

20 July 2020

ACCC's Consultation on draft rules that allow for accredited collecting third parties ("intermediaries")

By email: ACCC-CDR@acc.gov.au

Thank you for the opportunity to provide a submission in response to the ACCC's draft intermediary Rules.

ARCA provided a [submission](#) in response to ACCC's earlier consultation on facilitating participation of intermediaries in the CDR regime. In that submission we noted the need for a flexible rules regime to allow for the provision of intermediary services that recognise – and do not overly interfere with – the way commercial relationships between the intermediary (i.e. the 'provider' in the proposed Rules) and the client (i.e. the 'principal') are structured and how the range of services are supplied to clients. In the absence of a response to submissions paper in respect of the earlier consultation, we ask that our feedback to that process be considered in respect of this consultation.

Rules that adequately and appropriately provide for the use of intermediary services under the CDR regime have the potential to allow a much wider range of businesses to participate (even if in a more limited form); which will increase the consumer and competition benefits of the CDR regime. In our earlier submission, we described the use of the CDR regime by finance brokers as an example of how this could work; which also illustrated the need for flexible rules in relation to intermediaries. We note that our view was shared by other stakeholders who also made submissions to that earlier process.

Another example of the value of intermediaries would be to small businesses who would benefit from limited access to CDR data but do not need full access and would not be able to afford the costs of full accreditation. For example, a small lender may want to access a customer's CDR data (with consent) to verify the income figure provided by that customer using the income-related credits into a transaction account. The lender does not need or want to access any other data and, in fact, needs only a Yes/No response to whether the income credit are at least at great as the income disclosed by the customer (i.e. they do not even need the precise dollar figure of those transactions). Allowing the lender to use the services of a fully accredited intermediary, without requiring the lender to hold accreditation itself, would allow the lender to more efficient and securely verify the customer's income – providing benefits to both the lender and consumer. Further, the use of an intermediary service by that small business would mean that the access through the CDR regime is being done by a specialist service which, in turn, improve adherence to the requirements of the CDR Rules.

The draft intermediary rules provide for a very limited form of intermediary relationship and do not support the types of services that are described in our earlier submission (such as the broker and income verification examples). In particular, the rules that require both the principal and provider to be fully accredited and the liability regime do not support the participation of genuine intermediaries in the CDR regime, e.g. where a fully accredited intermediary would directly participate in the regime, while the client would indirectly participate and, potentially, receive more limited access to CDR data (including derived data).

While the draft rules may support a very limited concept of intermediaries (e.g. where the intermediary can help the principal to comply with the principal's own compliance requirements), they do not support the broader concept of intermediary services. We note that the earlier consultation paper recognised that if the rules "provide for an accredited intermediary to collect CDR data on behalf of a data recipient, it could facilitate entry into the CDR regime of data recipients with a lower tier of accreditation if the intermediary will manage risks associated with the data recipient collecting, storing or using CDR data". The consultation materials for the draft Rules do not provide any commentary in relation to this issue, or explain why it has not been pursued further.

Given the significant consumer and competition benefits that will result from a proper intermediary function, we strongly recommend that further work be conducted to develop rules that facilitate the provision of intermediary services as described in our earlier submission. In the absence of these additional rules, it is likely that the use of intermediary services will be limited, and the benefits of such services will not be realised. As noted above, we refer to our earlier submission for our additional comments.

If you have any questions about this submission, or would like ARCA to share any previous submission made by us in relation to the CDR framework, please feel free to contact me on [REDACTED] or at [REDACTED] or [REDACTED] on [REDACTED] or at [REDACTED]

Yours sincerely,



Mike Laing
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