



PricewaterhouseCoopers  
Independent Reviewer  
Review of the Privacy (Credit Reporting) Code 2014  
Office of the Australian Information Commissioner

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16 October 2017

Dear Sir/Madam

### **INDEPENDENT REVIEW OF THE PRIVACY (CREDIT REPORTING) CODE 2014**

The Insurance Council of Australia<sup>1</sup> (the Insurance Council) appreciates the opportunity to provide a submission to the independent review of the Privacy (Credit Reporting) Code 2014 (the Code). We note that the scope of the independent review (the Review) is to consider broadly the interaction between the *Privacy Act 1988* and the Code, the practical operation of the Code and any issues regarding industry non-compliance with the Code.

As pointed out in the Consultation Issues Paper to the Review, there is a heightened level of community interest in comprehensive credit reporting (CCR). This is particularly the case following the release by the Productivity Commission (the Commission) of its report on its Inquiry into *Data Availability and Use*<sup>2</sup>, which recommended mandating CCR if voluntary CCR participation targets were not met, and, consistent with those recommendations, the Government's announcement<sup>3</sup> earlier this year regarding a mandatory CCR regime.

In this context, the Insurance Council urges the Review to consider, the significance of CCR to lenders' mortgage insurance (LMI) providers operating in Australia, and the fundamental role that CCR plays in facilitating greater access to home ownership for Australians, particularly for low income, low equity and higher-risk borrowers who have the capacity to repay a loan but do not have a significant deposit.

As the Review is considering the practical operation of the Code, the Insurance Council suggests that the Review also examine the current level of participation in CCR. This would be directly relevant to the operation of the Code and timely, given the December 2017

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<sup>1</sup> The Insurance Council of Australia is the representative body of the general insurance industry in Australia. Our members represent more than 90 percent of total premium income written by private sector general insurers. Insurance Council members, both insurers and reinsurers, are a significant part of the financial services system. June 2017 Australian Prudential Regulation Authority statistics show that the private sector insurance industry generates gross written premium of \$45 billion per annum and has total assets of \$124.9 billion. The industry employs approximately 60,000 people and on average pays out about \$135 million in claims each working day.

Insurance Council members provide insurance products ranging from those usually purchased by individuals (such as home and contents insurance, travel insurance, motor vehicle insurance) to those purchased by small businesses and larger organisations (such as product and public liability insurance, professional indemnity insurance, commercial property, and directors and officers insurance).

<sup>2</sup> Productivity Commission [Inquiry Report: Data Availability and Use](#), No. 82 31 March 2017. Pages 228-231 refer.

<sup>3</sup> Commonwealth Treasurer, the Hon Scott Morrison MP, [media release](#) 9 May 2017.

deadline originally proposed by the Government and that the final report of the Review is due by the end of next month.

### **LMI and comprehensive credit reporting data**

LMI has been a critical component of the Australian housing market since 1965, facilitating home ownership and accessibility to credit for millions of Australian borrowers, as it enables those who would otherwise have difficulty obtaining a home loan to satisfy responsible lending criteria and purchase a home.

LMI providers also play a significant role in promoting market discipline and scrutinising the quality of credit in the Australian mortgage market, which can help ensure that certain potential borrowers do not take on loans that would otherwise be unmanageable in their individual circumstances. LMI providers therefore help reinforce prudent lending standards and support a more resilient and stable financial system.

In support of sound lending practices, LMI providers rely on access to CCR information (such as defaults, bankruptcies, writs or summons) to appropriately identify, measure and price risk in providing mortgage insurance coverage. This is why direct access to all available credit information on a borrower is integral to the business model of all LMI providers under Australia's prudential regulatory regime – this includes understanding and provisioning for the risk of the portfolio, holding appropriate capital as required under Australian prudential standards and the use and application of scoring tools to determine risk appetite and exposure.

CCR is also fundamental to the efficient and effective operation of lenders, as emphasised by the Productivity Commission:

*“The efficient and effective operation of credit markets relies on credit providers being able to access sufficient (and reliable) information about borrowers to form a basis for making decisions about who to lend to, and at what price.”<sup>4</sup>*

The Insurance Council notes that the Financial System Inquiry (FSI) recommended in 2014<sup>5</sup> that if CCR participation is inadequate over time, the Government should consider legislating mandatory participation. In support of its recommendation, the FSI clearly emphasised that:

*“... sharing of credit data would reduce information imbalances between lenders and borrowers. It would also facilitate borrowers switching between lenders and greater competition among lenders ...” and “... reduces the likelihood that originated loans will default (reducing interest rates) and/or increases the availability of credit.”<sup>6</sup>*

In this context, as LMI providers take on the same risk as lenders, initiatives that support CCR can significantly enhance an LMI provider's ability to accurately assess risk and provide LMI for the benefit of potential borrowers. This is the central reason why the Insurance Council supports the Productivity Commission's recommendations regarding CCR and the Government's approach to implementing those recommendations.

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<sup>4</sup> Productivity Commission [Draft Report](#): Data Availability and Use, October 2016. Page 165 refers.

<sup>5</sup> Financial System Inquiry [Final Report](#), November 2014. Pages 190-192 refer.

<sup>6</sup> Ibid.

## Mandating comprehensive credit reporting

As the Review is aware, the Commission's final report on its Inquiry into *Data Availability and Use* recommended that the Government adopt a minimum 40 per cent target for voluntary participation in CCR (of all active credit accounts across the industry, for which information is supplied to the credit bureaus in public mode). It also recommended that if this target is not achieved by 30 June 2017, the Government should mandate CCR by 31 December 2017.<sup>7</sup>

Consistent with the Commission's CCR recommendations, the Commonwealth Treasurer, the Hon Scott Morrison MP, announced on 9 May 2017 that the Government will legislate a mandatory CCR regime if credit providers are not reporting at least 40 per cent of their data by the end of this calendar year, adding that:

*"Credit markets will operate more efficiently and effectively if credit providers have access to sufficient and reliable data about borrowers to inform decisions about who to lend to and on what terms."*<sup>8</sup>

The Insurance Council understands from industry sources that the public reporting of CCR information is currently occurring in small volumes, notwithstanding some recent industry developments, translating to a public participation rate of around 1 per cent. It would therefore be useful for the Review to canvass any changes in the public reporting of CCR information, as suggested above, as this is directly relevant to the operation of the Code.

If you have any questions or comments in relation to our submission, please contact John Anning, the Insurance Council's General Manager Policy, Regulation Directorate, on tel: (02) 9253 5121 or email: [janning@insurancecouncil.com.au](mailto:janning@insurancecouncil.com.au).

Yours sincerely



Robert Whelan  
Executive Director and CEO

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<sup>7</sup> Productivity Commission [Inquiry Report](#): Data Availability and Use, No. 82 31 March 2017. Pages 228-231 refer.

<sup>8</sup> Commonwealth Treasurer, the Hon Scott Morrison MP, [media release](#) 9 May 2017.