



Mr Damian Paull  
Chief Executive Officer  
Australian Retail Credit Association  
736/1 Queens Road  
MELBOURNE VIC 3004

Dear Mr Paull

### **Request to develop a CR code and to apply to have that CR code registered**

In accordance with the power under s 26P in Schedule 3 of the *Privacy Amendment (Enhancing Privacy Protection) Act 2012* (Privacy Amendment Act), I am writing to request that the Australasian Retail Credit Association (ARCA):

- develop a CR code and
- apply for the code to be registered.

In this request, all references to the *Privacy Act 1988* (Cth) (Privacy Act) are references to that Act as amended by the Privacy Amendment Act.

ARCA must comply with this request by Friday 19 April 2013, being 120 days from Thursday 20 December 2012 (the date on which I make this request). Any request by ARCA for this period to be extended should be made to me in writing.

Section 26N(1) of the Privacy Act states that a CR code is a written code of practice about credit reporting. Under s 26N(2) of the Privacy Act, a CR code must:

- set out how one or more of the provisions of Part IIIA of the Privacy Act are to be applied or complied with
- make provision for, or in relation to matters required or permitted by Part IIIA to be provided for by the registered CR code
- bind all credit reporting bodies
- specify the credit providers that are bound by the CR code, or a way of determining which credit providers are bound
- specify any other entities subject to Part IIIA that are bound by the CR code, or a way of determining which of those entities are bound.

Under s 26N(3) of the Privacy Act, the CR code may also:

- impose additional requirements to those imposed by Part IIIA, so long as the additional requirements are not contrary to, or inconsistent with, that Part
- deal with the internal handling of complaints
- provide for the reporting to the Commissioner about complaints
- deal with any other relevant matters.

I also note that, under s 26N(4) of the Privacy Act, a CR code may be expressed to apply differently in relation to:

- classes of entities that are subject to Part IIIA
- specified classes of credit information, credit reporting information or credit eligibility information
- specified classes of activities of entities that are subject to Part IIIA.

Under s 26L of the Privacy Act, an entity bound by the registered CR code must not do an act, or engage in a practice, that breaches the CR code. A breach of the registered CR code by an entity bound by that code will be an interference with privacy under s 13(2)(b) of the Privacy Act. An interference with privacy may be the subject of a complaint by an individual under s 36 of the Privacy Act or an investigation by the Commissioner on the Commissioner's own initiative under s 40(2) of the Privacy Act.

When applying to have the code registered, ARCA must ensure that it meets the requirements of s 26Q of the Privacy Act. These requirements include making a draft of the CR code publicly available, inviting the public to make submissions to ARCA on the draft within a specified period that must run for at least 28 days, and giving consideration to any submissions made within the specified period.

ARCA's application must also be in the form and manner, and accompanied by such information, as specified by the Commissioner. I will inform ARCA of the specifications relating to those matters in due course.

I note that in accordance with the requirement in s 26P(5) of the Privacy Act, I will make a copy of this request publicly available by publishing it on the website of the Office of the Australian Information Commissioner – [www.oaic.gov.au](http://www.oaic.gov.au).

Yours sincerely

Timothy Pilgrim  
Australian Privacy Commissioner

20 December 2012