



# CR Code Consultation October 2023

Equifax Response

November 2023

## Equifax

Starting in 1967 as the Credit Reference Association of Australia, a mutual and initially for retail stores and later large banks, we remain Australia's leading provider of credit risk and due diligence solutions. Today we employ around 1,000 people in Australia and New Zealand; since 2016 we have been part of Equifax, the global credit reporting group headquartered in Atlanta, USA.

More particularly, in addition to hosting Australia's largest credit reporting body (**CRB**) for consumer credit, Equifax also hosts significant range of consumer identity and fraud mitigation solutions and a commercial credit bureau, as well as risk-mitigation solutions (such as the National Tenancy database), employment verification and, to a lesser extent, marketing services support solutions.

Personal information (**PI**) held as consumer credit reporting information is covered by extensive prescription in Part IIIA of the Privacy Act, its associated regulations and by additional detail in the Privacy (Credit Reporting) Code 2014 (**CR Code**), authorised by the Office of the Australian Information Commission (**OAIC**). PI held as part of commercial credit information, together with all other PI in Equifax's control, is protected by the Australian Privacy Principles (**APPs**) set forth in the Privacy Act 1988 (Cth) (**Privacy Act**).

### The Privacy (Credit Reporting) Code 2014 (Version 2.3)

Equifax welcomes the opportunity to provide feedback to the Australian Retail Credit Association (**ARCA**) on potential variations to the CR Code in response to the proposals contained in the Final Report of the 2021 Independent Review of the CR Code (the **Review**) and in accordance with Proposal 10 of the Review and the OAIC's recently updated Guidelines for developing codes (the **Guidelines**). In particular, we appreciate the opportunity to provide additional feedback on operational challenges with the more complex proposals and on the potential drafting of the CR Code, noting that at the end of the consultation process, ARCA intends to lodge an application with the OAIC for approval of variations to the CR Code under s26T(1) of the Privacy Act.

## SUMMARY OF EQUIFAX POSITIONS ON PROPOSALS OF CONCERN AND OF PARTICULAR INTEREST

### Amend CR Code source notes column and blue row lines (Proposal 4):

Equifax **supports** the review of the form of the CR Code to ensure that the structure, format and wording of the CR Code reflects its status, once registered, as a legislative instrument. Equifax **supports** the replacement of current paragraph wording with section references.

### Amend the CR Code to require CRBs to publish their CP audits and submit these to the OAIC (Proposal 13):

Equifax **has reservations** about a variation to the CR Code to develop a new obligation on CRBs in addition to the existing paragraph 23 to require CRBs to publish the reports of audits of CPs required by s20N and s20Q of the Privacy Act. Equifax is **supportive** of the types of matters CRBs need to publish in the new report as this provides transparency of the conduct and outcomes of the audit program. Equifax's preference is that the CRBs **do not need** to regularly provide the audit reports to the OAIC.

### **Amend the CR Code to accommodate other entities reporting Consumer Credit Liability Information (CCLI) – Paragraph 6 of the Code (Proposal 6):**

Equifax **notes** ARCA's question as to whether service connection/disconnection is an appropriate proxy for 'account open date' and 'account close date' for utilities but **considers** that this is more a question for the credit providers (**CPs**) concerned rather than a CRB.

### **Amend the CR Code to clarify the definition of 'account close' in respect of CCLI, the reporting of Reverse Mortgages and the definition and reporting of 'maximum amount of credit' for CCLI (Proposal 15):**

Equifax **notes** that ARCA intends to give effect to the proposal to clarify the definition of 'account close' in respect of CCLI by developing a variation to the definition currently in paragraph 6.2(d) of the CR Code.

### **Amend CR Code to clarify definition of 'month' to more flexibly accommodate CP reporting practices (Proposal 17):**

Equifax **notes** the issues observed, which often appear to arise from differences in the length of (calendar) months causing problems for CPs that wish to have relatively static Repayment History Information (RHI) reporting dates.

### **Amend CR Code to specify that s 21D(3)(d) notice must be a standalone notice (Proposal 21):**

Equifax **notes** that ARCA intends to give effect to Proposal 21 by adding an additional requirement to those currently set out in Paragraph 9.3 of the CR Code.

### **Amend the CR Code regarding notification obligations (Proposal 24):**

Equifax **notes** that ARCA intends to gather further information to assess the effectiveness of the current CR Code requirements, including:

- stakeholders' views about the likely causes of confusion and complaints about consent vs notification;
- the situations in which consumer confusion tends to arise;
- current practices and the operation of the mechanism in paragraph 4.2 of the CR Code; and
- stakeholder views about measures that could help raise awareness (noting that complex disclosures can have limited effectiveness).

Equifax **believes** that Proposal 24 is important from the perspective of CRB awareness, but that the details are a matter for CPs.

### **Amend the CR Code to clarify the evidence that a CRB needs to implement a ban period and/or extension (Proposal 29):**

Equifax **notes** that ARCA intends to give effect to this Proposal by adding a provision to the CR Code which provides more detail about when there are reasonable grounds to consider that the individual is, or is likely to be, a victim of fraud.

Equifax **supports** the proposed drafting as it enables a CRB to request additional information if the reporting individual appears to lack transparency as to the reasons why they may still be, or likely to be, a victim of fraud.

### **Amend CR Code to require a CRB to record and alert an individual of access requests during a ban period (Proposal 31):**

Equifax **has a number of concerns** regarding the practicality of Proposal 31. Equifax **believes** that this proposal will support a ban extension, however, may cause further concerns for individuals as the amount of information that can be included in the alert would be limited and the service would create an expectation from individuals that the CRB can assist them with addressing and/or remediating the fraudulent activity when in fact it cannot. The CP that originated the information request is best placed to assist in that circumstance. Equifax also **considers** that to assist the individual to contact the CP, the CRB would need to provide detailed information with the access alert. Equifax **believes** that this proposal imposes a significant administrative burden on the CRB. Equifax also **believes** that an alert which has a CP's name, date, reference number and contact details of the relevant CP, may be considered Credit Information.

### **Amend CR Code to require CRBs to provide information on accessing other CRB's credit reports (Proposal 32):**

As a general proposition, Equifax **supports** ARCA's proposal that it prepare a variation to what is currently paragraph 19.4 of the CR Code to give effect to Proposal 32.

### **Access to physical copies of credit reports (Proposal 33):**

Equifax **supports** ARCA's proposal that it introduce a new provision, alongside the existing obligations in paragraph 19 of the CR Code, to require CRBs to provide a physical copy of a credit report on request.

### **Amend CR Code to enable correction of multiple instances of incorrect information stemming from one event (Proposal 37):**

Equifax **notes** ARCA's request for feedback from stakeholders on the situations where such a mechanism can reduce burden on individuals while remaining workable for CPs and CRBs. Equifax **also notes** that ARCA has identified that situations where, for example, a fraud/identity theft event leads to multiple credit enquiries may be an appropriate starting point for such a mechanism.

Equifax **has many concerns** regarding Proposal 37. Equifax **has** particular concern that the drafting continues to allude to the CRB making the decision on what a CP is required to obtain. Equifax **strongly believes** that the CRB should not be the one who decides what information should be requested from the individual and that the individual is best placed to tell the CRB/CP what credit applications they have made/ enquiries and those that may be fraudulent or not theirs.

Equifax **considers** that CPs should be clear with ARCA and the CRBs on the additional information they require from the individual so a CRB can gather and send that information with the consultation request. This should be defined and aligned within the CR Code.

### **Amend CR Code mechanism for corrections due to circumstances beyond the individual's control to:**

- **include domestic abuse as an example (Proposal 39)**
- **extend correction requests to include CPs (Proposal 40)**
- **expand the correctable categories of information (Proposal 41)**

### **Proposals 39-41):**

**Proposal 39:**

Subject to the concerns expressed below, Equifax **supports** ARCA's intention to develop a CR Code variation to expand the ability for corrections due to circumstances beyond the individuals' control for domestic abuse.

**Proposal 40:**

Equifax **considers** that Proposal 40 to vary the CR Code to respond to the Proposal to extend correction requests to include CPs could:

- provide for a better user experience for the consumer, particularly where their CP discloses information to multiple CRBs; and
- address an anomaly underpinning paragraph 20.5: The Privacy Act contains corrections powers for both CPs and CRBs and other provisions in the CR Code allow for correction requests to go to both types of entities, however, there is no CP-directed equivalent.

**Proposal 41:**

Equifax **notes** that ARCA intends to include domestic abuse as an example of a circumstance beyond the individual's control and allow for CPs to make these types of corrections. ARCA is seeking feedback on the types of information that should be able to be corrected under this mechanism, noting the existence of other mechanisms for correcting information that is incorrect on its face, and the potential options for RHI reporting if such information is to be corrected under what is now paragraph 20.5 of the CR Code.

**Amend the CR Code to introduce soft enquiries framework (Proposal 43):**

Equifax **supports** ARCA's intention to create a soft enquiry framework within the CR Code, however has **reservations** that the proposed drafting will limit the effectiveness of the framework and not serve the interests of the industry and individuals.

**Amend CR Code 'capacity information' definition to include an individual in their capacity as trustee (Proposal 44):**

Equifax **notes and supports** ARCA's intention to prepare a variation to the definition of 'Capacity Information' to include an individual acting as a trustee. ARCA seeks feedback on the potential hierarchy of different capacity information (e.g. if the individual took out a loan as a trustee but also provided a guarantee) as well as the effect that 'trustee' information should have on the individual's credit worthiness.

## DETAILED SUBMISSIONS ON MATTERS OF PARTICULAR CONCERN

### Amend CR Code source notes column and blue row lines (Proposal 4):

Equifax **supports** the review of the form of the CR Code to ensure that the structure, format and wording of the CR Code reflects its status, once registered, as a legislative instrument. Equifax **supports** the replacement of current paragraph wording with section references. Equifax believes that the provision of an Explanatory Statement supporting an updated and registered Code will add clarity and useability to its application. Equifax **considers** that the notes in the Consultation CR Code helps make the connections between the Privacy Act, Privacy Regulation and CR Code clearer than the previous format. Equifax **notes**, however, that the amendments to the template on which the Code is drafted, including a change in paragraph numbering will require a review of Equifax supporting documentation, including its CR Code obligations register, training material and related policies and customer communications and collateral.

### Amend the CR Code to require CRBs to publish their CP audits and submit these to the OAIC (Proposal 13):

Equifax **has reservations** about a variation to the CR Code to develop a new obligation on CRBs in addition to the existing paragraph 23 to require CRBs to publish the reports of audits of CPs required by s20N and s20Q of the Privacy Act. Equifax is **supportive** of the types of matters CRBs need to publish in the new report as this provides transparency of the conduct and outcomes of the audit program. Equifax's preference is that the CRBs **do not need** to provide the audit reports to the OAIC. Should the OAIC want to see a copy of the reports, Equifax **suggests** that it should do so under the OAIC's investigation powers. Equifax **believes** that further information is needed regarding the use to which the OAIC will put the reports and the expectation, if any, on the CRB that the audit process should be able to identify all irregularities under the Code that are extant in CP processes. Equifax **considers** the proposed new report makes the CRB'S monitoring and auditing activity of the annual report under section 23.11 of the CR Code redundant.

Equifax **notes** that a CRB can audit against the process/delivery and quality of data but **should not be asked** to police the compliance of the CP with relevant law. The audit framework surrounding the Code **needs** to recognise the independence of the parties (inclusive of regulators/industry bodies) and be practically framed to reflect the actual nature of the relevant relationships and obligations. Additionally, 'audit' of a CP by a CRB should be as automated as possible and be addressed to matters such as quality, timeliness, accuracy and relevance of data. This **is to avoid** undue burden and cost in time and money for both the CP and the CRB.

Equifax also **questions** whether it is the intent of the OAIC to prescribe the content and process of the audit with the expectation that the CRBs meet that prescription at their cost when they may not have the staff budget, availability or skills to do so. Equifax **believes** that the cost of the conduct of the audit should be met by the CPs as under the Code, compliance with the audit provisions is the CP's responsibility.

### Amend the CR Code to accommodate other entities reporting Consumer Credit Liability Information (CCLI) – Paragraph 6 of the Code (Proposal 6):

Equifax **notes** ARCA's question as to whether service connection/disconnection is an appropriate proxy for 'account open date' and 'account close date' for utilities but **considers** that this is more a question for the CPs concerned rather than a CRB. Equifax **similarly** believes it to be a matter for the utilities as to what information (if any) should be reported in respect of credit limit and

credit term. However, Equifax **does believe** that there needs to be some synergy in the RHI definition and application of terms across all parties reporting CCLI to a CRB.

### **Amend the CR Code to clarify the definition of 'account close' in respect of CCLI, the reporting of Reverse Mortgages and the definition and reporting of 'maximum amount of credit' for CCLI (Proposal 15):**

Equifax **notes** that ARCA intends to give effect to the proposal to clarify the definition of 'account close' in respect of CCLI by developing a variation to the definition currently in paragraph 6.2(d) of the CR Code. Equifax **believes** that this is a matter for CP rather than a CRB consideration but notes the importance for clarity and consistency across CRB reporting.

Equifax **notes** that ARCA is seeking more information relating to how Reverse Mortgages should be reported under the 'maximum amount of credit' field but **believes** that this is a CP rather CRB concern.

Equifax **notes** that the CR Code defines the 'maximum amount of credit available' to mean the credit limit that applies at the time the information is disclosed to a CRB and that this definition causes issues where a revolving credit contract has been closed, and the CP is subsequently disclosing the final set of information. At that time, the credit limit of the contract is likely zero, so the previous non-zero limit could be replaced by a zero. Equifax **advises** that the current position does not cause concern from the CRB perspective.

### **Amend CR Code to clarify definition of 'month' to more flexibly accommodate CP reporting practices (Proposal 17):**

Equifax **notes** the issues which have been observed, which often appear to arise from differences in the length of (calendar) months causing problems for CPs that wish to have relatively static repayment/RHI reporting dates.

Equifax also **acknowledges** that ARCA notes that any changes to the definition of 'month' must be:

- carefully considered to avoid any unintended consequences due to the variety of different situations in which the term may be used; and
- optional in nature (i.e. such that a CP retains discretion about 'when' the month ends) to provide flexibility, reduce the need for system changes and reflect the different number of days, in each calendar month.

Equifax **notes** that the impact on Equifax of the above proposals will be limited provided that definition includes all of the components of the current definition, so that all currently compliant 'months' would still be allowed under the varied Code.

### **Amend CR Code to specify that s 21D(3)(d) notice must be a standalone notice (Proposal 21):**

Equifax **notes** that ARCA intends to give effect to this Proposal 21 by adding an additional requirement to those currently set out in Paragraph 9.3 of the CR Code. Equifax **believes** that this is a matter for CP consideration.

### **Amend the CR Code regarding notification obligations (Proposal 24):**

Equifax **notes** that ARCA intends to gather further information to assess the effectiveness of the current CR Code requirements, including:



- stakeholders' views about the likely causes of confusion and complaints about consent vs notification;
- the situations in which consumer confusion tends to arise;
- current practices and the operation of the mechanism in paragraph 4.2 of the CR Code; and
- stakeholder views about measures that could help raise awareness (noting that complex disclosures can have limited effectiveness).

Equifax **believes** that the above Proposal is important from the perspective of CRB awareness, but that the details are a matter for CPs.

### **Amend the CR Code to clarify the evidence that a CRB needs to implement a ban period and/or extension (Proposal 29):**

Equifax **notes** that ARCA intends to give effect to this Proposal by adding a provision to the CR Code which provides more detail about when there are reasonable grounds to consider that the individual is, or is likely to be, a victim of fraud.

Equifax **supports** the proposed drafting as it enables a CRB to request additional information if the reporting individual appears to lack transparency as to the reasons why they may still be, or likely to be, a victim of fraud.

Equifax also **notes** that ARCA seeks feedback on the CRBs primarily relying on the individual's explanation and reasons for believing they have been subject to fraud, and about specific situations where further inquiries or evidence may be needed. Equifax **believes** that the current drafting and approach provides sufficient and appropriate basis for a ban to be implemented or extended.

### **Amend CR Code to require a CRB to record and alert an individual of access requests during a ban period (Proposal 31):**

Equifax **has a number of concerns** regarding the practicality of Proposal 31. Equifax **believes** that this proposal will support a ban extension, however, may cause further concerns for individuals as the amount of information that can be included in the alert would be limited and could create dissatisfaction amongst individuals as it creates an expectation that the CRB can assist the individual with addressing and/or remediating the fraudulent activity when in fact it cannot. The CP that originated the information request is best placed to assist in that circumstance. Equifax also **considers** that to assist the individual contacting the CP, the CRB would need to provide detailed information with the access alert. Equifax **believes** that this imposes a significant administrative burden on the CRB. Equifax also **believes** that an alert which has a CP's name, date, reference number and contact details of the relevant CP, may be considered Credit Information.

Equifax also **notes** that the identity of individuals would not be verified as they would be when getting a credit file. While the drafting allows for Equifax to collect Contact Information it does not go to the length that there does not need to be any verification of that data in order to provide the notification service. To that length, Equifax would like to **suggest** the insertion of a new provision in 17 (2)(b) (iii) along the lines that the CRB does not need to verify the identity of the recipient when disclosing the alert notification in relation to access during a ban.

Equifax **would also like to confirm** if the Ban request were to be submitted by a third party, does this notification service apply to them as well as the individual?

Equifax **questions** whether, due to the fact that the CRB cannot hold the relevant contact information on the credit report which the drafting is now including (17(2)(b)(i)), should this



process be dealt with under the Privacy Act and not the CR Code? Equifax **queries** whether providing an alert service is arguably extending the parameters of the CR Code and notes the information provided with respect to the alert is Credit Information as defined under the Privacy Act.

Equifax also **questions** the ultimate effectiveness of adding another Alert Service. It may be particularly confusing to the consumer when they are unable to see their ban request on their credit report.

Equifax **considers** that the availability of an alert service should be restricted to the duration of the Ban and retention of that alert should be no more than 24 months.

### **Amend CR Code to require CRBs to provide information on accessing other CRB's credit reports (Proposal 32):**

As a general proposition, Equifax **supports** ARCA's proposal that it prepare a variation to what is currently paragraph 19.4 of the CR Code to give effect to Proposal 32.

### **Access to physical copies of credit reports (Proposal 33):**

Equifax **supports** ARCA's proposal that it prepare a new provision alongside the other obligations in paragraph 19 to require CRBs to provide a physical copy of a credit report on request.

### **Amend CR Code to enable correction of multiple instances of incorrect information stemming from one event (Proposal 37):**

Equifax **notes** ARCA's request for feedback from stakeholders on the situations where such a mechanism can reduce burden on individuals while remaining workable for CPs and CRBs. Equifax **also notes** that ARCA has identified that situations where, for example, a fraud/identity theft event leads to multiple credit enquiries may be an appropriate starting point for such a mechanism.

Equifax **has** many concerns regarding Proposal 37. Equifax **has** particular concern that the drafting continues to allude to the CRB making the decision on what a CP is required to obtain. Equifax **strongly believes** that the CRB should not be the one who decides what information should be requested from the individual and that the individual also needs to be the one who is telling the CRB/ CP a list of all the enquiries that are fraudulent/ not theirs.

Equifax **considers** that CPs should be clear with ARCA and the CRBs on the additional information they require from the individual so a CRB can gather and send that information with the consultation request. This should be defined and aligned within the CR Code.

Equifax **considers** that paragraph 20(8) needs to clearly state that the individual will need to initiate a full reporting of the suspected fraudulent event in the first instance. Equifax also **believes** that the CRB/ CP should be permitted to collect the information from the consulting party (CRB/ CP) and rely on that information to make a decision on whether that enquiry is fraudulent or not.

Equifax **believes** that CRBs and CPs should not be making assumptions as to which enquiries are incorrect as this will cause undue workload, delay other corrections and may ultimately be incorrect as the assumption would be made based on a limited data set.

## Amend CR Code mechanism for corrections due to circumstances beyond the individual's control to:

- include domestic abuse as an example (Proposal 39)
- extend correction requests to include CPs (Proposal 40)
- expand the correctable categories of information (Proposal 41)

### Proposals 39-41):

#### Proposal 39:

Subject to the concerns expressed below, Equifax **supports** ARCA's intention to develop a CR Code variation to ensure Proposal 39 that the mechanism for corrections due to circumstances beyond the individuals' control should include domestic abuse. Equifax **notes** that it is ARCA's belief that may not be a particularly complicated variation, noting that any addition to the examples list currently set out in paragraph 20.5(a)(iii) should not alter the list's non-exhaustive drafting.

#### Proposal 40:

Equifax **considers** that Proposal 40 to vary the CR Code to respond to the Proposal to extend correction requests to include CPs could:

- provide for a better user experience for the consumer, particularly where their CP discloses information to multiple CRBs; and
- address an anomaly underpinning paragraph 20.5: The Privacy Act contains corrections powers for both CPs and CRBs and other provisions in the CR Code allow for correction requests to go to both types of entities, however, there is no CP-directed equivalent.

#### Proposal 41:

Equifax **notes** that ARCA intends to include domestic abuse as an example of a circumstance beyond the individual's control and allow for CPs to make these types of corrections. ARCA is seeking feedback on the types of information that should be able to be corrected under this mechanism, noting the existence of other mechanisms for correcting information that is incorrect on its face, and the potential options for RHI reporting if such information is to be corrected under what is now paragraph 20.5 of the CR Code.

Equifax **considers** that before settling the proposed drafting for the new provision, ARCA should take into account that the new drafting has extended the removal of default information outside of an individual's control, to outstanding defaults. In the previous CR Code, default information had to be paid or the individual had to have entered into a new arrangement for a default to be removed. This has been removed as the view is that regardless if the default has been paid or not, the information should be removed. While this makes sense, it does mean that individuals who have not remediated the default (normally by paying it or by entering into an arrangement) would be able to have the default removed and therefore not truly reflect the customer's position. Interestingly for RHI to be removed under this subsection the payment must be made. The same argument for default information could be the same for RHI. Equifax **considers** that both the RHI and Default must be remediated before it can be corrected/ removed.

Equifax **notes** that there is no clear guidance for AFCA or industry to go by regarding "outside the individual's control". In particular, Equifax **notes** that the CR Code does not provide an exhaustive list, however without guidance. AFCA will have the opportunity to create their own list of what they consider "outside the individual's control". Equifax **considers** that it would be preferable that ARCA/industry make these lists to ensure AFCA and fee for service providers are

clear what is captured under this provision, thus preventing it from being a catch all correction reason.

### **Amend the CR Code to introduce soft enquiries framework (Proposal 43):**

Equifax **supports** ARCA's intention to create a soft enquiry framework within the CR Code, however has **reservations** that the proposed drafting will limit the effectiveness of the framework and not serve the interests of industry and individuals.

#### **Soft Enquiry Definition:**

Limiting the definition of a soft enquiry to an individual's pricing for consumer credit (Risk Based Pricing (**RBP**)) only is problematic. A broader scope for the soft enquiry framework would ensure it satisfies its objective across the credit ecosystem, making it easier for consumers to shop around without impacting their credit score.

Furthermore, the traditional risk-based pricing use case entails returning a rate to a customer based on their credit information. This use case is mainly limited to the personal loan and auto space. CPs want to be able to offer a product or limit that is suitable for a customer based on their credit information. For example, CPs want to be able to invite individuals to apply for a card more relevant to their risk score rather than solely considering the applicable interest rate. Furthermore, BNPL facilities are centred around limit and payment terms; rate isn't a feature of this particular credit type. The prescriptiveness of the soft enquiry definition will mean CPs won't be able to provide a personalised credit card offer or BNPL facility limit upfront without impacting an individual's score. This will mean consumers will still be negatively impacted for shopping around for credit, which isn't the intent of the soft-enquiry framework.

Equifax **considers** that:

- the use case should service existing pre-qualification use cases and ensure that we are not limiting future innovation;
- the definition of soft enquiry should be updated to refer to pre-qualification assessments rather than to limiting the term to designate RBP only; and
- this definition will cover a wider range of use cases and still provide the shopping around benefits intended by the soft enquiry framework.

#### **Data Returned in a Soft Enquiry:**

Limiting the information that is returned in a soft enquiry to:

- credit score;
- personal insolvency information;
- serious credit infringements;
- default information; and
- a statement about Financial Hardship Information (FHI)

is too restrictive and impedes future innovation and more relevant tailoring of pre-qualification assessment.

Equifax **believes** that the inclusion of open CCLI information within the soft enquiry would deliver significant benefits to the credit ecosystem for both CPs and individuals. The feedback Equifax has received from the lending market tells us that a broad consensus of CPs are trying to deliver frictionless digital application experiences to satisfy high consumer demand for fast and simplified credit applications. As part of this process, the CP needs to be able to display upfront that consumers trust so they can review and validate that data as they complete their application form.

The benefit of the above approach is:

- creating alignment of information between the individual and the CP;
- a potentially faster time to decision, and
- reduced friction during the assessment stage.

The current alternative practice Equifax **is seeing** in the market is that lenders will pull a hard enquiry upfront rather than at the point of underwriting to prepopulate the individual's data within the digital application. Equifax **considers** that this practice disadvantages individuals, particularly if they abandon their completion of an application form with a particular CP. Equifax **considers** that industry will likely see a wider adoption of this behaviour by the market if open CCLI information is not included within a soft enquiry.

#### **Use of Credit Reporting Information (CRI) by CPs via an Access Seeker:**

Prohibiting the use of CRI by CPs which is obtained via the Access Seeker provisions is the correct approach, however, Equifax **suggests** that this prohibition should be only imposed on the CP's obtaining the information for a consumer credit related purpose. Equifax **believes** that the current drafting will prevent educational use cases such as a CP offering an individual the opportunity to view their Credit Score within the CP's online banking application. This process would assist the individual to improve their financial literacy and make better credit decisions thus reducing their personal risk.

Equifax **supports** the remaining drafting within the soft enquiry framework and feels it is important that soft enquiry information is not returned to CPs and is only visible to the individual or an access seeker.

Given the complexities of the soft enquiry framework, Equifax **supports** a staged approach for its introduction and that the prohibition described in paragraph 16.4 does not come into effect for up to 24 months. This would facilitate continuing the two entity model for that period and provide sufficient time for industry to comply with the new requirements and provide for the appropriate rationalisation of record keeping requirements.

#### **Amend CR Code 'capacity information' definition to include an individual in their capacity as trustee (Proposal 44):**

Equifax **notes and supports** ARCA 's intention to prepare a variation to the definition of 'capacity information' to include an individual acting as a trustee. ARCA seeks feedback on the potential hierarchy of different capacity information (e.g. if the individual took out a loan as a trustee but also provided a guarantee) as well as the effect that 'trustee' information should have on the individual's credit worthiness.

Equifax **further notes** that it is not clear how Trustee information will be supplied/ used by industry. It seems that industry is not entirely clear how these are reported today and how they impact an individual's credit worthiness if the Trustee is indemnified by the trust in the first place.