

Ms Angelene Falk  
Acting Information Commissioner and Privacy Commissioner  
Office of the Australian Information Commissioner  
GPO Box 5218  
SYDNEY NSW 2001

**BY POST AND BY EMAIL**

28 May 2018

Dear Ms Falk,

**AMENDMENT TO APPLICATION TO VARY *PRIVACY (CREDIT REPORTING) CODE 2014 (CR CODE)***

Further to ARCA's application to vary the CR Code dated 26 April 2018, ARCA seeks three minor amendments to the following provisions:

- ***Paragraph 1.2(i) – month definition***  
This amendment replaces the word 'either' (which appears in (ii) in the context of 'ending on *either* of the following days') with the word 'any' (so this now reads, 'ending on *any* of the following days'). This minor amendment is to corrects the use of terminology, and does not otherwise impact the operation of the definition.
- ***Paragraph 6.2(c) – the day credit is terminated or otherwise ceases to be in force***  
ARCA notes the Financial Ombudsman Service (FOS) provided a submission to the OAIC raising concerns with the operation of this provision. ARCA has addressed these concerns in separate correspondence.  
One such concern was the use of 'write off' and 'charge off' as defined terms. We appreciate FOS's submission that these terms may not be commonly understood, and not within the meaning set out in this paragraph.  
To address this concern, ARCA has made minor amendments to this paragraph to remove these defined terms, and instead comprehensively describe the circumstances in which an account may be disclosed as closed (which now includes circumstances of debt waiver or discharge, and a 'charge off' type scenario).  
These minor amendments address FOS's definitional concerns, but do not otherwise impact the operation of this provision.
- ***Paragraph 9.3(d) – use of electronic communication for Privacy Act notices***

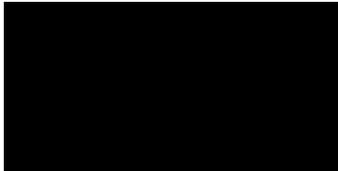
ARCA notes that your office has noted that the references to the *Electronic Transactions Act* and the *National Credit Code* in this paragraph would require the Information Commissioner to determine compliance with these separate legislative instruments. It has been agreed that, instead, reference to these laws can occur in a 'note' appearing under the text of paragraph 9.3(d). This means that the operation of 9.3(d) will still be clear, but the OAIC's concern is addressed.

I have **attached** a further varied CR Code incorporating these amendments, both in track change, and 'final' version.

In all other respects, ARCA's variation application remains unchanged.

If you have any questions or concerns please contact ARCA's Legal & Regulatory Affairs Manager, Elsa Markula, on [REDACTED].

Yours sincerely

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Mike Laing

Executive Chair

cc. Ms Melanie Drayton, Assistant Commissioner, OAIC

Ms Sophie Higgins, Director, Regulation and Strategy Branch, OAIC

Mr Steven Robertson, Assistant Director, Regulation and Strategy Branch, OAIC