

7 June 2024

Ms Heidi Richards
Independent Reviewer
Attorney-General's Department

Via email: CreditReporting@ag.gov.au

Dear Ms Richards

Review of Australia's Credit Reporting Framework

COBA welcomes the opportunity to comment on your issues paper on Review of Australia's Credit Reporting Framework. We also thank you for the opportunity to engage on these issues in the development of the issues paper.

COBA is the industry association for Australia's customer owned banking institutions (mutual banks, credit unions and building societies). Collectively, our sector has around \$175 billion in assets and 5 million customers. Customer owned banking institutions account for around two thirds of the total number of domestic Authorised Deposit-taking Institutions (ADIs) and deliver competition and market leading levels of customer satisfaction in the retail banking market.

Our members have a wide range of business models and service different demographics including those originating from employee groups (e.g., essential workers) or specific regional areas. The customer-owned banking sector has a long history of putting our customers first.

Key points

The customer-owned banking sector views comprehensive credit reporting (CCR) as a risk-based tool to support efficient and responsible lending decisions. Our members using comprehensive credit reporting are in the early stages of integrating it into their lending processes.

However, COBA does not support further mandatory CCR participation. While around a third of our members have made the business decision to adopt CCR, for those yet to do so, mandatory participation would require significant investment. This investment would happen at the same time as a significant regulatory change agenda and could divert resources from higher value activities to benefit current and prospective customers. These impacts would be particularly acute for smaller banks.

COBA does not support additional unjustified or untested regulatory burden impacting our members. Any law reform would need to be carefully tested with industry to assess the practical impact on systems, resources, and impact on competition.

COBA supports an expansion of the data points available in the credit reporting system, for example, in relation to drawn balance of a credit facility, interest rate and repayment information.

COBA supports a single, adequately funded regulator to oversee credit reporting.

Importance of credit reporting to the customer-owned banking sector

COBA supports a consistent, fair, accessible, and efficient credit reporting system. COBA members use credit reporting to inform lending decisions. Participation in the system, including supply and consumption greatly varies between our diverse members. Around a third of COBA's members, particularly our larger members, participate in comprehensive credit reporting (CCR), and have invested significantly to be a part of the system.

While these members may not fully yet rely on CCR, CCR is an important tool that can inform a credit assessor's decision making. Credit reporting assists members in meeting their responsible lending obligations as set out in Chapter 3 of the *National Consumer Credit Protection Act 2009* as well as reduce potential loan losses, promoting financial safety of banks and the broader financial system.

Mandatory credit reporting

COBA does not support expanding mandatory participation in CCR. COBA members range in size from approximately \$100 million in total assets to around \$25 billion in total assets for our largest member.

COBA supports the current scope of mandatory CCR for large ADIs (more than \$100 billion in assets). This approach avoids imposing unnecessary costs on smaller banks while creating a critical mass of CCR data to encourage other credit providers to undertake the investment needed to voluntarily participate in CCR. This approach allows smaller banks to be able to decide when to participate in CCR according to their own investment schedules and priorities.

While mandatory credit reporting has increased the information available in the system (and therefore benefits to participants) and voluntary participation of non-mandated credit providers, expanding mandatory credit reporting to a wider range of entities has the potential to lead to more cost than benefit for smaller banks. This is due to the disproportionate costs of system set ups and staff training costs compared to the limited benefit from CCR participation to that bank. We note that smaller banks do opt into CCR when it is economically viable (around a third of COBA members are currently in it). Further consultation will be necessary if mandatory CCR is expanded.

Impact of credit reporting framework

COBA members that have implemented CCR noted that it has improved lending decisions. While members are not fully reliant on the information provided, credit assessors are able to make more informed decisions. CCR has also resulted in greater efficiency in decision making as members see more information upfront, which results in less back and forth with the consumer and therefore improves speed of decision and the overall customer experience.

Broadly our members are of the view that the more information is available, the more accurately banks can price for risk and improve access to credit for consumers who may otherwise be declined. However, our members are in the early stages of adoption of CCR and require a significant uplift in systems and policy if they were to use this data to price for risk. Our members may consume CCR manually or have some automated decision strategies. CCR is also used as a verification tool.

Members have made the following observations about adoption of CCR:

- CCR can allow for better pricing for lower risk customers.
- CCR can allow COBA members to offer loans responsibly to a greater number of borrowers given it provides a more complete picture of their financial situation.
- One member noted that it the current main pricing lever is a non-CCR piece of data (loan-to-value ratio) and would require significant uplift in systems and policy to price for risk.
- There is support for the Principles of Reciprocity & Data Exchange (PRDE) arrangements for promoting competition and innovation and improved lending decisions.

Credit Reporting Bodies

The cost of subscribing to credit reporting bodies (CRBs) is significant for our members. Some members have noted that it is only economical for small banks to subscribe to one CRB rather than to all three. There is support amongst COBA members for CRBs to share all data between them. One member has noted that having multiple CRBs introduces uncertainty in information received when a member subscribes only to one CRB and the CRBs do not hold the same data.

When considering competition and innovation and new CRB entrants, COBA members note that there are significant costs involved in being a CRB which can be a deterrent to potential new entrants.

The Credit reporting framework

Changes to the current framework

COBA generally supports the notion that credit reporting legislation should be aligned and consistent with financial services regulation. However, COBA strongly objects to any additional unjustified or untested layers of regulation. Additional regulatory burden will further reduce competition in the banking sector and may result in additional costs passed on to consumers for little benefit.

Further, due to the highly technical nature of the credit reporting framework, any specific changes to the current framework need to be considered closely and extensively to ensure consistency and the viability of operational execution by credit providers, especially smaller credit providers and smaller banks that need to invest disproportionate amount of resources compared with their size, to adjust to any regulatory change.

Other feedback from our members include:

- Our members have broadly expressed that the scope of the *Privacy (Credit Reporting) Code 2014* (CR Code) is appropriate.
- One member has noted that intermediary service providers between credit providers and CRBs need to have a more regulated and standardised format in which they are supplying their services.

Financial Hardship information

Our members have welcomed the introduction of financial hardship information as it gives our members a more comprehensive understanding of a consumer's situation.

COBA is aware through our work with consumer advocates and our members that some consumers may be apprehensive to provide a hardship notice under section 72 of the National Credit Code or agree to enter into hardship arrangements due to the consequences on their credit report.

COBA believes that consumer education and empowerment is key to changing this apprehension. COBA is supportive of initiatives by industry or government to improve consumer understanding of credit reporting, including the impact of Repayment History Information (RHI) and Financial Hardship Information (FHI) on their credit report. We will continue to engage with consumer advocates through our Consumer Representatives Forum and informal channels to understand and respond to any ongoing concerns.

Single regulator

COBA supports a single, adequately resourced regulator that has expertise in credit reporting. We believe this is vital to ensure the integrity of the system as well as to promote fair consumer outcomes.

We do not consider such a regulator requires additional powers. We also do not support additional layers of regulations for our members who are already navigating a complex regulatory framework.

COBA also supports external dispute resolution (EDR) schemes continuing to play a key role in addressing consumer complaints. As there are several EDR schemes that have jurisdiction to accept credit reporting complaints (in financial services, telecommunications, and utilities) we support consistency of approach between the EDR schemes and between decision makers within each scheme, to promote the integrity of the system and adequate consumer protection. We also support mechanisms within EDR schemes to quickly stem out third-party paid representatives lodging disingenuous complaints on behalf of vulnerable consumers.

Interaction with Consumer Data Right (CDR)

COBA does not consider CDR as a replacement to credit reporting and considers CDR quite distinct to comprehensive credit reporting with different objectives. CDR focuses on the consumer deciding which information will be shared, whereas comprehensive credit reporting provides a 'fuller picture' of the consumer's financial situation. Our members who are utilising comprehensive credit reporting have invested heavily in systems, training and processes to participate in the credit reporting system. COBA therefore supports the continued development of comprehensive credit reporting. While CDR, at some point in the future, may replace some aspects of the financial information available through credit reporting, the industry is a long way from that point. Given COBA's concerns about the continuously changing CDR regime and whether it has met its intended pro-competition promise, we are wary of further changes that could 'muddy the waters' on the regime's objective.

Role of the Australian Retail Credit Association (Arca)

Many COBA members are also Arca members, signatories to the PRDE, or both. These joint COBA-Arca members have expressed broad satisfaction with Arca's expertise in credit reporting and approach to its members. Arca also may engage with COBA, as an industry association, in relation to matters that affect our members and with a view to promote consumer understanding of credit reporting.

Some COBA members noted the following about Arca:

- Arca has attained the appropriate balance between protecting the interests of consumers and those of the credit providers and CRBs.
- Members feel as 'equal weight' in the conversation when a part of an Arca working group.
- A COBA member has representation at a board level.
- Members welcomed Arca's support around hardship reporting implementation.

Another COBA member who is a signatory to the PRDE (but not an Arca member) has noted that there is frequent communication from the PRDE with expectation that members participate in the decision making, however, like most smaller banks, the member bank does not have the resources to actively participate in the discussion and decision-making process.

Credit data

Additional credit information

COBA members support including additional information in the credit reporting system. Further information on repayments and credit facilities can assist our members to make improved credit decisions and therefore lend to a wider range of borrowers while remaining with their risk appetite and while meeting their legislative requirements (that is, responsible lending).

Additional information that would be beneficial to credit assessment includes:

- Drawn balance of a credit facility and repayments.
- Interest rates on facilities and term expiries or length of term. This can reduce rework of credit assessment and lead to better accuracy and faster more accurate decisions being made.
- Written Off (abandoned) status for closed loans would be beneficial to assist with providing a fuller picture on those types of closed loans.
- Utilities such as rates could be an early warning sign of hardship. Consideration should be given on payment frequency, timeliness and not just arrears.
- More credit information on utilities and telecommunication accounts can result in COBA members lending to low-risk consumers with limited credit history who would otherwise be declined for credit. For example, young adults with no prior financial services credit products but with a mobile phone account paid regularly. While larger banks can see regular bill payments through other transaction accounts, COBA members may not have access to such information.
- Buy Now Pay Later (BNPL) information including credit limits. This can also help consumers to stay within their financial means.

Our members have noted the following considerations in relation to data:

- Retention period: Members broadly have not expressed concerns with the current timeframes. However, there are some exemption considerations, for example, making listing a scalable activity as well as possible introduction of differing degrees of listings/defaults in the case of uncontrollable external factor such as COVID, natural disasters or even current costs of living pressures.
- Limitations on listing of defaults long after the debt was due: COBA members are of the view that no change is required. More emphasis should be put on making sure that (like in the PRDE) defaults should be listed within a reasonable time from when they can be listed.
- Listings may include different 'degrees' of defaults / flags to reflect uncontrollable external events such as a pandemic or natural disaster.

Further feedback related to access and use of credit reports is included **Appendix A**.

Consumer protection and awareness

Strong consumer education and awareness is key to help alleviate some of the consumer apprehension about RHI and FHI. For consumers entering their first credit contracts (for example, first personal loan or credit card), there could be standardised information that helps to explain the consequences of not meeting their financial obligations. This would make it easier for consumers to understand, improve the language used and move away from language that may cause apprehension. Language could be standardised nationwide regardless of the credit provider.

Further clarity should be provided to consumers about how credit information and credit reporting is used to make decisions and that the information is not necessarily to the consumer's detriment. Explanation should be in a consumer-centric language that promotes consumer engagement with the system.

First Nations people in remote communities may have limited knowledge, understanding or engagement with the credit reporting system and it can be daunting for them to engage with their credit provider. Culturally appropriate education is critical to empower First Nations people to engage with credit reporting. Support from financial counsellors in local communities can assist with removing barriers and further promoting outcomes for indigenous Australians. COBA members regularly attend ASIC's First Nations industry workshops, as part of ASIC's Indigenous Financial Services Framework, where participants explore how to improve culturally sensitive engagement with First Nations people and their broader communities.

Further suggested arrangements to better protect consumers are details in **Appendix A**.

Credit Repair

COBA supports an accurate and efficient credit reporting system. Any requests for credit report corrections must be genuine. We are concerned credit repair firms may be routinely using Internal Dispute Resolution (IDR) and EDR to pressure credit providers to amend genuine listings. Amendments of genuine listings compromise the integrity of the credit reporting system. Consumers may also be charged for these services when corrections are free of charge and free IDR and EDR is available. Financial counsellors also offer free independent advice and are available to assist consumers experiencing hardship.

While we welcome licensing requirements for debt management firms, further work should be undertaken to consider the regulatory framework around credit repair firms who charge a fee for their services. Additional requirements may include mandatory disclosures or prohibitions on specific conduct. Consumer education also plays a paramount role in protecting consumers from spending money to 'fix' their credit report when free help is available.

COBA members will continue working to provide the highest levels of customer satisfaction and promote trust within our sector. Consumers are encouraged to speak to their bank directly when experiencing hardship or seeking to correct information on their credit report. Consumers can also contact a financial counsellor for free independent advice.

If you wish to discuss this submission, please contact Ilana Madjar, Policy Manager, (imadjar@coba.asn.au).

Yours sincerely



MICHAEL LAWRENCE
Chief Executive Officer

Appendix A – Consumer protection and awareness

The following arrangements can be improved to better protect consumers at reasonable cost:

- **Correcting a credit report:** Correcting credit reports at a consumer's request should be managed by a central point and not by individual credit providers unless an error is made by the credit provider.
- **Placing a ban on accessing a credit report:** COBA members support greater sharing of information across CRBs. This can include a process whereby CRBs are required to communicate to each other to ensure bans and flags on accounts are placed across each CRB.
- **Credit reporting notification framework:** The notification framework improves early detection of financial difficulty, enabling changes to be made before the consumer moves into hardship. Currently, the system with joint loans where there is potential domestic violence provides challenging scenarios. Individual reporting for joint loans where there is domestic violence arising could potentially help to protect people experiencing domestic violence.
- **Protections for victims of financial abuse and family violence:**
 - COBA would welcome measures to protect the safety and privacy of a domestic family violence victim-survivor and preventing credit reporting from being weaponised against the victim-survivor. COBA supports the principles set out in the Centre for Women's Economic Safety's paper [Designed to Disrupt](#). The paper discusses the risks and harms in the context of joint accounts and default-listing of co-borrowers. We encourage changes to the reporting system to protect and support victim-survivors.
 - One COBA member notes that careful consideration needs to be given to this issue, including any requirements for a police report or a court order.
 - COBA understands that the CR Code reviews are looking at some of these issues and we welcome developments in this area.

Access and use of credit reports

COBA notes the following in relation to access and use of credit reports:

- Credit reports should only be used for credit purposes only and should not be used for other purposes.
- Further education and consumer awareness about the access seeker arrangements would be beneficial so that consumers understand what information they can obtain from credit providers and credit reporting bodies. COBA supports this to be a free service for consumers.
- COBA members receive through the broker-introduced lending channel foreign based applications. Having more credit reporting information on these types of borrowers in the would assist in making quicker and better-informed credit decisions.