- (c) the availability of other information which could be used to determine whether any credit-related personal information needs to be corrected; and
- (d) views (if any) formed by the provider or body who received the request about whether a fraud (including identity fraud) event has occurred.

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Correcting credit information – information that exists due to circumstances beyond the individual's control

(12) If an individual makes a correction request on the basis that credit information of the kind specified in subsection (13) only exists because of unavoidable

consequences of circumstances beyond the individual's control, such as natural disaster, domestic abuse, or bank error in processing a direct debit or fraud, the credit provider or credit reporting body that receives that request must:

- (a) consider whether the relevant information is inaccurate, out-of-date, incomplete, irrelevant or misleading, having regard to the purpose for which the information is held; and
- (b) if the correction request is made to a credit reporting body or a credit provider other than the provider that disclosed the information to a body, consult with the provider that disclosed the information for the purposes of the considerations in paragraph (a); and
- (c) if the body or provider is satisfied that the information is inaccurate, out-of-date, incomplete, irrelevant or misleading, having regard to the purpose for which the information is held, agree to correct the information.

(13) For the purposes of subsection (12), individuals may request correction of the following kinds of information on the basis that the information only exists due to unavoidable consequences of circumstances beyond the individual's control:

- (a) default information;
- (b) payment information;
- (c) new arrangement information of the kind described in subsection 6S(1) of the Act;
- (d) repayment history information, where the monthly payment obligations that gave rise to the repayment history information have been complied with or varied; and
- (e) financial hardship information.

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Corrections of default information for statute-barred debts

(14) On request by an individual, a credit reporting body must correct the credit reporting information it holds in relation to the individual by destroying any default information that relates to a payment that the individual is overdue in making to a credit provider if, at the time of the correction request, the provider is prevented by a statute of limitations from recovering the amount of the overdue payment.

Notifying individuals of decisions to correct credit information

(15) A credit reporting body or credit provider must notify an individual of a decision about a correction request made by the individual under section 20T or section 21V of the Act within 5 business days of the decision. Where the decision is to correct the information, the notice must:

- (a) include all relevant credit reporting information or credit eligibility information (as applicable) held by the body or provider (as applicable) so that the individual can check that the information has been appropriately corrected; and
- (b) explain:
 - (i) that the individual has a right to obtain their credit reporting information from a credit reporting body free of charge if the access

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- request relates to a decision by a body or a provider to correct information about the individual; and
- (ii) how that right may be exercised; and
- (c) if the body or provider (as applicable) is proposing to rely upon subsection (17):
- (i) explain who the body or provider is intending to notify to fulfil its notification obligations under Part IIIA of the Act, the Regulations and this CR Code; and
 - (ii) ask the individual if there is any other provider or affected information recipient that the individual would like the notified of the correction.
- (16) Where a credit reporting body or credit provider corrects credit-related personal information by updating identification information about an individual, the body or provider (as applicable) is not obliged to notify any previous recipient of the information about the updating of that information, unless requested by the individual.
- (17) Where a credit reporting body or credit provider corrects credit-related personal information and this gives rise to an obligation under Part IIIA of the Act to give notice to a body, provider or affected information recipient, unless it is impracticable or illegal to give that notice, the notification obligation is taken to be met where:
- (a) the correcting body or provider gives notice of the correction to:
 - (i) all bodies to which it disclosed the pre-corrected information; and
 - (ii) all providers and affected information recipients to which it disclosed the pre-corrected information within the previous 3 months; and
 - (iii) any other provider or affected information recipient that has been nominated by the individual and to which it disclosed the pre-corrected information more than 3 months previously; and
 - (b) if notice is given in accordance with paragraph (a) to a credit provider or affected information recipient that previously received CRB derived information or CP derived information that is no longer correct by reason of the correction, the notice includes revised CRB derived information or CP derived information (as applicable) that has been derived using the corrected information and such identification information or credit ID information necessary to identify the individual and their consumer credit to the provider; and
 - (c) the notice is given within 7 business days of the correction.

Non-application of complaint handling provisions

- (18) Where an individual makes a correction request, the complaint handling provisions in the Act will not apply to that request, even if the correction request includes an expression of dissatisfaction by the individual about an act or practice by the credit reporting body or credit provider.

Note: Division 5 of Part IIIA of the Act and section 21 contain requirements relating to the handling of complaints.

Division 7—Miscellaneous

21 Complaints

- (1) This section is made for the purposes of Division 5 of Part IIIA of the Act.

Note: Division 5 of Part IIIA of the Act contains requirements relating to the handling of complaints.

- (2) Where a credit reporting body or credit provider is required by Australian law, a condition of a licence issued by a regulatory authority or an enforceable Industry Code requirement to meet complaints handling requirements, the body or provider must comply with those requirements for the purposes of a complaint under Part IIIA of the Act.
- (3) If subsection (2) does not apply to a credit reporting body or credit provider, that body or provider (as applicable) must comply with the following sections of ISO 10002:2018(E) *Quality management - Customer satisfaction - Guidelines for complaints handling in organisations* for the purposes of a complaint under Part IIIA:
- (a) Section 4 *Guiding Principles*;
 - (b) Section 5.2 *Leadership and Commitment*;
 - (c) Section 6.4 *Resources*;
 - (d) Section 8.1 *Collection of information*; and
 - (e) Section 8.2 *Analysis and evaluation of complaints*.

- (4) A credit reporting body must be a member of, or be subject to, a recognised external dispute resolution scheme.

Note: The Commissioner may recognise an external dispute resolution scheme under section 35A of the Act.

- (5) A credit reporting body or credit provider that is consulted by another body or provider about a complaint must take reasonable steps to respond to the consultation request as soon as practicable.

Note: If the recipient considers it necessary to consult with a credit reporting body or credit provider, subsection 23B(2) of the Act requires them to consult with that body.

- (6) If a credit reporting body or credit provider forms the view that it will not be able to resolve a complaint within the 30 day period required by Part IIIA of the Act, the body or provider (as applicable) must:
- (a) inform the individual of the delay before the end of the 30 day period and provide the reason for the delay, the expected timeframe to resolve the complaint and seek their agreement to an extension for a period that is reasonable in the circumstances; and
 - (b) advise that the person may complain to the recognised external dispute resolution scheme of which the body or provider (as applicable) is a member, or to which it is subject – and provide the contact details for that scheme - or, in the case of a provider that is not a member of, or subject to, such a scheme, to the Commissioner.

Notifications of complaints

- (7) Where a credit reporting body has an obligation under subsection 23C(2) of the Act to give notice to a credit provider about a complaint relating to a body's act or practice that may breach section 20S of the Act, this obligation is taken to be met if the body gives notice as soon as practicable to:
- (a) if the complaint relates to credit information that was disclosed to the body by a provider – that provider; and
 - (b) any provider to which the body disclosed the credit information to which the complaint relates in the previous 3 months; and
 - (c) any other provider that has been nominated by the individual for this purpose.

Note: A credit reporting body's obligation under subsection 23C(2) of the Act does not apply where it is impractical to give the notification, or the giving of the notification is prevented by law: see subsection 23C(6) of the Act.

- (8) Where a credit provider has an obligation under subsection 23C(3) of the Act to give notice to a credit reporting body or provider about a complaint relating to a body's act or practice that may breach section 21U of the Act, this obligation is taken to be met if the provider gives notice as soon as practicable to:
- (a) if the complaint relates to credit information that was disclosed to the provider by a body or another provider – that body or other provider; and
 - (b) any body or provider to which the body disclosed the credit information to which the complaint relates in the previous 3 months; and
 - (c) any other provider that has been nominated by the individual for this purpose.

Note: A credit provider's obligation under subsection 23C(3) of the Act does not apply where it is impractical to give the notification, or the giving of the notification is prevented by law: see subsection 23C(6) of the Act.

22 Record keeping

Requirements to maintain records

- (1) A credit reporting body and a credit provider must maintain adequate records that evidence their compliance with Part IIIA of the Act, the Regulations and this CR Code.
- (2) Without limiting subsection (1), a credit reporting body and a credit provider must maintain records of:
- (a) where credit-related personal information is destroyed to meet obligations under Part IIIA of the Act, the Regulations and this CR Code (but only if this is possible);
 - (b) in the case of a credit provider that receives credit eligibility information disclosed to it by another provider:
 - (i) the date on which that information was disclosed;
 - (ii) the provider who disclosed the information;
 - (iii) a brief description of the type of information disclosed; and
 - (iv) the evidence relied upon that the consent requirements have been met;

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- (c) for each disclosure that a body or provider makes of credit reporting information or credit eligibility information (as applicable):
 - (i) the date of the disclosure;
 - (ii) a brief description of the type of information disclosed;
 - (iii) the provider, affected information recipient or other person to whom the disclosure was made; and
 - (iv) evidence that the disclosure was permitted under Part IIIA of the Act, the Regulations or this CR Code;
 - (d) any consent provided by an individual for the purposes of Part IIIA of the Act, the Regulations or this CR Code;
 - (e) in the case of a credit provider, any written notice given to an individual stating that a consumer credit application has been refused within 90 days of disclosure of credit reporting information in relation to that individual by a credit reporting body to the provider;
 - (f) correspondence and actions taken in relation to:
 - (i) requests to establish or extend a ban period;
 - (ii) requests for, or notifications of, corrections;
 - (iii) complaints;
 - (iv) pre-screening requests by a credit provider; and
 - (v) monitoring and auditing of credit providers in accordance with Part IIIA of the Act, the Regulations and this CR Code; and
 - (g) in the case of a credit reporting body to which a soft enquiry is made, all of the following, as soon as reasonably practicable, on a written note on a record related to the individual:
 - (i) the date the enquiry was received by the body;
 - (ii) the name of the entity that made the enquiry;
 - (iii) a statement that the enquiry was a soft enquiry;
 - (iv) the type of consumer credit or commercial credit that the enquiry related to; and
 - (v) the amount of credit sought (if the amount is capable of being specified and is known).

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Retention of records

- (3) Subject to subsection (4), a credit reporting body and a credit provider must retain records for a minimum period of 5 years from the date on which the record is made.
- (4) If a credit reporting body makes a record that includes information that the body is required to destroy at the end of the applicable retention period by Part IIIA of the Act, the Regulations or this CR Code, the record must be retained for the duration of that retention period only.

23 Credit reporting system integrity

- (1) This section is made for the purposes of sections 20N and 20Q of the Act.

Note 1: Section 20N of the Act requires credit reporting bodies to take reasonable steps to ensure the information they collect is accurate, up-to-date and complete, and that the

information they use and disclose accurate, up-to-date, complete and relevant (having regard to the purpose of the use or disclosure). Bodies must also enter into agreements with credit providers requiring them to ensure the information they disclose is accurate, up-to-date and complete, and also to obtain independent audits to determine whether those agreements are being complied with.

Note 2: Section 20Q of the Act requires credit reporting bodies to take reasonable steps to protect credit reporting information from misuse, interference and loss, unauthorised access, modification or disclosure. Bodies must also enter into agreements with credit providers requiring them to protect information in this way, and also to obtain independent audits to determine whether those agreements are being complied with.

Programs for monitoring credit providers' compliance with the Act

- (2) To ensure that credit reporting bodies tailor the frequency and extent of the audits required by sections 20N and 20Q of the Act to the credit providers that present the greatest risk of non-compliance, a body must establish a documented, risk-based program to monitor providers' compliance with their obligations under Part IIIA of the Act (incorporated in their agreements with the body) to ensure:
- (a) that credit information that the provider discloses to the body is accurate, up-to-date and complete; and
 - (b) that credit reporting information that the body discloses to the provider is protected by the provider from misuse, interference and loss and from unauthorised access, modification or disclosure; and
 - (c) that the provider takes the steps in relation to requests to correct credit-related personal information required by Part IIIA of the Act, the Regulations and this CR Code.
- (3) The program established by a credit reporting body under subsection (2) must:
- (a) identify and evaluate indicators of risk of non-compliance by credit providers with the obligations referred to in subsection (2); and
 - (b) assess the risk posed by providers of significant non-compliance with those obligations using those risk indicators and the information available to the body including correction requests and complaints; and
 - (c) use a reasonable range of monitoring techniques to validate and update those risk assessments from time to time; and
 - (d) include a program for auditing providers to assess compliance with the obligations referred to in subsection (2).

Note: Credit reporting bodies have obligations to ensure that audits of credit providers are conducted in relation to the quality and security of credit reporting information: see subsections 20N(3)(b) and 20Q(2)(b) of the Act.

Requirements for auditors of credit providers

- (4) Subject to subsections (5) and (6), any of the following may be used in audits as part of a credit reporting body's auditing program for the purposes of paragraph (3)(d) above:
- (a) a body's compliance or auditing team;
 - (b) consultants engaged by the body;
 - (c) consultants engaged by the credit provider, where the body is satisfied of the consultant's independence and expertise; or

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- (d) an industry funded organisation where the body is satisfied as to that organisation's independence and expertise.
- (5) For the purposes of the Act, an auditor is independent of a credit provider (and therefore eligible to conduct audits of that provider under Part IIIA of the Act and programs described in this section) if:
- (a) the auditor is not a director or employee of the provider and does not have a significant financial interest in the provider; and
 - (b) the auditor has not at any time during the previous 12 months had a relationship or interest described in paragraph (a); and
 - (c) where the auditor is an employee of a credit reporting body – the body's organisational structure and supervision arrangements achieve functional independence for the auditor; and
 - (d) where the auditor is an employee of an industry-funded organisation – the organisation's governance and supervision arrangements achieve functional independence for the auditor; and
 - (e) the auditor does not have any other association that would impair the perception of the auditor's independence; and
 - (f) the auditor has not at any time during the previous 12 months had an association described in paragraph (e).
- (6) A credit reporting body must take reasonable steps to ensure that a person who conducts an audit of a credit provider as part of the body's auditing program referred to in subsection (3) has sufficient expertise for the role including:
- (a) knowledge of the requirements of Part IIIA of the Act, the Regulations and this CR Code; and
 - (b) knowledge of audit methodology and previous experience in conducting audits; and
 - (c) credit reporting system experience.
- (7) A credit reporting body must take reasonable steps to ensure that its audit oversight, including reporting arrangements, is sufficient to enable the body to form a view as to whether the credit provider is complying with the obligations referred to in subsection (2).
- (8) A credit provider must permit a person who conducts an audit of the provider as part of a credit reporting body's auditing program referred to in subsection (3), to have reasonable access to records for the purposes of carrying out the audit.
- (9) A credit provider must take reasonable steps to rectify issues identified through an audit undertaken as part of a credit reporting body's auditing program referred to in subsection (3).
- (10) A credit reporting body must, on request by the Commissioner, provide the Commissioner with the auditor's report produced as part of the body's auditing program referred to in subsection (3).

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Obligations on credit reporting body to take action where credit providers have not met their obligations

- (11) A credit reporting body must take action as is reasonable in the circumstances (which may include termination of the agreement) where a credit provider fails to meet its contractual obligations to the body to comply with Part IIIA of the Act, the Regulations and this CR Code and in particular fails to:
- (a) ensure that the credit information that the provider discloses to the body is accurate, up-to-date and complete; or
 - (b) protect credit reporting information disclosed to the provider by the body from misuse, interference or loss, or unauthorised access, modification or disclosure.
- (12) A credit reporting body may only terminate an agreement with a credit provider under subsection (11) if the body gives the provider:
- (a) reasonable notice of its intention to terminate the agreement; and
 - (b) and an opportunity to trigger the dispute resolution procedures in subsection (13).
- (13) Where disputes arise between two or more credit reporting bodies, credit providers and affected information recipients in relation to actions undertaken or required to fulfil their obligations under Part IIIA of the Act, the Regulations or this CR Code, the parties to the dispute must endeavour to resolve the dispute in a fair and efficient way.

Obligations on credit reporting bodies to publish information about audit program

- (14) A credit reporting body must publish on its website, by 31 August each year, a report for the financial year ending on 30 June of the same year about its audit program, including:
- (a) how the body identifies and evaluates indicators of risk of non-compliance by credit providers with the obligations referred to in subsection (2); and
 - (b) what types of risk indicators and information are used to assess the risk posed by providers of significant non-compliance with those obligations; and
 - (c) a description of:
 - (i) the role which the audit program plays in managing the risks mentioned above; and
 - (ii) the basis on which the body determined the number, type and manner of audits that was conducted during the relevant financial year (with reference to the other material in the report); and
 - (d) de-identified information about the number of audits conducted, and significant findings and measures taken in response by either the body or the relevant provider.

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Obligations on credit reporting bodies to publish annual report on specified matters

- (15) A credit reporting body must publish on its website, by 31 August each year, a report for the financial year ending on 30 June of the same year that includes information about the following:

- (a) individuals given access to their credit information without charge, including a percentage calculated using the formula:

$$\frac{AI(WC)}{IND} \times 100\%$$

where:

AI(WC) is the number individuals given access to their credit reporting information (without charge) by the body during the reporting period.

IND is the number of individuals about whom the body holds credit information at the end of the reporting period.

- (b) individuals given access to their credit information through a fee-based service, including a percentage calculated using the formula:

$$\frac{AI(C)}{IND} \times 100\%$$

where:

AI(C) is the number of individuals given access to their credit reporting information by the body during the reporting period where the individual used a fee-based service.

IND is the number of individuals about whom the body holds credit information at the end of the reporting period.

- (c) correction requests received by the body, including a percentage calculated using the formula:

$$\frac{CR}{IND} \times 100\%$$

where:

CR is the number of correction requests received by the body during the reporting period.

IND is the number of individuals about whom the body holds credit information at the end of the reporting period.

- (d) successful correction requests, being requests received by the body where the body is satisfied that a correction should be made, including a percentage calculated using the formula:

$$\frac{CR(S)}{CR} \times 100\%$$

where:

CR is the number of correction requests received by the body during the reporting period.

CR(S) the number of correction requests received by the body during the reporting period where the body was satisfied that a correction should be made.

- (e) the mean number of days taken to finalise a correction calculated using the formula:

$$\frac{D(CR)}{TC}$$

where:

D(CR) is the total number of calendar days taken from receipt to finalisation for all correction requests finalised by the body during the reporting period.

TC is the total number of corrections finalised by the body during the reporting period.

- (f) other corrections made, including a percentage calculated using the formula:

$$\frac{CR(O)}{IND} \times 100\%$$

where:

CR(O) is the number of corrections made by the body during the reporting period that were not made in response to a correction request from the relevant individual.

IND is the number of individuals about whom the body holds credit information at the end of the reporting period.

- (g) the types of corrections made, including:
- (i) the types of correction requests received and corrections made during the reporting period (including a percentage figure for each correction type against all types); and
 - (ii) the industry sectors from which the information that was corrected originated from;
- (h) complaints received, including a percentage calculated using the formula:

$$\frac{C}{IND} \times 100\%$$

where:

C is the number of complaints received by the body during the reporting period.

IND is the number of individuals about whom the body holds credit information at the end of the reporting period.

- (i) the types of complaints that were received by the body during the reporting period (including a % figure for each complaint type against all types);
- (j) complaints finalised, including a percentage calculated using the formula:

$$\frac{F}{IND} \times 100\%$$

where:

F is the number of complaints finalised by the body during the reporting period.

IND is the number of individuals about whom the body holds credit information at the end of the reporting period.

- (k) the mean number of days taken to finalise a complaint calculated using the formula:

$$\frac{D(C)}{TCP}$$

where:

D(C) is the total number of calendar days taken from receipt to finalisation for all complaints finalised by the body during the reporting period.

TCP is the total number of complaints finalised by the body during the reporting period.

- (l) the outcomes of the complaints finalised during the reporting period (including a % figure for each outcome type against all outcomes);
- (m) serious credit infringements disclosed, including a percentage calculated using the formula:

$$\frac{SCI}{IND} \times 100\%$$

where:

SCI is the total number of times during the reporting period that a provider disclosed an opinion to the body that an individual committed a serious credit infringement.

IND is the number of individuals about whom the body holds credit information at the end of the reporting period.

- (n) serious credit infringements disclosed by sector, including, for each sector, a percentage calculated using the formula:

$$\frac{SCI(S)}{SCI} \times 100\%$$

where:

SCI is the total number of times during the reporting period that a provider disclosed an opinion to the body that an individual committed a serious credit infringement.

SCI(S) is the total number of times during the reporting period that a provider from the relevant sector disclosed an opinion to the body that an individual committed a serious credit infringement.

- (o) disclosure of consumer credit liability information, including a percentage calculated using the formula:

$$\frac{CCLI}{CP} \times 100\%$$

where:

CCLI is the number of providers that disclosed consumer credit liability information to the body during the reporting period.

CP is the total number of providers that disclosed any credit information to the body during the reporting period.

- (p) disclosure of repayment history information, including a percentage calculated using the formula:

$$\frac{RHI}{CP} \times 100\%$$

where:

CP is the total number of providers that disclosed any credit information to the body during the reporting period.

RHI is the number of providers that disclosed repayment history information to the body during the reporting period.

- (q) any other information requested by the Commissioner from time to time.

24 Information Commissioner's role

Power to vary timeframes

- (1) The Commissioner may, at the request of a credit reporting body, credit provider or affected information recipient, agree to vary time limits imposed by the CR Code where the body, provider or affected information recipient (as applicable) is unable to comply with the specified time limit due to circumstances such as technological failure or other practical or unforeseen difficulties.

Credit reporting body compliance reviews

- (2) Every 3 years, or more frequently if the Commissioner requests, a credit reporting body must commission an independent review of its operations and processes to assess the body's compliance with its obligations under the Act.
- (3) In respect of reviews commissioned under subsection (2), a credit reporting body must:
 - (a) consult with the Commissioner as to the choice of reviewer and scope of the review; and
 - (b) ensure the review report and the body's response to the review report are provided to the Commissioner and made publicly available.
- (4) The Commissioner will initiate an independent review of the operation of this CR Code every 4 years (following commencement of each independent review).

Note: The most recent independent review commenced in 2021.