



Australian Government

Review of Australia's Credit Reporting Framework

Issues Paper

April 2024

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Introduction

The credit reporting framework plays a vital role in Australia's financial system by facilitating efficient credit assessments by lenders and reducing the risk of unsuitable lending to consumers, while balancing the privacy of accessing sensitive personal information. Stability in this complex framework is important, but at the same time, the credit reporting framework may need to evolve to reflect technological change and product innovation, as well as maturation in policy objectives and consumer expectations.

The framework has not been comprehensively reviewed since the 2008 Australian Law Reform Commission review recommended the introduction of comprehensive credit reporting, which came into effect in 2014. Mandatory reporting requirements were introduced for Australia's largest banks in 2021. This has led to significant change in the credit reporting landscape since the last substantive review and 2021 legislation introduced statutory requirements to undertake reviews into:

- The credit reporting provisions in Part IIIA of the Privacy Act, with a written report to be provided to the Minister before 1 October 2024.
- The mandatory credit reporting provisions in Part 3-2CA of the Credit Act, with a written report to be provided to the Minister before 1 October 2024.

The Australian Government was of the view that these two reviews should be undertaken together given the fundamental similarities of the review provisions and the complementary nature of the credit reporting provisions in each act. Stakeholders interested in participating in the review would also benefit from only needing to contribute to a single review process rather than two.

This review will involve gaining a better understanding of the economic, financial and social impact that credit reporting has had in Australia under the credit reporting regulatory framework in place to date, including its costs and benefits to the community. In addressing the terms of reference for this review, I have focused on thematic issues given comprehensive credit reporting and mandatory credit reporting are intrinsically linked.

This issues paper seeks to identify the main issues with Australia's credit reporting framework with supporting qualitative and quantitative evidence, to help inform the recommendations of a final report to be provided to government no later than 1 October 2024.

I have had the opportunity to meet with a number of stakeholders in the credit reporting framework and have benefitted from their expertise. These conversations have been immensely helpful in supporting the development of this paper and I would like to thank them for their contributions to date.

I would like to thank the Attorney-General, the Hon Mark Dreyfus KC MP, and the Assistant Treasurer and Minister for Financial Services, the Hon Stephen Jones MP, for the opportunity to lead this Review of Australia's Credit Reporting Framework.

Yours sincerely,

HEIDI RICHARDS

Consultation and Review Process

This issues paper is supporting the Review of Australia's Credit Reporting Framework (the Review).

Its development has been informed by consultation with relevant stakeholders, including government departments, peak bodies, credit reporting bodies, credit providers, regulators, and consumer groups.

If you would like to make a submission to the Review, you can do so at our consultation site.

Submissions may be uploaded as a free-text response, or in DOCX or PDF format.

- **Link for submissions:** consultations.ag.gov.au/rights-and-protections/credit-reporting-framework

Closing date for submissions: Friday, 31 May 2024

If you experience difficulty in submitting through the Review's consultation page, you may send your submission to creditreporting@ag.gov.au attaching a cover page with the following information:

- Whether your submission represents the views of an organisation or group (and if so, identifying which one), or your personal or professional views
- Your name
- Your email address and/or preferred contact number
- A statement that you consent (or do not consent) to the Attorney-General's Department contacting you in relation to your submission and the broader review
- A statement that you:
 - consent to your submission being made public:
 - under your/your organisation's name, or
 - anonymously, or
 - do not consent to your submission being made public.

Submissions will be published on the Attorney General's Department consultation website, except where confidentiality has been requested, or the Attorney-General's Department considers it should not be made public (e.g. an individual's credit report).

This will usually only occur for reasons associated with fairness (for example, because it appears to reveal private or confidential information relating to another person, or is potentially defamatory) and relevance. Submissions that are made public may include redactions made as the Attorney-General's Department considers appropriate.

Feedback on the issues outlined in this report will be used to inform the independent reviewer's advice and recommendations in a report to government.

The report is required to be provided to the Attorney-General and Assistant Treasurer no later than 1 October 2024.

Ministers must table the report in each House of the Parliament within 15 sitting days of that House after the report is given to the Minister.

Terms of Reference

Objectives

The Review of Australia's Credit Reporting Framework (the Review) will examine the effectiveness and efficiency of the credit reporting provisions in the *Privacy Act 1988* (the Privacy Act) and the *National Consumer Credit Protection Act 2009* (the Credit Act) in enabling effective lending decisions by credit providers while ensuring the personal information of consumers is adequately protected.

Purpose

The *National Consumer Credit Protection Amendment (Mandatory Credit Reporting and Other Measures) Act 2021* introduced parallel requirements for the relevant ministers to cause independent reviews of Australia's credit reporting system:

- A review of the credit reporting provisions in Part IIIA of the Privacy Act 1988 (**Privacy Act**) with the report to be provided to the Attorney-General (s25B of the Privacy Act refers).
- A review of the mandatory credit reporting provisions in Part 3-2CA of the *National Consumer Credit Protection Act 2009* (**Credit Act**) with the report to be provided to the Assistant Treasurer (s133CZL of the Credit Act refers).

These reviews must be undertaken with reports provided to the relevant ministers no later than 1 October 2024. The reports then must be tabled in each House of the Parliament within 15 sitting days of that House after the report is given to the relevant minister.

Matters to be considered by the Review

1. The Review will consider the overall efficiency and effectiveness of Australia's credit reporting framework with regard to Part IIIA of the Privacy Act and Part 3-2CA of the Credit Act, related provisions in those Acts, and supporting regulations.
2. With regard to the overall operation of the credit reporting framework, the review should consider:
 - a. the roles, responsibilities, powers, and obligations of credit reporting framework participants, including credit providers, credit reporting bodies, regulators, consumers, and other relevant participants;
 - b. contemporary community expectations about the ongoing role and function of the credit reporting framework, including:
 - i. ensuring the privacy and security of credit information;
 - ii. facilitating access to finance and supporting financial inclusion;
 - iii. supporting responsible lending obligation assessments and reducing the risk of financial hardship;
 - iv. technological developments and other innovations in the financial system;
 - c. relationship between the credit reporting related provisions in the Privacy Act and the Credit Act.

3. With regard to credit reporting provisions in the Privacy Act, the review should consider:
 - a. whether Part IIIA continues to meet relevant objects of the Privacy Act;
 - b. whether the key definitions relating to credit reporting in Part II are fit for purpose;
 - c. whether comprehensive credit reporting is achieving its policy objectives;
 - d. whether reforms to address financial hardship have achieved their policy objectives;
 - e. other matters addressed by Part IIIA including, but not limited to, retention periods, disclosure, integrity and complaints.
4. With regard to the mandatory credit reporting provisions in the Credit Act, and in particular Part 3-2CA, the review should consider:
 - a. whether mandatory credit reporting has achieved its policy objectives, including improving overall credit provider participation in credit reporting;
 - b. the benefits for consumers, small businesses and credit providers, from mandatory credit reporting;
 - c. the scope of mandatory credit reporting, including the number and type of eligible licensees and the data they are required to contribute.
5. The review should also have regard as appropriate to the following:
 - a. The relevant recommendations of the Independent review of the Privacy (Credit Reporting) Code 2014;
 - b. The Australian Law Reform Commission's Review of the Legislative Framework for Corporations and Financial Services Regulation;
 - c. The Australian Competition and Consumer Commission's (ACCC) Digital Platform Services Inquiry 2020-2025, and the 2023 Data Broker Review;
 - d. The Attorney-General's Department's 2022 Privacy Act Review;
 - e. The 2023-2030 Australian Cyber Security Strategy and government commitments relating to datasets and data brokers;
 - f. The Consumer Data Right and related reviews.

Approach

6. The government has appointed Ms Heidi Richards as the independent reviewer.
7. The independent reviewer is being supported by a secretariat in the Attorney-General's Department (AGD) which includes officials from the Treasury and AGD.

Structure and Timing

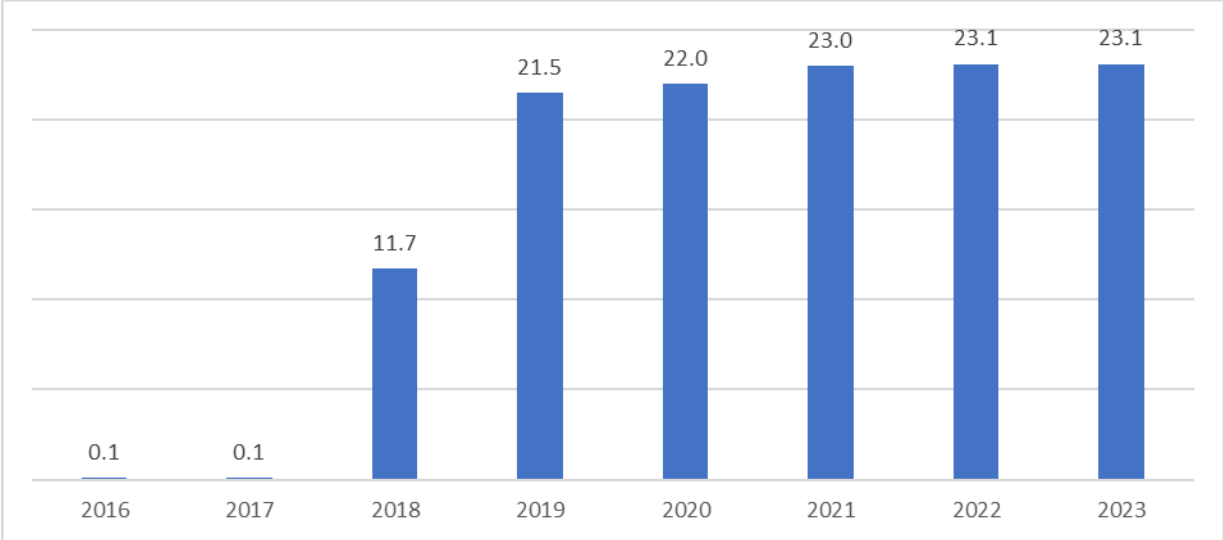
8. The government expects the independent reviewer's report to satisfy the statutory requirements in the Privacy Act and Credit Act. This report is to be supported by stakeholder engagement during 2024.
9. The legislation requires the report to be provided to the relevant ministers before 1 October 2024 and to be tabled in each House of the Parliament within 15 sitting days of that House.

Part One: The what and why of credit reporting

What is credit reporting?

Standardised and centralised methods for lenders to share information about borrowers in order to assess applications for credit is a feature of most developed economies. Although Australia's credit reporting arrangements are unique in some ways, they share many features with credit reporting around the world. The best evidence available suggests there is information relating to more than 23 million credit accounts, totaling around \$2.1 trillion of household lending in Australia's credit reporting framework.¹

Figure 1: Accounts in the comprehensive credit reporting framework 2016-2023 (millions)²



Credit reporting is the sharing of information about an individual's credit worthiness.³ It involves the collection, use and disclosure of personal information which is relevant to the lender's risk assessment and the determination of an individual's ability to afford a loan, such as information about defaults, loans and credit accounts, and repayment history.

Credit providers participating in the credit reporting system can include banks and non-bank lenders, telecommunications and utilities providers, and other businesses that provide goods or services on credit as defined by the *Privacy Act 1988* (the Privacy Act). In Australia, consumer credit reporting is conducted by the three main data brokers that have a special focus on consumer credit reporting: Equifax, illion and Experian.⁴ These are termed in the legislation credit reporting bodies (CRBs), or more colloquially, credit bureaus.

¹ Arca, Credit Data Fact Base, September 2022, Version 10, p.5.
² Arca, unpublished data. Accounts refers to 'Financial Services Accounts'.
³ For purposes of this report, 'credit provider' is used as a generic term to refer to lenders of various kinds that are in the business of making loans or providing other consumer credit facilities.
⁴ As at the time of publication of this issues paper, a proposed merger between the two smaller CRBs, illion and Experian, is being considered by the ACCC. There are also other credit bureaus operating in the consumer and commercial credit reporting space.

Why credit reporting?

The primary aim of the credit reporting system is to address the asymmetry of information between borrowers and lenders. Borrowers often have more information about their credit history, such as what credit accounts they have, whether or not they are making repayments, or if they have defaulted on a payment. Credit providers may not have this information, particularly negative information adverse to the borrower such as defaults, and therefore are not able to accurately assess the credit risk of a potential borrower. Without this information, adverse selection and moral hazard issues arise, for example higher risk borrowers are more likely to apply for and receive more or cheaper credit than they might otherwise if their actual credit performance were known to the lender. Credit reporting enhances consumer protections by supporting responsible lending practices.

How does credit reporting work?

Credit bureaus collect and compile information about individuals using direct data feeds from credit providers and publicly available resources such as bankruptcy registers. This information is stored and maintained by these bureaus. Credit reporting information, in the form of credit reports and credit scores, is shared with credit providers that have a contractual arrangement with a particular CRB, on request, generally for a fee to assist them in assessing applications for credit.

Part One Question: The what and why of credit reporting

- How important is Australia's credit reporting framework?

Part Two: Strategic, historical and international context

This review of Australia's credit reporting framework is the first substantial review in more than 15 years since the Australian Law Reform Commission (ALRC) report *For Your Information: Australian Privacy Law and Practice*.⁵ That report provides useful background for those seeking more information about the history of credit reporting in Australia. Over the last fifteen years there have been significant social, policy and technological developments related to consumer credit, privacy, and credit reporting, including:

- The 2009 Credit Act, which established responsible lending obligations.
- The commencement of comprehensive credit reporting in 2014.
- The 2014 Financial System Inquiry (Murray Review) which proposed the possible future need for mandatory credit reporting.
- The 2019 Royal Commission into Misconduct in the Banking, Superannuation and Financial Services (Banking Royal Commission).
- The growth in new financial products such as Buy Now Pay Later and the proposed regulation of Buy Now Pay Later (BNPL) products under the Credit Act.
- The ongoing development of open banking and the Consumer Data Right (CDR).
- The coronavirus pandemic and the increased public awareness of the availability of financial hardship arrangements.
- Significant data breaches and the increased focus on data privacy and cybersecurity in Australia, including the publication of the 2023-30 Australian Cybersecurity Strategy.
- The commencement of mandatory credit reporting in 2021, and financial hardship information reporting in 2022.
- Australian Competition and Consumer Commission (ACCC) Digital Platforms Inquiry and the 2022 Privacy Act Review
- The 2021 Office of the Australian Information Commissioner (OAIC) Review of the *Privacy (Credit Reporting) Code 2014* (CR Code Review).
- The ALRC Review of the Legislative Framework for Corporations and Financial Services Regulation.

The evolution and use of technology in the financial services sector is also influencing how lenders assess a borrower's creditworthiness, meet responsible lending obligations and manage credit relationships. Technology to collect, analyse and share very large data sets, including use of artificial intelligence (AI) applications and standardised and open application-based transmission has provided opportunities to modernise current data sharing practices. Granular transaction-level data can now be shared instantly between financial institutions to verify a borrower's income and loan repayments.

All of these developments influence, in different ways, how credit reporting can contribute to community outcomes, including fairly priced and accessible financial products and services, beneficial product innovation and protection of the most vulnerable consumers. The opportunities arising from this review should be viewed in this context.

⁵ ALRC, *For Your Information: Australian Privacy Law and Practice* (ALRC Report 108), August 2008. Website retrieved 8 April 2024: <https://www.alrc.gov.au/publication/for-your-information-australian-privacy-law-and-practice-alrc-report-108/>

Historical context of credit reporting

Credit reporting is primarily legislated in the Privacy Act and is regulated by the privacy regulator, the OAIC. This particular legislative and regulatory structure was the culmination of growing public concern throughout the 1970s and 1980s about the privacy of credit information.⁶ By the mid-1980s there was a general view that the mix of state government regulation and self-regulation was inadequate in maintaining privacy of information in an efficient credit reporting system.

Public concerns were amplified by industry proposals in late 1988 to expand the scope of credit reporting to include what was described as ‘positive’ information about consumer’s loans and other credit accounts. By early 1989, the Government announced it would amend the recently legislated Privacy Act and extend it to cover credit reporting.⁷ The *Privacy Amendment Act 1990*, which contained this change, came into effect on 24 September 1991.

The focus on credit reporting in supporting responsible lending obligations emerged somewhat later. Federal-level consumer credit legislation did not exist until 2009, with responsible lending obligations introduced as part of the newly enacted *National Consumer Credit Protection Act 2009* (Credit Act). Prior to the enactment of the Credit Act and the referral of powers to the Commonwealth via the National Credit Law Agreement, consumer credit was regulated by states and territories. The Australian Securities and Investments Commission (ASIC) did not take responsibility for regulating consumer credit until 2010.

International context

New Zealand

Credit Reporting in New Zealand is regulated by the Privacy Commissioner under the Credit Reporting Privacy Code (NZ Code), which applies specific rules to credit information collected, held, used, and disclosed by credit reporters. The NZ Code was amended in 2012 to enable comprehensive credit reporting, including credit limits and repayment history. In addition to lenders being able to access credit records, New Zealand allows landlords, insurers and employers to check credit reports. There are currently three credit reporting agencies operating in New Zealand: Centrix, Equifax and illion. In the 2018 review of the Credit Reporting Privacy Code, the New Zealand Privacy Commissioner noted that take up of comprehensive credit reporting in New Zealand had been protracted and reasonably slow.⁸

United States

The United States has the oldest and most well-developed credit reporting system which enables sharing of positive credit reporting information, including balance information, payment history information, loans and utility accounts. Credit reporting is regulated by the *Fair Credit Reporting Act*, enforced by the Federal Trade Commission, with rule-making delegated to the Consumer Financial Protection Bureau.

⁶ For the history of credit reporting in Australia pre-2008, refer to ALRC Report 108 – Chapter 52. See also OAIC, ‘History of the Privacy Act’, website retrieved 8 April 2024: <https://www.oaic.gov.au/privacy/privacy-legislation/the-privacy-act/history-of-the-privacy-act>, and Australian Privacy Council, ‘Consumer Credit Reporting’, website retrieved 8 April 2024: <https://privacy.org.au/campaigns/consumer-credit-reporting/>

⁷ Bowen and Bolkus, “Introduction of legislation controlling credit reporting”, Media Release, 31 May 1989.

⁸ New Zealand Privacy Commissioner, *Comprehensive Credit Reporting Six Years On – Review of the operations of Amendments No 4 and No 5 to the Credit Reporting Privacy Code* – 10 April 2018, p. 8.

Figure 2: Timeline of credit reporting in Australia



Credit scores modelled off this reporting data play a central role in credit lending decisions. A majority of lenders will rely heavily on an individual's FICO score to make decisions around provision and management of credit.⁹ There are currently three main credit reporting agencies operating in the United States and United Kingdom: Equifax, TransUnion and Experian.

United Kingdom

Credit Reporting information is used widely in the United Kingdom by creditors and lenders, potential employers, utility and service companies, mobile phone companies, landlords, and insurance companies. Where organisations have a legitimate reason for use, they can access positive credit reporting information, including open and closed accounts, their balances, credit limits, and utilisation rates. Additionally, non-credit repayment information, including information on management of utilities contracts, and rental payment information, is included.¹⁰

Credit reporting in the United Kingdom is regulated by financial services, consumer, and data protection legislation. The Financial Conduct Authority (FCA) regulates the provision of credit references and credit information services by credit reporting agencies. The *Consumer Credit Act 1974 (UK)* and FCA regulations are relevant to credit reporting. The Information Commissioner enforces the General Data Protection Regulation and the *Data Protection Act 2018 (UK)*, and is the arbiter of disputes about the credit files of individuals under the CCA's statutory process.¹¹

Canada

Credit reporting is regulated at the provincial level in Canada. Across jurisdictions, legislation allows for positive reporting of credit history information, including credit accounts and transactions, closed loans, lines of credit, balances and maximums, loan payment records, and telecommunications accounts information. Credit reports are able to be access by financial institutions and lenders, as well as retailers, mobile phone companies, insurance companies, governments, employers and landlords.¹² At the federal level, the *Personal Information Protection and Electronic Documents Act 2000 (Can)* also regulates the use, collection and disclosure of personal information by organisations. There are currently two main credit reporting agencies operating in Canada: Equifax and TransUnion.

Part Two Question: Strategic, historical and international context

- Has the policy rationale for regulating credit reporting changed or remained the same since the legislative framework was first adopted?

⁹ The FICO Score is an industry-standard score widely used in the US created by the Fair Isaac Corporation. Website retrieved 16 April 2024: www.myfico.com/credit-education/fico-scores-vs-credit-scores

¹⁰ Information Commissioner's Office, *Credit explained*, Data Protection Guidance, pp. 12-21.

¹¹ Financial Conduct Authority, *Credit Information Market Study Interim Report and Discussion Paper*, p. 16.

¹² Financial Consumer Agency of Canada, Credit report and score basics, website accessed 18 April 2024: www.canada.ca/en/financial-consumer-agency/services/credit-reports-score/credit-report-score-basics.html#toc1.

Part Three: Australia’s credit reporting framework

Australia’s credit reporting framework is complex, with policy and regulatory responsibility split across multiple departments and regulators. Its legislative framework spans several acts and legislative instruments and these provisions interact with each other. Additional industry-led standards are crucial to the operation of the framework. This section considers the legislative and regulatory structure and how it could be improved.

The Privacy Act and Credit Act provisions

The core credit reporting provisions are found in Part IIIA of the Privacy Act, with supporting provisions in Part II (including key definitions related to credit reporting).¹³ As outlined in the objects of the Privacy Act, the purpose of these provisions is to facilitate an efficient credit reporting framework while ensuring the privacy of individuals is respected (see section 2A).

Part IIIA of the Privacy Act outlines what types of information credit providers can disclose to credit reporting bodies, what entities can handle this information, and the purposes for which this information can be used. The more recent mandatory credit reporting provisions are located in Part 3-2CA of the Credit Act.¹⁴ These provisions require the major banks, those meeting certain criteria, to supply specified types of credit information to specified CRBs, on an ongoing basis (see Table 1).

The ALRC’s review of the Legislative Framework for Corporations and Financial Services Regulation (ALRC Report 141) highlighted the complexity of Australia’s financial service legislation. This review did not consider the credit reporting provisions in the Privacy Act; however, it did highlight duplicative definitions, such as the definition of credit, with similar definitions not only in the Privacy Act (see section 6M), but also the Credit Act, the *Corporations Regulations 2001*, and the *Australian Securities and Investments Corporation Regulations 2001*.¹⁵

Credit Reporting Code (CR Code)

The *Privacy (Credit Reporting) Code 2014* (CR Code) is an important code that provides operational guidance for credit providers and CRBs, ensuring the Privacy Act can be easily understood and applied to business operations.¹⁶ Although developed by industry, the CR Code is approved by the OAIC and is enforceable; a breach of the Code is a breach of the Privacy Act. The CR Code is subject to an independent review every four years. The CR Code was first reviewed in 2017, and more recently in 2021 in the context of the start of mandatory credit reporting. The 2021 CR Code Review referred a number of legislative matters which this review is considering (see Annex B for a complete list).

¹³ Supporting provisions are in Part IIIB (on Privacy Codes and the CR Code in particular), and regulations include the *Privacy Regulation 2013* (Cth) (Privacy Regulation), the *Privacy (Credit Reporting) Code 2014* (Cth) (CR Code), and the *Privacy (Credit Related Research) Rule 2014* (Cth) (Research Rule).

¹⁴ Supporting provisions include the *National Consumer Credit Protection Regulations 2010* (see Part 3.8), the *National Consumer Credit Protection (Large ADI) Determination 2023* sets the eligibility threshold for participation in mandatory credit reporting, and there are several supporting ASIC instruments and no action letters.

¹⁵ ALRC Report 141, *Confront Complexity: Reforming Corporations and Financial Services Legislation*, p. 121.

¹⁶ *Privacy (Credit Reporting) Code 2014* (Version 2.3)

Specifically, the 2021 CR Code Review highlighted issues with the credit reporting legislation, such as the need for overarching principles (Proposal 3), and issues with the interactions between Part IIIA and the Part 3-2CA credit reporting provisions (Proposal 5).

The Principles of Reciprocity and Data Exchange (PRDE)

The PRDE is a set of industry-developed data exchange rules established by the Australian Retail Credit Association (Arca) that facilitates sharing of credit reporting information between PRDE signatories. The PRDE is designed to ensure that all credit providers can access the same type of credit reporting information that they contribute.¹⁷ According to Arca, more than 100 credit providers representing more than 90% of the total household lending have signed the PRDE.¹⁸

Supporting the PRDE is the Australian Credit Reporting Data Standard (ACRDS), which is the set of standard reporting requirements for credit reporting under the PRDE. These standards are important in providing consistency in definitions for data exchanged between credit providers and credit bureaus.

Credit reporting authorities

Credit reporting's complex legislative framework is supported by complex regulatory oversight. The OAIC, ASIC, ACCC and AFCA all play roles in the credit reporting framework. Industry body Arca also has a critical role in setting operational and data standards and developing the CR Code. The Review is interested in the effectiveness of the current arrangements, including whether the regulators and other authorities have sufficient powers, resourcing and expertise to do their job effectively.

The Office of the Australian Information Commissioner (OAIC)

The OAIC is Australia's independent Commonwealth regulator established to bring together three functions: privacy functions, freedom of information functions and information management functions.¹⁹ The OAIC is responsible for regulating the credit reporting provisions in the Privacy Act and also has regulatory responsibility for the CR Code.²⁰ It also shares responsibility for administration of the Consumer Data Right with the ACCC and Treasury.

The Commissioner has the power to conduct assessments, undertake voluntary investigations, make enquiries, accept enforceable undertakings, make determinations, seek injunctions and apply to a Court for civil penalties under Part IIIA and the CR Code. It also has powers to receive and investigate credit reporting complaints and has overall ongoing compliance monitoring functions for credit reporting participants. However, OAIC's remit and objectives primarily relate to privacy and information law issues. The CR Code Review highlighted resourcing as an issue and proposed exploring alternative funding avenues to support the OAIC credit reporting functions in future (see Proposal 12).²¹

¹⁷ Principles of Reciprocity and Data Exchange, Version 23 (1 November 2023).

¹⁸ Arca, Credit Data Fact Base, September 2022, Version 10, p.1 and additional information from Arca.

¹⁹ Privacy functions under, freedom of information (FOI) functions, and information management functions (as set in the relevant legislation).

²⁰ The CR Code is a legislative instrument approved by the Commissioner under s 26S of the Privacy Act.

²¹ CR Code Review, pp. 46-47.

The OAIC and the Attorney-General's Department recently commissioned a Strategic Review of the OAIC to assess the OAIC's operations, functions and governance and makes recommendations about how the OAIC can ensure it is well positioned to deliver on its functions as the Commonwealth privacy and information access regulator and respond to future changes. The findings and recommendations from this review will apply to the OAIC credit reporting regulatory function.

Australian Securities and Investments Commission (ASIC)

ASIC is Australia's corporate, markets, financial services and consumer credit regulator and has responsibility for administering and enforcing the Credit Act, including the Part 3-2CA mandatory credit reporting provisions. ASIC has broad regulatory responsibility in relation to the financial system, and has specific responsibility for the regulation of consumer credit contracts, including consumer leases, mortgage and guarantees.

ASIC plays an important consumer protection role. ASIC licenses and oversees regulated credit providers, and their compliance with their obligations under the Credit Act, including those in relation to responsible lending, and hardship notices. It had regulatory oversight of the implementation of the mandatory credit reporting arrangements from 1 July 2021, and has ongoing responsibility for ensuring the major banks are complying with these arrangements.

Australian Competition and Consumer Commission (ACCC)

The ACCC plays a role in the credit reporting framework in its capacity as the competition regulator. It also has regulatory responsibilities for the Consumer Data Right. The ACCC has authorised relevant provisions of the PRDE to provide the credit reporting sector with protection from legal action under competition law in coordinating to share credit reporting data.

The ACCC is currently undertaking a 5-year inquiry into markets for the supply of digital platform services. The eighth interim report of the inquiry considered the potential competition and consumer issues in the supply of data products by data firms in Australia. The three main CRBs in Australia, Equifax, illion and Experian were data brokers within the scope of this review; however their credit reporting function were excluded from this scope.²² The ACCC is also undertaking a review of the proposed merger between credit bureaus Experian and illion.²³

Australian Financial Complaints Authority (AFCA)

AFCA is responsible for handling complaints from individuals about credit, finance and loan products and assists individuals to reach agreements with respondents on how to resolve their complaints. Under the Privacy Act, a credit provider or CRB must be subject to, or a member of, a recognised external dispute resolution scheme such as AFCA, in order to use or disclose credit reporting information.²⁴

Decisions made by AFCA can be binding on a respondent to a complaint. Amendments to a consumer's credit report to remove or correct adverse credit information (e.g. default information) can be one part of redress process for a complaint relating to a credit product.

²² ACCC, Digital platforms services inquiry 2020-25, March 2024 Interim Report, 31 March 2024.

²³ ACCC, Experian – illion Public Informal Merger Review, website retrieved 8 April 2024:

<https://www.accc.gov.au/public-registers/mergers-registers/public-informal-merger-reviews/experian-illion>

²⁴ Under s 35A of the Privacy Act, the Commissioner may approve an External Dispute Resolution Scheme.

AFCA's 2022-23 Annual Review reported there was a sustained level of credit reporting complaints, primarily about default listings, credit enquiries and repayment history information.²⁵ AFCA's systemic issues reports have highlighted certain issues relating to incorrect credit reporting for some consumers impacted by fraud and financial hardship, for example.²⁶

The Australian Retail Credit Association (Arca)

Arca is the industry peak body which develops the CR Code with its members. Arca was established in 2006. It is an industry association for organisations involved in the provision, exchange and application of retail credit reporting data in Australia. Its members include credit providers and CRBs. In 2012, the Information Commissioner appointed Arca to develop the CR Code under Part IIIB of the Privacy Act. In 2014, Arca developed the PRDE and the data standards. Arca's subsidiary, the Reciprocity & Data Exchange Administrator (RDEA), is responsible for the ongoing operation of the PRDE data sharing arrangements and the credit reporting data standards.

Part Three Questions: Australia's credit reporting framework

- What are the main harms that the regulatory framework should seek to address today?
- How could the legislative framework for credit reporting be improved or simplified?
- Should credit reporting legislation be more aligned with financial services regulation, including the regulation of consumer credit, and the Consumer Data Right?
- Is the purpose and scope of CR Code appropriate? What provisions in the Act should be referred to the Code, and vice versa?
- How can the regulatory oversight arrangements for credit reporting be improved?
- Do the regulators have sufficient powers, resources and expertise to regulate credit reporting effectively?
- Is Arca's role in developing industry-wide credit reporting rules and standards appropriate?
- Can any improvements be made to the governance of industry-led codes and standards to ensure all relevant stakeholders are represented?

²⁵ AFCA, Annual Review 2022-23, p. 53. Website retrieved 8 April 2024: <https://www.afca.org.au/about-afca/annual-review>

²⁶ AFCA, Systemic Issues Insights Report, Quarters 3 and 4 Financial Year 2022-23, Edition 3, pp. 7-8.

Part Four: Impact of the credit reporting framework

This section considers the economic and social impact of credit reporting and its evolution. Australia's credit reporting framework has historically lagged the capability of credit reporting frameworks in other jurisdictions. For example, Australia transitioned to a more 'comprehensive' credit reporting framework in 2014, that included 'positive' information about an individual's repayment history that has been available overseas for decades. Prior to 2014, Australia's credit reporting was limited to 'negative' information about defaults, bankruptcies and court judgments. The effect of the change was to bring Australia's credit reporting system more into line with other developed economies such as the United States and United Kingdom, while supporting relatively new responsible lending requirements.

Has comprehensive credit reporting achieved its objectives?

One of the primary goals of comprehensive credit reporting was to improve the ability of credit providers to assess the credit risk of prospective borrowers, reducing their loan default losses, which, should, all else equal, allow lenders to charge a lower price. According to the Explanatory Memorandum:

Comprehensive credit reporting will give credit providers access to additional personal information to assist them in establishing an individual's credit worthiness. The additional personal information will allow credit providers to make a more robust assessment of credit risk and assist credit providers to meet their responsible lending obligations. It is expected that this will lead to decreased levels of over-indebtedness and lower credit default rates. More comprehensive credit reporting is also expected to improve competition and efficiency in the credit market, which may result in reductions to the cost of credit for individuals.²⁷

This Review is interested in evidence of whether comprehensive credit reporting achieved its intentions, in terms of improved credit assessments, consumer outcomes, competition and market efficiency, and reduced cost of credit. There is extensive overseas research on the impact of credit reporting information on loan accessibility and performance.²⁸ In Australia, one study that examined the impact of the introduction of the CCR found that "positive scoring allows for better separation of 'good' credit risks from 'bad'."²⁹

Responsible lending obligations

The Credit Act requires lenders to make reasonable inquiries about a potential borrower's financial situation and take reasonable steps to verify their financial situation. Although this generally requires a lender to obtain income and other information to determine whether a loan is affordable, the Credit Act (and ASIC guidance RG 209) does not currently mandate the use of credit reports.

²⁷ Explanatory Memorandum, Privacy Amendment (Enhancing Privacy Protection) Bill 2012, p.3.

²⁸ For example, see World Bank, Credit Reporting Brief, website retrieved 18 April 2024:

<https://www.worldbank.org/en/topic/financialsector/brief/credit-reporting>

²⁹ Grant, Andrew "The Impact of the Introduction of Positive Credit Reporting on the Australian Credit-seeking Population", University of Sydney Business School, August 2019.

Credit report enquiries have been one key of source of information used to verify financial situation, but credit reports are not used by all lenders. There is evidence participation in both reporting to credit bureaus and using credit reports to make loans has been steadily increasing.³⁰ This may indicate that the informational value of credit reporting for making responsible lending decision is increasing over time.

Financial inclusion

Financial inclusion relates to making financial products and services accessible to all on fair terms, including consumers who may be from a socially or financially disadvantaged background. Evidence of past loan servicing and repayment can be an important factor in lending decisions. Borrowers who do not have existing lending relationships have 'thin files' with the credit reporting bureaus often have difficulty in being approved for a mortgage or credit card. This experience typically applies to younger people, recent migrants, non-working spouses, or those who have not had credit accounts for other reasons.

Prior to the introduction of comprehensive credit reporting in Australia, consumers with a default listed on their credit report may have had difficulty obtaining reasonably priced finance from mainstream lenders. These borrowers have often sought loans from high-cost credit providers such as pay day lenders, or pay for high cost 'credit repair' services. With the advent of comprehensive credit reporting, lenders are able to consider an applicant's more recent repayment history. It is therefore argued that CCR improves access to finance for individuals with past default history and improves financial inclusion.

With the fairly recent introduction of CCR, confounding influences such as the COVID period and recent increases in interest rates, make it difficult to determine whether CCR has, to date, improved access to credit. The Review is interested in any evidence showing that comprehensive credit reporting in Australia has helped borrowers who would not otherwise have access to credit, or alternatively has led to more unsuitable credit being provided to vulnerable consumers. This includes any data that can distinguish the importance of credit reporting information relative to other information the lender may have about a borrower in making a lending decision.

Algorithmic decision-making and bias

Use of algorithms without appropriate testing and safeguards can introduce bias into lending decisions.³¹ The Australian credit reporting bodies each have a proprietary credit scoring methodology, and individual lenders maintain their own credit policies and decision models. As models become more complex, particularly with the advent of more powerful AI technologies, it may be very difficult for borrowers or lenders to understand why a borrower has been approved or denied a loan and whether there is inappropriate bias at play. In some countries, there are explicit regulatory requirements around reporting and preventing bias in lending.³²

The Review is interested in understanding how credit scores and credit reporting information are used in automated loan decision algorithms, and how lenders provide assurance that these scores do not introduce inappropriate bias, such as around gender, age or ethnicity.

³⁰ Arca, Credit Data Fact Base, September 2022, Version 10, p.2

³¹ For instance, see Fu et al. "Crowds, Lending, Machine, and Bias", Information Systems Research, 32(1), February 2021. Website retrieved 18 April 2024: <https://arxiv.org/ftp/arxiv/papers/2008/2008.04068.pdf>

³² Equal Credit Opportunity Act, 15 U.S.C. §§ 1691-1691f

Financial stability

While comprehensive credit reporting has enabled banks and other lenders to make loans based on more complete information, it may have also reduced the potential systemic risk from loan losses that could emerge in a downturn. At the same time, the nature of the credit reporting bureau industry may have concentrated the operational and informational dependence of the lending industry on a small number of organisations that are not subject to prudential regulation. An operational outage or data compromise at a major credit bureau can lead to systemic impacts on consumers' ability to complete a loan application. Some participants may opt to put in place contingency arrangements with multiple CRBs to address this risk. The Review is interested in the operational stability of the credit reporting framework and the length and frequency of any outages and their impact.

Competition and innovation

Credit reporting raises varied competition and innovation considerations. The industry structure is characterised by high economies of scale and network effects through reciprocal data sharing. As a result, credit reporting in most countries is dominated by a small number (usually one to three) credit reporting bureaus. This has benefits in terms of centralisation of costs and standardisation of reporting by many participants, but also means that CRBs have become an essential part of the modern financial system. Today it is virtually impossible to obtain a loan from a mainstream lender without a credit bureau report.

High concentration may, in theory, have negative impacts in terms of higher prices, incentives for exclusionary practices, and reduced incentives for innovation. For example, prices for credit enquiries are reportedly considered to be substantially higher in Australia than in other countries. The mandatory credit reporting legislation, which was limited to existing CRBs, may directly limit the successful entry of new CRBs that could otherwise provide competitive tension.

Credit reporting has implications for competition in the lending industry as well. The large banks have rich data sets with information about their own customers, which they can leverage in making lending decisions. Smaller lenders and new entrants generally do not have this source of information. Mandatory comprehensive credit reporting by the large banks has arguably provided more opportunities for smaller lenders to leverage the information previously only available to the large banks, thereby potentially improving their ability to compete on price and other terms.

The Arca reciprocal data sharing agreement (the PRDE) also has competition and innovation implications. Each PRDE signatory must share data equivalent to the data they receive with their chosen CRB or CRBs.³³ Reciprocity prevents the 'free rider' problem--participants accessing credit reports but are not contributing their own data for others in the industry to use. However, the reciprocity requirements impose costs on smaller lenders, such as start-ups, who may wish to access credit reports but find the data reporting requirement prohibitively costly to implement.

³³ Arca, PRDE, Version 23 (November 2023), para 11.

Part Four Questions: Impact of the credit reporting framework

- What evidence is available to demonstrate whether comprehensive credit reporting has met its policy objectives, such as:
 - improved lending decisions, including loan performance and suitability, risk-based pricing and access to credit;
 - improved financial inclusion and access to finance in Australia;
 - improved competition and efficiency in the lending market;
 - reduced the cost of consumer credit?
- How do lenders mitigate against inappropriate bias in automated and algorithmic lending decisions using credit scores or other credit reporting information?
- What has been the impact of Australia's concentrated credit reporting industry on the price of credit enquiries, reliability of service, and innovation?
- Does the current regulatory framework provide sufficient incentives for innovation and competition in the CRB industry, including new entrants?
- Should CRBs be required to share some or all of their data sets with the other CRBs to promote competition?
- Are the PRDE reciprocity arrangements supporting competition and innovation?

Part Five: Credit data

This section considers the types of credit information exchanged by credit providers and CRBs and whether the types of information should be expanded or changed. The information exchanged through Australia’s credit reporting framework impacts the overall utility and efficiency of the framework. What data is included, and how it is defined in the Privacy Act (section 6N refers) restricts what information can be disclosed by credit providers and CRBs.

Other types of information related to a credit product are not permitted to be exchanged within the credit reporting framework, although to some extent that information can be exchanged outside the framework, subject to the generic Privacy Act or the CDR provisions.

Over time, the types of information that should or could be reported through the credit reporting framework can evolve. Different types of information may be needed in order to make appropriate lending decisions in the present day or to better protect consumers. Conversely, some types of information prescribed in the Privacy Act may no longer be useful.

Types of credit reporting information

Under the Privacy Act, CRBs can generally collect the following credit information:

Table 1: Summary: Types of Credit Information³⁴

Credit Information	Negative Information	Partial Information	Comprehensive Information	Mandatory Credit Information
Identification information (e.g. name, address, employment history, drivers licence number)	Yes	Yes	Yes	Yes
Consumer credit liability information (e.g. account and credit limit)	No	Yes	Yes	Yes
Repayment history information (e.g. timeliness of monthly repayments)	No	No	Yes	Yes
Financial hardship information	No	No	Yes	Yes
Enquiries (e.g. requests for credit reports for credit application purposes)	Yes	Yes	Yes	No
Defaults (e.g. an individual is at least 60 days overdue in making a payment of at least \$150)	Yes	Yes	Yes	Yes
Payment information (e.g. a payment in relation to a default)	Yes	Yes	Yes	Yes
New arrangement information (e.g. variation of terms and conditions for an account in hardship or default)	Yes	Yes	Yes	Yes
Court proceedings information (e.g. credit related court judgements)	Yes	Yes	Yes	No
Personal insolvency information (e.g. bankruptcy)	Yes	Yes	Yes	No
Serious credit infringement information (e.g. fraud)	Yes	Yes	Yes	No

³⁴ For the definition of credit information refer s6N of the Privacy Act. For definitions of negative, partial and comprehensive information, refer to p.34 of the PRDE, for the definition of mandatory credit information refer to 133CP of the Credit Act.

In addition to the Privacy Act provisions, the PRDE reciprocity arrangements limit the ability of CRBs to supply types of credit reporting information to a credit provider based on whether or not that credit provider is a signatory to the PRDE, and is supplying credit information at one of three tier levels – negative information, partial information and comprehensive information:

- **Negative information:** includes identification information, and information relating to defaults, court proceedings, personal insolvency, publicly available information about an individual's creditworthiness, and serious credit infringements.
- **Partial information:** includes negative information and 'consumer credit liability information', which includes details about the type of credit, when the credit started and ended, the terms and conditions and the maximum amount of credit available.
- **Comprehensive information:** includes all partial information, in addition to repayment history information (information about making monthly repayments) and financial hardship information.

A CRB may supply negative information to any organisation as permitted by the Privacy Act, regardless of whether that organisation is a signatory to the PRDE. In order to receive supply of either partial or comprehensive information from a CRB, a credit provider needs to be both a PRDE signatory and supply information at either the partial (to receive supply of partial information) or comprehensive tier levels (to receive supply of comprehensive information).

[Are the current data definitions fit-for-purpose?](#)

Various issues have been raised by participants with the current data definitions in the framework. For example (but not limited to):

- The ongoing importance of credit report **enquiries** when other types of information such as account limits and repayment history are now more widely available. There is a more general question as to how this information is interpreted by different lenders (e.g. as a proxy or prompt for asking questions about credit accounts).
- The definition of **default information** includes specific criteria as to when a default can be reported by a credit provider. For example, the individual is at least 60 days overdue, the credit provider has given written notice, the provider is not prevented by a statute of limitations, and the overdue payment is \$150 or greater. These provisions could be revised or updated to reflect changes in community expectations. The CR Code Review (see Proposal 7) highlighted the definition may impact the participation of telecommunications and utilities firms.³⁵

³⁵ CR Code Review, pp. 36-37.

- Some types of default related information, such as **payment information** when an account in default is paid, or **new arrangement information** when there is a variation of the terms and conditions for an account which has default information, appear to be infrequently used or reported. The CR Code Review has also identified issues with the interaction of financial hardship arrangements and new arrangement information (see Proposal 22).³⁶
- The CR Code Review (see Proposal 16) identified that the Privacy Act was unclear if CRBs could use and disclose ‘historic’ **consumer credit liability information** (previously disclosed to the CRB) associated with a credit account.³⁷
- **Financial hardship information** can only be supplied in relation to credit accounts as defined under the National Credit Code. This creates inconsistent outcomes for consumers where credit providers are supplying comprehensive credit information on credit accounts that are unregulated (for example, currently some BNPL accounts).³⁸

More generally, detailed prescription of data definitions within legislation does not afford flexibility to cater to innovation and market and community developments over time. While clear, stable definitions are helpful in providing standardisation and common understanding of credit reporting concepts, there may be other models such as through subordinate legislation, regulation, the CR Code and standards that would also be effective and provide more flexibility.

Timeliness and frequency of data

The Privacy Act and CR Code specify timeframes for reporting some types of information such as defaults (after 60 days), and the repayment history information and financial hardship information provisions suggest they should be reported on a monthly basis. Monthly repayments are the convention for mortgages and many other types of loans, and generally information is reported to credit reporting bodies on a monthly schedule. The monthly cycle is relatively clear to present on credit reports and the CR Code includes a definition of ‘month’.

However, a monthly reporting schedule may not fit the structure of some consumer credit products, such as BNPL or consumer leases, which often use a fortnightly repayment cycle or may allow flexibility in repayment timing. There are also considerable lags in reporting in some cases, for example new and closed accounts, which means that information may be out of date when provided in a credit report. Some lenders report several times per month, in order to accurately reflect payment grace periods.

Should additional data items be included?

Additional types of information relevant to credit assessments could be permitted to be reported through the credit reporting framework. Including these types of information could improve the overall efficiency of the lending process while possibly enhancing individual privacy. Additional items that have been suggested include account balances and repayments, as well guarantor information such as details about loan guarantees an individual may have provided to their children or a business.

³⁶ CR Code Review, pp. 72-73.

³⁷ CR Code Review, pp. 59-61.

³⁸ ASIC has temporarily addressed this issue for those credit providers (major banks) mandated to supply comprehensive credit information via a no-action letter.

Financial hardship information

Financial hardship information commenced in 2022 and is reported by all lenders that are reporting repayment history information. A financial hardship flag indicates that a lender is providing temporary accommodation for a borrower in financial hardship, such as through a repayment pause, without reporting the account in arrears. This flag remains on a borrower's credit file for 12 months.

While CRBs are prohibited from incorporating the existence of financial hardship in a consumer's credit score, some consumers are reportedly concerned about requesting hardship arrangements for fear of damaging their credit score or being refused refinancing. The flag may nevertheless be used as a prompt for lenders to ask more questions about the suitability of a loan during the application process; however, practices across lenders may differ.

'Soft enquiries' proposals

Updates to the CR Code to facilitate 'soft' credit enquiries to implement proposal 43 in the OAIC 2021 independent review are currently being considered by the OAIC.³⁹ The proposed soft enquiries framework is intended to allow credit providers to use the credit reporting framework to undertake basic screening checks and to aid in pricing prior to an actual credit application being made. Unlike a 'hard' enquiry or information request, a soft enquiry will not be visible to other credit providers on an individual's credit report. One of the intended outcomes of this approach is to support consumers to shop around for consumer credit with the best terms (including pricing), without damaging their credit score.

Buy Now Pay Later and emerging finance products

The CR Code Review referred issues around BNPL and emerging credit to this review (see Proposal 8).⁴⁰ In March 2024, the Treasury released draft legislation to amend the Credit Act and the *National Consumer Credit Protection Regulations 2010* (Credit Regulations) to bring BNPL into the existing regulatory framework for other consumer credit products.⁴¹ The draft legislation includes a requirement for BNPL providers to undertake a credit check in the following circumstances:

- If the amount of credit is less than \$2,000, then the BNPL provider must request 'negative information' from a CRB.
- If the amount of credit is more than \$2,000, then the BNPL provider must also collect 'consumer credit liability information' (essentially credit accounts and limits).

These checks are intended to be 'hard' enquiries that appear on a consumer's credit report and are visible to other lenders, helping identify consumers who may have multiple BNPL accounts, and support lending risk assessments. This proposal addresses concerns where some BNPL providers are not participating in the credit reporting framework at all, and will help to improve the overall quantity and quality of credit reporting information.

³⁹ OAIC, Consultation on application to vary the Credit Reporting Code, 8 April 2024. Website retrieved: <https://www.oaic.gov.au/engage-with-us/consultations/credit-reporting/consultation-on-application-to-vary-the-credit-reporting-code2>

⁴⁰ CR Code Review, pp. 38-39.

⁴¹ Treasury, Buy Now Pay Later regulatory reforms, website accessed 16 April 2024: <https://treasury.gov.au/consultation/c2024-504798>

However, mandatory credit checks or reporting of specific products have not been a feature of the credit reporting framework to date. BNPL providers will effectively be mandated to participate in credit reporting, whereas other providers of unsecured personal credit will not be required to conduct credit checks.

Data retention

Part IIIA specifies the length of time CRBs are permitted to keep credit information – these timeframes range from one year for financial hardship information to up to seven years for information relating to a serious credit infringement. After a retention period ends the information must be destroyed. Most negative types of credit information such as default information stay on an individual's credit report for five years.

Personal insolvency information can remain on a credit report for an additional two years if certain circumstances are satisfied. There is no limit on the retention period for identification information. The CR Code Review report discussed issues around the listing of default information and retention periods (Proposal 20 refers).⁴² The OAIC expressed concern that there may be incentives for credit providers or debt buyers to list defaults long after the debt was due as a way to 'reset' the debt.

The Consumer Data Right (CDR) and other credit data sharing arrangements

The CDR is a regulatory program that enables direct sharing of banking and other financial information with an account holder's explicit consent. The CDR commenced a phased-in implementation in 2020 in the banking sector, and is now fully mandated for all authorised deposit-taking institutions (ADIs). The CDR will be progressively rolled-out to the energy and non-bank lending sectors.⁴³

There is some overlap in the information included in the credit reporting framework and the information that can potentially be shared within the CDR regime. For example, repayment history can be inferred from CDR deposit and loan account data feeds.⁴⁴

There are some important differences between the CDR and credit reporting:

- The CDR is premised on express consent by the consumer, whereas credit reporting involves ongoing reporting of some types of credit information, regardless of whether the consumer is willing or able to disclose that information (such as negative information).
- Credit reporting gives access to all reported loan commitments across all participating lenders, whereas the CDR is institution-specific.
- CDR data sharing is generally only permitted with accredited recipients, whereas credit reporting bureaus are not accredited or licensed.
- Credit reporting is held in a centralised database at each credit reporting bureau, whereas CDR data sharing is generally bilateral.

While the credit reporting regime and the CDR are very different, it could be inefficient to mandate reporting of the same or very similar data through two different regulatory regimes and technical channels unless there is a good cost-benefit rationale. More generally, the increasing accessibility of

⁴² CR Code Review, pp. 70-71.

⁴³ Consumer Data Right, Rollout, website retrieved 22 April 2024: <https://www.cdr.gov.au/rollout>

⁴⁴ Some institutions are also using 'screen scraping' to access similar information; however, over time screen scraping is expected to be replaced by CDR data sharing.

detailed transactional and other behavioural data about a consumer, either through the CDR or other means, has potentially significant implications for the usefulness of the credit reporting regime over time. The Review is interested in views on how the framework can evolve to support existing as well as future credit assessment methodologies.

Part Five Questions: Credit data

- How should credit reporting data definitions be established and administered to allow evolution and modernisation over time?
- What other types of credit-related information should be reported, or excluded, as part of Australia's credit reporting framework?
- Are the definitions of the different types of credit information detailed in Part II of the Privacy Act fit for purpose?
- Has financial hardship reporting improved the quality of lending decisions and the suitability of loans?
- Is financial hardship reporting dissuading some consumers from requesting financial hardship relief?
- What are the potential implications of the proposed BNPL regulations on the credit reporting framework?
- How can the current retention period arrangements be improved?
- Should limitations be placed on listing of defaults long after the debt was due?
- How should the credit reporting framework be adjusted in light of other financial data sharing arrangements such as the CDR?

Part Six: Consumer protection and awareness

This section considers how consumers interact with the credit reporting system, the impact of credit reporting on consumers and whether existing consumer protections are appropriate.

Consumer understanding of credit reports and scores

Many Australians only consider credit reporting when they want to apply for a loan, or if they have been the victim of identity theft or fraud. There is no compelling reason for the typical consumer to understand the complexities of the Privacy Act provisions or the CR Code. However, given the central role of a credit report in obtaining a loan or other critical services such as a mobile phone plan, it is important that consumers have a general base level of understanding about how their behavior may impact their credit report, how their credit report may be used, and their associated rights. There are some objective sources of information on credit reporting aimed at educating consumers, including:

- [The OAIC's website](#)⁴⁵
- [The ASIC Moneysmart website](#)⁴⁶
- [Arca's CreditSmart website](#)⁴⁷

These websites provide basic information about credit reports and credit scores, and where to obtain free copies of credit reports. Even with this information available, consumers may find the credit reporting system difficult to understand, particularly those consumers with lower levels of financial literacy or those in vulnerable circumstances.

In particular, search engine results for 'credit report' typically promote paid advertising links to so-called 'credit repair' and debt management companies. These sites provide some information about credit reporting, but are primarily aimed at either marketing for consumers to pay significant fees for requesting corrections to credit files, or for offers of additional loans.

The CR Code sets out information that must be provided to a consumer with their credit rating - including explaining the nature and purpose of the rating. A CRB's rating system must have at least five bands and descriptors of each band. The credit report must explain what types of credit information are most important for determining which band the consumer is in.

Consumers may not understand that lenders look at a variety of information on their credit report, not only their credit score. This includes the type and number of credit enquiries from potential lenders, their loan repayment history and performance, and any financial hardship indicators. There may not be an obvious link between a credit score and the likelihood of success in obtaining a loan from a particular lender. Consumers may also not understand the difference between a 'hard' and 'soft' credit enquiry and how multiple enquiries influence their chances of getting a loan.

Consumer access to credit reports

Under Part IIIA, CRBs must provide free access to consumers' own credit report once every 3 months. To obtain a complete picture of their credit file, consumers may need to request their credit report from all three main CRBs. This may be a challenging process for many consumers; in addition, the three main

⁴⁵ www.oaic.gov.au/privacy/your-privacy-rights/credit-reporting.

⁴⁶ www.moneysmart.gov.au.

⁴⁷ www.creditsmart.org.au.

credit bureaus' reports have somewhat different formats. Credit scores are calculated differently at each CRB. The information reported to each CRB can differ, depending on the lenders with which the consumer has credit or applied for credit, and the CRBs the lender has chosen to supply data.

The OAIC found in its 2021 review of the CR Code that there were often practical difficulties for consumers in accessing credit information from the CRBs, due in part to the different procedures for requesting access including identity verification procedures at each CRB. The OAIC concluded that it would be impractical to implement a system where consumers could make one request to all three CRBs. Given the rapid evolution of on-line ID verification technology, however, it may be possible that a shared identity verification approach could be put in place that would allow reliance of one CRB on the other's identity verification to enable a one-stop credit report request system.

Corrections and credit repair

Under the Privacy Act (section 20T), consumers have the right to correct their credit reporting data held by CRBs, if the information is inaccurate or misleading. Corrections can be requested to wholly incorrect information - such as the wrong individual being associated with a loan account, as well as information deemed out-of-date, incomplete, irrelevant or misleading.

Sometimes corrections can be justified based on failure of the lender to follow due process (for example, failing to send the required default notice with specified timeframes). In other cases, there may be evidence that a consumer was facing extenuating circumstances outside their control, such as abuse or serious illness. Typically, a consumer would make such a request to the original lender, which would then notify the CRBs to which it reports. A consumer can take their complaint to AFCA or external dispute resolution scheme as relevant if they are not satisfied with the response.

Credit repair services request that lenders correct or remove defaults and missed payments from a consumer's credit report, typically for a significant fee. These services may benefit consumers with genuine claims for corrections that are harming their credit score. However, due to the complexity of the credit reporting framework, many consumers may not understand that they can request corrections to their own credit report themselves without a paid representative. There are also suggestions that lenders at times acquiesce to credit repair firm requests to avoid excessive costs and external dispute resolution fees, even if they feel a correction request is not justified. This may introduce inaccurate information if defaults or enquiries are inappropriately removed.

Since 2021, debt management firms are required to hold an Australian Credit License, which brings them under ASIC's oversight.

Credit bans, freezes and alerts

Credit bans, freezes and credit report alerting services can be an important tool in the current environment of increasing financial scams, identity theft and fraud. A self-imposed ban or freeze on an individual's credit report may help protect them from fraudulent credit applications. A ban can also help mitigate against credit obtained under duress due to domestic abuse, or unsuitable use of credit such as to fund a gambling or drug addiction.

While a credit report ban may not prevent all fraudulent access to credit, those lenders that conduct credit enquiries generally will not extend credit to an individual where they cannot access a credit report. Under the Part IIIA (see section 20K), consumers can request a ban on their credit report for an

initial 21 days, which can be extended on request. During a ban period, a CRB may not disclose the individual's credit report unless the consumer provides express consent in writing. With the consumer's consent, a CRB may communicate with other CRBs that a ban (or ban extension) is in place.

The CR Code Review identified concerns that 21 days is not long enough for the initial ban period, particularly as fraud perpetrators are aware that they can simply wait and attempt to access credit in a consumer's name after 21 days (Proposal 27).⁴⁸ Some CRBs offer credit report monitoring services, which alert a consumer if their credit report has been requested by a potential lender. However, these alerts occur after the fact, unless a ban is in place. In addition, consumers will not receive any alerts of attempts to access their credit report during a ban period. Other credit alerting services are often closely linked to marketing of additional credit products.

Notifications and consent

The CR Code Review found that there is consumer confusion about when consent is required to disclose credit information. Part IIIA (section 21C) provides for notification only, and not an individual's consent, for a credit provider to disclose personal information to a CRB. There are specific requirements around credit providers notifying individuals regarding reporting of defaults and serious credit infringements, but not in relation to other types of credit information, including missed payments.

The CR Code Review proposed (see Proposal 18 and Proposal 25) the notifications framework in Part IIIA should be holistically reviewed to identify and address issues with the current notification arrangements.⁴⁹ This Review is interested in understanding what types of notifications would be most useful for consumers, when a consumer's consent should be provided, and the associated costs.

Complaints

Part IIIA and the CR Code deal with handing complaints about credit reporting.⁵⁰ Complaints can be made in the first instance to a CRB or credit provider, and if the individual is unsatisfied, they can complain to an external dispute resolution (EDR) scheme recognised by the OAIC, such as AFCA, various state and territory energy and water ombudsmen, and the Telecommunications Industry Ombudsman. If an individual is still unsatisfied, they can complain in writing to the OAIC. The OAIC generally handles a credit reporting complaint after it has been through an EDR process.

The cost of managing complaints may create perverse incentives for some credit providers to remove factually correct information from a credit report (e.g. negative information such as default information). This type of behaviour could adversely affect data accuracy and reliability.

Financial Abuse and Domestic Violence

Victims of financial abuse and family violence may engage with the credit reporting framework at various points. Victim survivors may seek to correct information in their credit report where an abuser has taken out credit in the victim's name and negative information such as a default is recorded. The Parliamentary Joint Committee on Corporations and Financial Services is currently inquiring into financial services regulatory framework in relation to financial abuse.

⁴⁸ CR Code Review, pp. 81-82.

⁴⁹ CR Code Review, pp. 64-66, 78-80.

⁵⁰ See Part IIIA Division 5, Privacy Act 1988.

Credit reports may enable abusers obtaining information about a victim's financial situation with respect to joint accounts. Part IIIA is drafted on the basis of a credit provider reporting data on a contract with a single borrower to a single CRB and may not effectively consider joint accounts with multiple borrowers. The Review is interested in identifying solutions to reduce the risk of harm in the credit reporting framework in relation to family violence and financial abuse.

The experience of Indigenous Australians with credit reporting

Certain types of sensitive information, such as ethnicity, political and religious beliefs are prohibited from being used in an individual's credit report or as part of creditworthiness assessment.⁵¹ However, there may still be opportunities for bias to be a factor in credit reporting information. The Review is also conscious that Indigenous Australians may have a different experience due to a range of factors and interested in hearing from Indigenous voices on credit reporting.

Part Six Questions – Consumer protection and awareness

- How can consumer understanding about credit reporting be improved?
- How can credit reports be made more user friendly, accessible and easy to understand for the typical consumer?
- Can the following arrangements be improved to better protect consumers at reasonable cost:
 - correcting a credit report;
 - placing a ban on accessing a credit report;
 - making and addressing a complaint;
 - credit reporting notification framework;
 - protections for victims of financial abuse and family violence?
- Should additional consumer protections or other regulatory provisions be applied to credit repair services?
- How can the credit reporting complaints framework be improved?
- Is the credit reporting corrections process leading to adverse implications for the credit reporting framework (e.g. data reliability)?
- What is the experience of Indigenous Australians with the credit reporting framework?

⁵¹ Privacy Act, section 6N – the definition of credit information excludes sensitive information as defined in Part II of the Privacy Act.

Part Seven: Access to and use of credit reports

The credit reporting provisions in the Privacy Act were originally written with a focus on prescribing a tightly limited data sharing regime. The Privacy Act imposes civil penalty and criminal offences for obtaining credit reporting information from CRBs where not explicitly authorised. The CR Code Review (Proposal 45) referred the consideration of additional uses and disclosures of credit reporting information to this Review.⁵² This section consequently considers whether the current restrictions should be loosened.

Specifically, the Privacy Act restricts CRB's disclosure of credit information to credit providers for a 'consumer credit related purpose,' including credit application assessments and collecting overdue payments. In some other countries, use of credit bureau reports has become more acceptable for verifying identity and financial standing of individuals (and small business owners) and for other purposes. There are other relationships that do not involve credit provision but do involve financial and probity risks, where credit background information can be highly informative. For example, under New Zealand's credit reporting framework, credit reports are explicitly authorised to be used for employment and tenancy background checks.

Types of entities that may access credit reports

Under the Privacy Act, credit providers include bank and non-bank lenders who hold an Australian Credit Licence. Lenders that do not hold an ACL (for example, some BNPL and wage advance providers) may not be entitled to full access to credit reporting information. Other entities that may access credit reports include:

- providers of deferred payment services, such as telecommunications and utilities firms;
- retailers that provide credit for purchase of their goods and services or issues a credit card;
- consumer leasing providers;
- debt collectors for debt collection purposes;
- trade and mortgage insurers for risk assessments;
- External dispute resolution services.

Real estate agents, landlords and employers

The Privacy Act specifically excludes real estate agents, general insurers, and employers from accessing credit reporting information. The CR Code Review noted that consumers are sometimes requested to provide a copy of their credit report by real estate agents and landlords for a rental tenancy application, and by others where another party needs to assess their creditworthiness or general probity. While it is not technically prohibited for a consumer to access and provide their credit report to anyone they wish and for any purpose, this type of requirement is clearly inconsistent with the intent of the legislation.

Nevertheless, providing a credit report to a potential employer or landlord may arguably present lower risk for a consumer in these situations than, for example, providing bank statements or other detailed and sensitive financial information. The CR Code Review noted it is reasonable to consider if these restrictions are still appropriate (see Proposal 34).⁵³

⁵² CR Code Review, pp. 115-117.

⁵³ CR Code Review, pp. 94-96.

Access seeker arrangements

In addition to credit providers, other parties that assist consumers with applying for credit can access credit reports through the Privacy Act's 'access seeker' regime (see section 6L). The access seeker arrangements can be helpful when an individual does not know how to access their credit report, or where they require assistance from an advocate. Access seekers need to obtain explicit permission from the individual they are representing, and can include mortgage brokers, community lawyers or financial counsellors who are supporting someone experiencing credit/debt problems, victims of identity theft, and people escaping domestic abuse. Debt management and credit repair firms can also access credit reports as access seekers.

Telecommunications and utilities providers

Currently, repayment history information can only be reported and accessed by entities holding a credit licence (see section 20E). The CR Code Review explored the question of expanded access to repayment history information (see Proposal 9), noting industry submissions supported expanding access to other providers, such as telecommunications providers and utilities. This argument was based on potential benefits to consumers from positive repayment history increasing credit scores of loan applicants who may otherwise have 'thin files' or past defaults. However, particularly in the current economic environment, utility bills can be quite variable and hard for consumers to adequately plan for cash flow impacts, so occasional late payments could damage their credit rating.

International credit information

Some Australians first encounter credit reporting when they move overseas and seek access to finance. While they may have built up a strong credit report in Australia, they may have no credit history in their new country. Australian CRB disclosures of credit reporting information are limited to entities that have an Australian link. Foreign credit providers and foreign CRBs are not permitted to access Australian consumer credit reports (section 20F). The Review is interested in views on improving the international portability of credit information and how this could be facilitated in a safe and appropriate way that protects personal information.

Small business and commercial credit

Consumer credit reports can also be important in supporting small businesses access finance. The personal and business finances of many small or micro businesses, and sole proprietors are often intertwined. Some small business owners may use privately owned property (e.g. the family home) as security for a business loan. Developments such as comprehensive and mandatory credit reporting may have helped improve small business access to finance by better allowing small business operators to demonstrate a positive credit history.

Other business-related information may also appear on an individual's credit report. For instance, enquiries related to commercial credit activities such as applications for credit made by an individual or by an organisation of which an individual is, or has been, a director, partner, proprietor or guarantor, may appear on that individual's credit report. Other types of business information, such as company directorship information may also appear on an individual's credit report. The Review is interested in how credit reporting is used to support small business access to finance.

Foreign credit information and loans

CRBs cannot collect information from foreign credit providers about foreign loans – the information must be about credit that has been provided or applied for in Australia (section 20C). This restriction may limit access to credit for recent arrivals in Australia who may not have a credit footprint in Australia. Recent migrants may benefit from being able to include credit information from their home country on their Australia credit report. The ALRC highlighted that New Zealand in particular was seen as special case where there would be strong benefits from supporting trans-Tasman credit reporting information flows.⁵⁴ The report also noted many of the legal and privacy challenges with providing this capability within the Australian credit reporting framework.

Part Seven Questions – Access to and use of credit reports

- Should credit reports be able to be used for other purposes beyond a 'credit purpose'?
- Should credit reports be accessible to a broader range of commercial entities, such as real estate agents?
 - If so, what consumer protections should apply to these entities' use of credit information and how could this be enforced?
 - What would be the costs and benefits of expanding access?
- Should non-financial participants such as telecommunications and utility providers be able to contribute repayment history and other positive reporting data?
- Do current access seeker arrangements adequately enable people to obtain appropriate assistance to gain access to their credit reporting information?
- How is the consumer framework used to support business or commercial considerations and is this appropriate?
- Should Australians be able to permit foreign credit providers and CRBs to access their Australian credit reports? If so, how should this arrangement work?
- Should foreign credit information from foreign credit providers be able to be included in an Australian credit report?

⁵⁴ ALRC Report 108, pp. 1783-4.

Part Eight: Privacy, information security and regulatory oversight

Information security standards for credit reporting participants

Recent high-profile data breaches have brought sharp focus on consumers' legitimate expectation that their private financial details are not disclosed or shared without their consent, other than as explicitly required by law (such as in bankruptcy filings) or subject to their explicit consent for their benefit (such as to a financial advisor). Credit reporting information does not include granular financial transactions or account security details, which would allow a criminal to gain access to a consumer's account. However, access to identifying details (such as driver's licence) and financial account-level information could potentially facilitate identity theft.

In 2017, global credit bureau Equifax suffered a data breach as hackers obtained access to millions of customers' credit data files. Customers affected were mainly in the United States, as well as in the United Kingdom and Canada. There is no suggestion any Australian customers of Equifax were affected, and there were no reported instances of fraud or identity theft resulting from the breach. The hack reportedly resulted from known vulnerabilities that were not patched in time.⁵⁵

Information security requirements in the credit reporting framework are principles-based rather than prescriptive. Under the Privacy Act (Section 20Q) CRBs must 'take such steps as are reasonable in the circumstances to protect the information' from misuse, interference, loss, unauthorised access, modification or disclosure. CRBs must also enter into agreements with credit providers to similarly protect the information. Some of their larger clients may also provide additional oversight as a result of prudential requirements.⁵⁶

In the current environment, with increasing concerns and consumer losses from scams, fraud and identity theft, it is reasonable to ask whether these high-level requirements are sufficient. Other regulatory regimes in the financial services sector, such as APRA's prudential standards, financial services and credit licence risk management expectations, and Consumer Data Right accreditation standards, as well as participation in payment systems require much more stringent information security controls to be demonstrated. This includes regular independent security certifications and audits.⁵⁷

Regulatory oversight

The regulatory framework for credit reporting was established long before Australia's national financial services licensing and regulation, credit licensing frameworks, or CDR were put in place. It therefore bears little resemblance to these more recent regulatory frameworks, although the policy objectives are in many ways similar. As a result, it is reasonable to consider whether the regulatory oversight framework for participants in credit reporting remains fit for purpose given other developments in regulation in the financial services sector.

⁵⁵ Equifax, "Equifax Releases Details on Cybersecurity Incident, Announces Personnel Changes", Media Release, 15 September 2017. United States Government Accountability Office, *Data Protection: Actions Taken by Equifax and Federal Agencies in response to the 2017 Breach*, August 2018.

⁵⁶ See APRA Prudential Standard CPS 234 – *Information Security*.

⁵⁷ For instance, ISO 270001:2022, SOC 2, and Payment Card Industry Data Security Standard.

What is a credit reporting body?

CRBs are not required to obtain a license of any kind, and there is no registration or reporting requirements under the Privacy Act. A CRB and is defined as a business that:⁵⁸

involves collecting, holding, using or disclosing personal information about individuals for the purpose of, or for purposes including the purpose of, providing an entity with information about the credit worthiness of an individual.

The definition could encompass a range of activities that are not traditionally recognised as falling under the credit reporting regime, including entities that facilitate credit applications and assessments or even background or identity verification services. Certain types of businesses are exempted from the definition by regulation.⁵⁹

There is a risk some entities dealing with credit information are not fully aware of their regulatory requirements, or that OAIC as the regulator is not aware of their activities. No data is reported to regulators on credit reporting activity, which makes it difficult to monitor the growth in the sector, or gauge emerging risks or trends.

Regulatory requirements for credit reporting bodies

The Privacy Act sets out conduct and assurance requirements for CRBs in their handling of credit reporting information. In addition to information security requirements noted above, CRBs must comply with a set of operational requirements, such as:

- only collect and share information as prescribed by the Act;
- maintain the quality of credit reporting information;
- have a publicly available policy about their management of credit reporting information;
- comply with the CR Code;
- deal with complaints;
- implement credit report bans as requested;
- provide a free credit report to any consumer (or access seeker) on request, every 3 months.

In addition, CRBs are required to commission an independent audit of their compliance with the Privacy Act obligations every three years. The OAIC may be involved in the scoping and review of these reports, which may include thematic issues of concern or interest to the OAIC. The triennial audit reports are made publicly available on each CRB's website. Unlike other areas of financial services, there are limited expectations for governance, accountability, risk management, operational resilience or reporting of breaches to the regulator.

Compliance obligations of credit providers

Credit providers sharing credit data and accessing credit reports are required to comply with certain requirements including information security principles, integrity of credit reporting information, and processes for correcting credit reporting data. Most participating credit providers are separately regulated by ASIC or another regulator and are also members of industry ombudsman schemes.

⁵⁸ Privacy Act, section 6P.

⁵⁹ Privacy Regulation 2013, section 11.

Under Privacy Act (section 20N), CRBs must enter into agreements with each credit provider that they deal with to ensure the reported credit information is accurate, up-to-date and complete. The CRBs must also ensure that regular independent audits of the credit provider's compliance with these agreements are conducted. These audits are not published.

The CR Code Review did not find evidence of systemic breaches by credit providers involving the quality or security of credit report information. However, it noted there was 'limited visibility over the current processes' and that there is a perceived conflict of interest in a CRB overseeing compliance by its paying clients.⁶⁰

Part Eight Questions: Privacy, information security and regulatory oversight

- What improvements can be made to the privacy and security of all information in the credit reporting framework?
- Should CRBs and entities accessing credit reports be subject to more explicit information security requirements and oversight?
- Is the definition of a CRB still fit for purpose?
- Are there any other categories of activities that should be exempted from the definition of CRB?
- Should CRBs be required to register or obtain a licence?
- Should CRBs be required to report data on their activity or compliance to the regulator?
- Is the level of compliance enforcement with regulatory obligations of credit reporting participants and the enforcement powers of regulatory authorities sufficient?

⁶⁰ CR Code Review, p. 50

Part Nine: Mandatory credit reporting

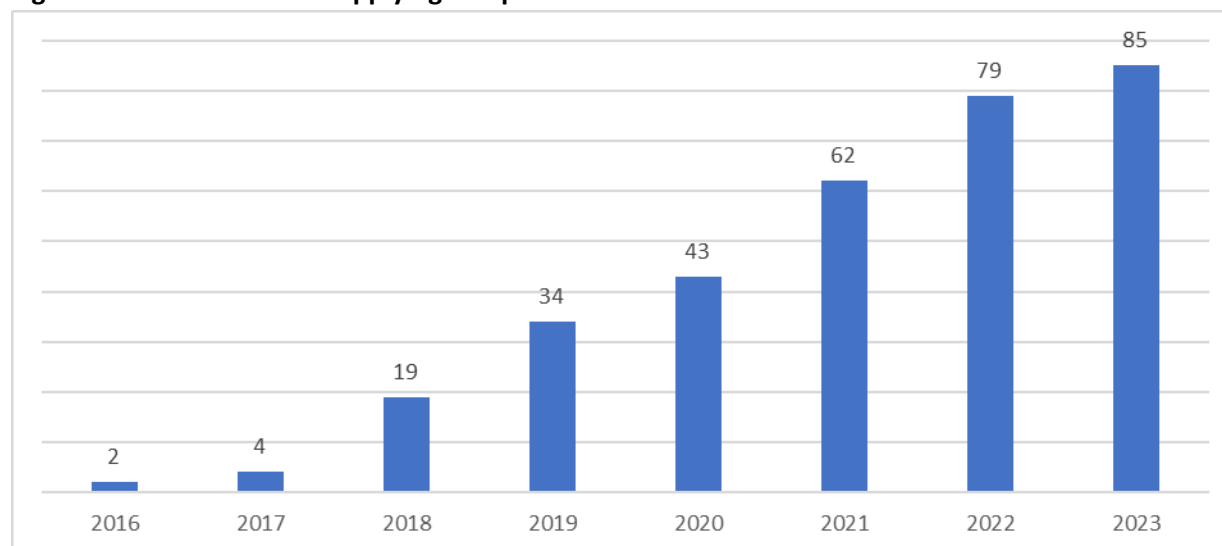
This section focuses specifically on recent changes to impose mandatory reporting obligations on the largest participants. Participation in credit reporting has historically been voluntary. However, in 2021, legislation mandating the four major banks supply comprehensive credit information to the three main CRBs came into effect in order to promote more rapid adoption of comprehensive credit reporting across the industry.

The government introduced this requirement after it came to the view that a voluntary regime would not achieve the government's target voluntary participation target of 40 per cent of all credit accounts.⁶¹ Mandatory credit reporting provisions required the four major banks to report specified types of information for all of their customers beginning in July 2022.⁶²

Has mandatory credit reporting achieved its policy objectives?

Mandatory credit reporting fundamentally seeks to ensure the benefits of comprehensive credit reporting are fully realised by directly addressing disincentives for credit providers to share their credit information with competitors. It aimed to address a first-mover problem to force the investment in systems to support comprehensive credit reporting, increasing the supply of information in the credit reporting framework, with the further aim of encouraging additional participation by other credit providers.⁶³

Figure 3: Credit Providers supplying comprehensive credit information⁶⁴



⁶¹ Morrison, Scott “Mandating comprehensive credit reporting”, Media Release, 2 November 2017.

⁶² The supply requirements (see 133CR and 133CU) require eligible licensees to supply mandatory credit information to eligible credit reporting bodies (see 133CN) with whom they had an agreement in force on 2 November 2017.

⁶³ Explanatory Memorandum, National Consumer Credit Protection Amendment (Mandatory Credit Reporting and Other Measures) Bill 2019.

⁶⁴ Arca – unpublished data. The 85 signatories listed in 2023 is based on the number of signatory CPs that were contributing CCR during that year and were still signatories as at 17 April 2024.

This should support improved competition between lenders, and encourage new lenders to enter the market, helping to put downward pressure on the cost of credit, and further increasing the supply of information in the credit reporting framework. Mandatory credit reporting now accounts for the supply of around 80 per cent of all credit accounts reported to CRBs. Additional credit providers beyond the mandated four banks are also voluntarily participating in comprehensive credit reporting.

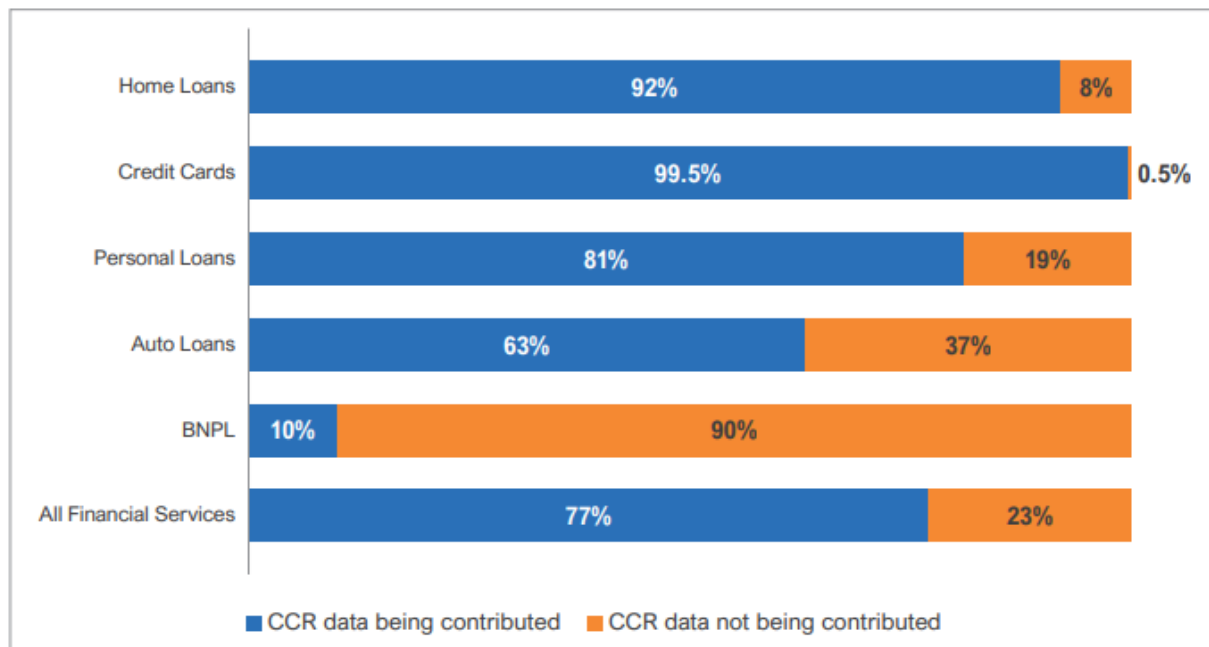
Should mandatory credit reporting be expanded?

Mandatory credit reporting under the Credit Act is limited to large ADIs with resident assets of at least \$124 billion (an increase from \$100 billion initially) and to certain types of credit information.⁶⁵ Other credit providers report credit information voluntarily if they report credit information at all. Some types of credit providers such as BNPL providers and unsecured personal lenders and consumer leasing providers have lower levels of participation in the credit reporting system. Expanding mandatory credit reporting to include a wider range of credit providers could improve the overall comprehensiveness and quality of data in the system, particularly for borrowers who rely on less mainstream credit providers.

Possible options to expand the scope of mandatory credit reporting could include:

- Broadening the definition to include smaller ADIs (for example, those with assets of \$50 billion or more).
- Applying mandatory credit reporting to some or all credit providers, including smaller ADIs, non-bank lenders including BNPL providers, payday lenders, consumer lessors, and telecommunications and utility providers, potentially with an asset threshold.
- Expanding the types of information that need to be reported under mandatory credit reporting to include additional data items.

Figure 4: Comprehensive credit information penetration by product sector⁶⁶



⁶⁵ National Consumer Credit Protection (Large ADI) Determination 2023, Part 2, section 5

⁶⁶ Arca, Credit Data Fact Base, September 2022, Version 10, p.6.

Technical issues with the mandatory credit reporting provisions

During 2021 and 2022, ASIC issued several no-action letters where practical issues were identified by the major banks in reaching the 100% supply requirements under the mandatory CCR regime.⁶⁷ The need for this temporary intervention suggests a lack of flexibility with the current mandatory credit reporting arrangements. There are several other technical issues with the way the mandatory credit legislation is drafted, including for example the definitions of 'eligible licensee' and 'eligible credit reporting body'.

Part Nine Questions: Mandatory credit reporting

- Has mandatory comprehensive credit reporting increased the voluntary participation of credit providers and the voluntary supply of credit information in the credit reporting system?
- What are the additional benefits to consumers, small businesses and credit providers from mandatory credit reporting?
- What have been the costs to implement mandatory credit reporting?
- Have there been any unintended consequences of mandatory credit reporting?
- Should the scope of mandatory credit reporting be expanded to include other credit providers or other types of information, and if so, how should this be done?
- Are the Part 3-2CA legislative provisions fit for purpose, and if not, what improvements should be made to ensure the legislation is working effectively?
- Are any of the Part 3-2CA provisions obsolete and can be removed?

⁶⁷ These letters related to CRB data rejections, family violence and unregulated credit contracts.

Annex A: Bilateral consultations

To inform the development of this issues paper Ms Richards consulted with the following organisations:

Organisation Type	Organisation Name
Government Departments	Attorney General's Department
	Department of the Treasury
Regulators and government agencies	Office of the Australian Information Commissioner
	Australian Securities and Investments Commission
	Australian Competition and Consumers Commission
	Australian Financial Complaints Authority
	Australian Prudential Regulation Authority
	Australian Law Reform Commission
Peak Bodies	Australian Retail Credit Association
	Australian Banking Association
	Australian Finance Industry Association
	Customer Owned Banking Association
	Law Council of Australia
	Australian Collectors & Debt Buyers Association
	Mortgage and Finance Association of Australia
Credit Reporting Bodies	Equifax
	Experian
	Illion
	Talefin
Credit Providers	ANZ Bank
	Commonwealth Bank
	National Australia Bank
	Westpac
	Macquarie
	Bendigo Bank
	Plenti
Consumer Groups	Financial Rights Legal Centre
	Financial Counselling Australia
	IDCare
Credit Repair	Credit Fix Solutions

Note: AFIA, MFAA and COBA consultations included some member organisations.

Annex B: CR Code Review – Issues referred for review⁶⁸

Issues for review of Part IIIA	Report reference
Proposal 3 – Write to the Attorney-General about the suggestion of including overarching principles in Part IIIA	2.1
Proposal 5 – Write to the relevant Ministers to raise the issue of interactions between Part IIIA and the mandatory CCR regime	2.2
Proposal 7 – Write to the Attorney-General about how to best accommodate other entities such as telco and utility providers operating in the credit reporting system	2.3.1
Proposal 8 – Write to the relevant Ministers to raise the issue of emerging finance products, such as buy now pay later (BNPL), operating in the credit reporting system	2.3.2
Proposal 9 – Write to the relevant Ministers to raise the issue of whether an Australian Credit Licence should be a requirement to participating in the credit reporting system	2.3.3
Proposal 12 – Write to the Attorney-General to raise the issue of exploring alternative funding avenues to support the OAIC’s credit reporting functions	3.1.2
Proposal 16 – Write to the Attorney-General to raise the issue of disclosing ‘historic’ consumer credit liability information (CCLI)	4.1.4
Proposal 18 – Write to the Attorney-General about the suggestion that credit providers must notify an individual when they disclose repayment history information (RHI) relating to missed payments	4.2.3
Proposal 20 – Write to the Attorney-General about the suggestion that credit providers must list default information within a reasonable time and retention period should apply from date of default	4.3.2
Proposal 22 – Write to the Attorney-General about the ongoing application of new arrangement information	4.3.4
Proposal 25 – Write to the Attorney-General about the suggestion that the notice framework within Part IIIA be reviewed	5.1
Proposal 27 – Write to the Attorney-General to raise concerns around the length of the initial credit ban period provided in Part IIIA	5.2.1
Proposal 34 – Write to the Attorney-General to raise the issue of real estate agents, landlords and employers accessing credit reports	5.3.5
Proposal 45 – Write to the Attorney-General to raise the issue of additional uses and disclosures of credit reporting information	6.2

⁶⁸ See the CR Code Review for more information.