Commonwealth Bank

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ABN 48 123 123 124

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Commonwealth Bank welcomes the opportunity to contribute to Treasury's consultation on the Exposure Draft to create a mandatory comprehensive credit reporting regime.

Commonwealth Bank supports the Government's aims of increasing competition and improving lending standards through comprehensive credit reporting. We reiterate our commitment to be fully compliant with the scope and timeline for implementation.

Security

Our highest priority as a bank trusted by millions of Australians is ensuring the security of our customers' finances and sensitive financial information.

As the number and sophistication of cyber-attacks increases, the need for strong and reliable cyber security defences will intensify. Strong and continuously improving cyber security capabilities within financial institutions and credit reporting bodies is critical to ensuring the financial wellbeing of all Australians.

The current credit reporting regime will bring into a single place the personal and financial information of most of the Australian adult population. The breach of more than 145 million customer credit report files held by Equifax in the U.S. brings into sharp relief the potential implications of inadequate cyber controls.

Commonwealth Bank notes and welcomes that the Exposure Draft has taken steps to lower cyber security risks by prescribing that CCR data must be domiciled in Australia, and building in a mechanism for continual uplift of cyber security standards (sec 133CS).

The Exposure Draft also leaves open a path to potential alternate implementation models in the future with much lower inherent risk (e.g. the decentralised model currently under development for Open Banking). This has been achieved by not mandating participation in the PRDE[1] given that it would need to be modified to support a decentralised model.

1 Principles of Reciprocity in Data Exchange

Continuous improvements in cyber security standards

Section 133CS of the Exposure Draft sets out the conditions under which a Credit Provider is exempted from providing the initial bulk supplies of data to a particular CRB if the credit provider reasonably determines that the CRB has failed to comply with the data security requirements in section 20Q of the Privacy Act.

Given that the sophistication of cyber threats will continue to increase, Commonwealth Bank also notes that compliance with Section of 20Q of the Privacy Act will require ongoing investment to ensure that an organisation is taking "reasonable steps" to protect consumers' sensitive financial data.

Commonwealth Bank recommends that Section 133CT be amended to include similar language to Section 133CS for exempting the supply of data not just from the initial supply, but also at a later date should a CRB be found to have not taken "reasonable steps" to continue to protect consumers' data.

Recommendation 1: Section 133CT be amended to include similar language to Section 133CS for exempting the supply of data on an ongoing basis.

Reasonable steps to protect customer data

Credit Reporting Bodies are must take "reasonable steps" to protect customer data. This is different to the more stringent regulation for banks[2] and results in a difference in security standards.

As such, Commonwealth Bank strongly endorses the continual review and enhancement of Government oversight in the area of cyber security, and more guidance on what reasonable steps should be taken with respect to protecting customer data under CCR.

Recommendation 2: ASIC should develop an appropriate cyber security technical standard ahead of the initial bulk transfer of customers' credit information. This standard should be reviewed again ahead of the requirement to supply credit information on all credit accounts.

[2] For example, APRA regulations CPG 234 and 235 require that banks must encrypt data while at rest, to restrict access to that data by unauthorised actors.

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Alignment with Open Banking

The recently published review into Open Banking recommended that an independent Data Standards Body set standards for banks to share customer data with accredited third parties[3].

The Data Standards Body should "incorporate expertise in the standards-setting process and data-sharing, as well as participant and customer experience" (Recommendation 2.6). Commonwealth Bank has expressed its support for this expertise-based, collaborative model.

The same approach will enable safe data flows under the proposed CCR regime changes as well. There is clear benefit to the industry for data sharing standards and regulation to be aligned over time.

Recommendation 3: Data sharing standards and regulation across various data reporting regimes, including for CCR and Open Banking, should be aligned over time.

Retaining flexibility to lower inherent cyber risks

CBA supports the objectives and principles behind the PRDE framework, and acknowledges that it has been developed by the industry over a number of years. However it contains clauses that inadvertently rely on the current centralised, batch-based model of credit reporting. In effect, it is not technology neutral.

There is a risk that mandating the way in which data will be transferred could restrict the development of future technological solutions for data sharing, such as the real-time data transfer that is being developed for an Open Banking regime.

Such technical developments are likely to lower inherent data security risks. The principle that regulatory frameworks should evolve with industry practice and technological advances is an important one.

Section 133CT of the Exposure Draft allows regulations to be prescribed that could permit other forms of data exchange other than bulk transfers. This is an important feature of the Exposure Draft, and one that needs to be preserved to not inhibit continuous improvement in implementation models.

Recommendation 4: Commonwealth Bank strongly supports maintaining a framework for sharing data outside of the PRDE, to preserve technological neutrality into the future

[3] Treasury, 2018, "Review into Open Banking in Australia – Final Report".

Areas for Further Clarification

In addition to the recommendations above, Commonwealth Bank would benefit from further clarification in two key areas of the Exposure Draft.

Definition of Consumer Credit

There is an inconsistency between "consumer credit" as defined by the Privacy Act and a "credit contract" as defined by the Credit Code (part of the National Consumer Credit Protection Act – NCCP Act).

As the Exposure Draft currently stands, credit providers will need to supply credit information on unregulated credit contracts if they fall within the wider definition of "consumer credit" in the Privacy Act, even though the Exposure Draft is an amendment to the NCCP Act.

Recommendation 5: Confirm that the definition of "eligible account" for the purposes of CCR is aligned with that contained in the Credit Code, rather than the Privacy Act.

Customers in Hardship

The Exposure Draft makes no mention of how Credit Providers should report the repayment history information (RHI) of customers who have entered into hardship arrangements.

If not thoughtfully implemented, this could result in a reluctance of customers to enter into hardship arrangements and an unwillingness to have open and frank conversations about their circumstances.

Commonwealth Bank works closely with customers who experience financial stress and, in such circumstances, encourages them to contact the bank to discuss potential solutions including entering into an arrangement tailored to their circumstances.

Further clarity on the RHI reporting requirements for customers in hardship would be welcomed, particularly given that the Exposure Draft makes it clear that data supply on 100% of accounts need to be provided in 2019.

Recommendation 6: Provide clarity on Treasury's expectation of how reporting or repayment history information for customers in hardship should occur under the Bill.