

Mary Vancea
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Australian Retail Credit Association
PO Box Q170, Queen Victoria Building NSW 1230

16 June 2023

By email: [REDACTED]

Dear Ms Vancea

DISCUSSION PAPER – INTRODUCTION OF A SOFT ENQUIRIES FRAMEWORK INTO THE CREDIT REPORTING CODE (THE CONSULTATION)

The Mortgage and Finance Association of Australia (**MFAA**) appreciates the invitation to make a submission to the consultation and also refer to and appreciates the opportunity to participate in the roundtable discussion on this topic earlier this year.

As context to this submission, the MFAA is Australia's leading professional association for the mortgage and finance broking industry with over 14,500 members. Our members include mortgage and finance brokers, aggregators, lenders, mortgage managers, mortgage insurers and other suppliers to the mortgage and finance broking industry. Brokers play a critical role in intermediated lending, providing access to credit and promoting choice in both consumer and business finance. Brokers facilitate more than two thirds of all new residential home loans¹ and approximately four out of ten small business loans² in Australia.

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

OUR SUBMISSION

Thank you for the opportunity to comment on proposed amendments to the Credit Reporting Code (**CR Code**) as detailed in ARCA's Discussion Paper: Introduction of Soft Enquiries Framework (**Paper**). The proposed amendments aim to introduce a regime whereby credit providers can make a 'soft enquiry' about a potential customer without leaving a mark on the customer's credit report in the same way that a 'hard enquiry' does.

¹ [MFAA Industry Intelligence Service Report 15th Edition](#) pg 4

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

General comments

The MFAA is generally supportive of the introduction of a 'soft enquiry' framework that allows credit providers to provide potential customers with preliminary product information and an indication as to whether the customer would be considered for credit with that credit provider. We consider that such a framework would increase competition and lead to better consumer outcomes as customers will be empowered, either themselves or with their broker, to make enquiries with credit providers without an undesirable impact on their credit report or credit score.

Of course, while the MFAA is supportive, any changes must preserve the right of mortgage and finance brokers to act as access seekers on behalf of customers – this is a service that benefits customers and is an important tool for brokers in assessing loan options for their customers. To this end, we note the comments in section C of Annexure A of the Paper that any changes proposed to the CR Code cannot bind an access seeker as the CR Code can only bind credit providers, credit reporting bodies and affected information recipients (which includes entities such as mortgage insurers and trade insurers).

While the MFAA notes these comments, we also reiterate that any changes to the enquiries framework must ensure that the rights of brokers to obtain access seeker reports on behalf of the consumer are unaffected. Close to 70% of all customers utilise brokers for their home lending needs,³ and in tandem, brokers are required to act in the best interests of their customers and in compliance with responsible lending obligations. Therefore, to continue to provide high quality services to their customers and to meet their legal obligations, brokers should be able to continue to obtain customer credit reports as an access seeker. Further, access seeker reports that can be obtained by brokers on behalf of customers must continue to be a full credit report.

Questions for stakeholders

Our responses to the questions outlined in the Paper are set out below.

- 1. Are stakeholders supportive if some, all or none of the proposed CR Code variations referred to in this Paper. If so, which proposed variation(s) and why?**

Subject to our comments above, the MFAA is supportive of the proposed variations to the CR Code.

- 2. Are there any other CR Code variations or aspects relevant to potential CR Code variations which are not referred to in this Paper but which stakeholders consider should be given further consideration?**

None are apparent to the MFAA.

- 3. Are there any potential consequences arising from the implementation of some, or all of the CR Code variations referred to above, which stakeholders believe warrant further consideration? For instance, are there potential consequences in terms of systems, processes, costs, customer experience and so forth which should be addressed further?**

The MFAA makes the following comments.

- (i) Matter C in Table A – Requiring CPs to utilise the CR Code framework to access credit reporting information.**

³ [MFAA Industry Intelligence Service Report 15th Edition](#) pg 4

Given the importance of brokers in increasing competition and ensuring good consumer outcomes, it is important that brokers are able to engage fully with lenders in order to assist their customers. Customers expect that their broker will be able to provide the lender with all relevant information needed in order to ascertain whether it is worthwhile making an application with that lender. Customers often engage brokers with the specific purpose of minimising their interaction with potential lenders until such time as a final application is lodged. Therefore the ability for a frank and full sharing of information (with customer consent) between brokers and lenders in relation to the creditworthiness of a potential customer is important.

In saying this, we note the comments made in the Discussion Paper that access seekers (ie brokers), as a matter of practice, share reports obtained as access seekers with credit providers. We note that while it is important to preserve current practices that benefit consumers, we understand from speaking to our members that it is generally not common practice for brokers to share access seeker reports with credit providers. A more common practice is for brokers to simply confirm a customers' good credit history for the purposes of obtaining preliminary pricing.

(ii) **Limiting the type of information which can be provided to a CP in response to a soft enquiry.**

The information that can be provided to a credit provider must be sufficient for a credit provider to be able to give the customer a genuine indication as to whether the lender is likely to make a loan, and at what interest rate, but should not be used by credit providers as a replacement for obtaining a 'hard enquiry' report once an application is lodged. It should also not be used to replace the role that hard enquiries play in indicating a consumer's credit behaviour (good or otherwise) and as an indicator of potential financial vulnerability.

Further to this, because a lender still may decline a loan after a soft enquiry is obtained, or change the rate which applies, it is important that customers are educated about the information contained in a hard enquiry that may change any indicative information provided by the lender. This will assist both consumers – and by extension the brokers who are assisting them – manage expectations.

We note that Proposal 43 within the Final Report also recommended industry take steps to inform individuals about the impact credit enquiries have on their overall credit report. With circa 70% of all customers choosing to use a broker for their home lending needs, we suggest that it would make sense to partner with the broking industry to educate customers in relation to their credit report and credit reporting in general. We would therefore be pleased to support ARCA with consumer education initiatives around credit reporting and in particular credit enquiries.

Closing comments

The MFAA extends its thanks to ARCA for the opportunity to contribute to this consultation. If you require further information, please do not hesitate to contact me at

██████████ or Anja Pannek at ██████████.

Yours sincerely

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Naveen Ahluwalia
Head of Policy
Mortgage & Finance Association of Australia