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Zacki Assifi
(A/g) Assistant Director
Market Conduct and Digital Division, Markets Group
The Treasury
Level 29, 201 Kent Street,
Sydney NSW 2000

By email: CDRRules@treasury.gov.au

Dear Zacki

Consumer Data Right (CDR) in non-bank lending – Consultation on CDR rules: consent and operational enhancement amendments – Australian Securitisation Forum response

On behalf of the Australian Securitisation Forum (ASF) and its members, we are writing in response to Treasury's consultation released in August on the proposed amendments to the CDR rules: consent and operational enhancement amendments proposed in the draft legislation and explanatory statement (consultation).

The ASF is the peak body representing the securitisation industry in Australia and New Zealand. The ASF's role is to promote the development of securitisation in Australia and New Zealand by facilitating the formation of industry positions on policy and market matters, representing the industry to local and global policymakers and regulators and advancing the professional standards of the industry through education and market outreach opportunities.

ASF support for the application of CDR to the finance sector

The ASF's comments on the proposed amendments to the CDR Rules are limited to information received from ASF members who are in the business of providing finance but are not '*authorised deposit-taking institutions*' ('ADIs') and therefore are not regulated by APRA. However, the ASF and its members continue to support the application of the CDR to the wider economy including the finance sector to give consumers the option to securely share their data with banks, financial services firms and other sectors enabling them to switch to products and services that will suit their needs. CDR is expected to give consumers greater control over their data and potentially generate competition and product innovation across the finance industry with greater choice and access to finance for consumers.

Proposed CDR rules amendments: consent and operational enhancement

The ASF has reviewed the proposed amendments to the CDR rules (as described in the consultation and supporting draft legislative package). Although the consultation is specifically addressed to the banking and energy sectors, the ASF is broadly supportive of the proposed amended CDR rules and to the extent that they can apply to non-ADI/non-bank data holders.

We note that non-bank lenders have been referenced in the questions in the blue box in Section 2.2. Accordingly, we provide the following responses to each of those questions in relation to non-ADI/non-bank lenders:

- *Is the requirement for the ADI to provide information about the manner in which they propose to treat the data adequate to ensure the consumer has the information they need to make a decision to allow data to be held as a data holder rather than an ADR?*

Yes

- *Should the ADI be required to advise the consumer that the data will be subject to the Australian Privacy Principles?*

No, this is not required as consumers will most likely assume this

- *Are the new circumstances sufficiently broad to support key use cases for accredited ADIs receiving CDR data?*

Potentially, for additional clarity, this should identify that this includes customer applications lodged via an intermediary (e.g. mortgage broker)

- *Should these broadened circumstances be replicated for energy retailers (see existing clause 9.2, Schedule 4) and for non-bank lenders?*

Yes

Timing of implementation of CDR to non-bank lenders

As previously highlighted to Treasury in the ASF's submissions dated 9 May 2022, 7 February 2023 and 29 September 2023, Treasury needs to be aware that within the non-bank lending sector there are resource and cost considerations in relation to the implementation of CDR requirements. This is largely attributable to the difference in scale between the larger, longer established non-banks and institutions, including ADIs, and non-banks in both compliance and technical development capabilities.

Therefore, we ask Treasury to be mindful that non-bank lenders are going to need a significant period of time (possibly up to 2 years) to design and build homogenous systems to meet the specific data requirements of CDR implementation. Because there are vastly different systems used and product diversity across the non-bank lending sector, there is a greater need for specification with respect to data collection and reporting to reflect the product diversity of non-bank lenders. This will have a flow on effect on the timing and cost to build CDR related systems.

We look forward to hearing when the CDR regime will be applied to the non-ADI/non-bank lending sector and notification that there will be an adequate transition period for CDR implementation to the sector.

The ASF appreciates Treasury's consideration of the matters raised in this letter and is always willing to participate in any ongoing dialogue relating to CDR and its application to the non-ADI/non-bank lending sector and the Australian securitisation market.

Yours sincerely,

A handwritten signature in black ink that reads "Chris Dalton". The signature is written in a cursive, flowing style.

Chris Dalton, Chief Executive Officer – Australian Securitisation Forum