

7th February 2020

To whom it may concern,

Thank you for the opportunity to comment on the participation of intermediaries in the CDR regime.

Equifax is a global information solutions company. We use data, innovative analytics, technology and industry expertise to transform knowledge into insights that help our customers make informed decisions. Headquartered in Atlanta, Equifax operates in North America, Central and South America, Europe and the Asia Pacific region. Established as The Credit Reference Association of Australia in 1967, then as Veda and now Equifax, we have deep and long experience in data governance across the information lifecycle. We continue to invest in our data and security processes, systems, people and policies.

In Australia, Equifax customers range from large global businesses to small fintechs who still are establishing their value propositions. Our products are consumed by most customer segments and in most cases, we assist them to smooth and simplify their processes so they can focus on delivering their various value propositions to market. In this way, we believe we play a natural intermediary role for them.

We are therefore delighted and supportive of an expansion of the CDR rules to permit the use of intermediaries that facilitate the collection and analysis of CDR data from data holders on behalf of accredited persons. We also support permitting the disclosure of CDR data from accredited persons to non-accredited third parties, in appropriate circumstances. We have experienced over many years demand from our customers to access products and services that take complex and relatively unstructured data and provide products that standardise and simplify that data for easy consumption and decision making.

Market evolution

Equifax also recognises that the digital data capture market has evolved organically to include intermediary solutions that already provide transaction data enrichment services. In most cases, those businesses who will eventually become Data Holders under the CDR are already comfortable using intermediary services. We believe the

introduction of intermediaries in the CDR is a natural evolution that will be generally welcomed by those who intend to use CDR data - provided that they are not excessively burdened by regulatory overheads. We believe where appropriate, it may be easier for the intermediary to adhere to a higher standard of regulation than the Data Recipients themselves, and that may mean providing a means for scaled accreditation. We believe the reason that the market has already evolved in this manner, in that users of transaction data are primarily focused on scaling their business models in market and winning customers, and not necessarily on data enrichment, standardisation and transaction data product development under well evolved data governance frameworks. This is an area of specialisation that end users may well prefer to rely on intermediaries to undertake, and it would be sensible to enable intermediaries to support their needs and expectations in this regard. It is not, in our experience, data recipients who are investing in, as part of their core business models, production of innovative transaction data products and services for broader use by the marketplace.

Products produced by intermediaries

The marketplace has already begun planning how to build, and in some cases have already built more advanced summarised reports based on transaction data. With large amounts of stored data, it will be possible to progress towards even more sophisticated scoring and behavioural insights. We expect this trend to continue provided that intermediaries can both collect and use transaction data with appropriate clear consent and accreditation. If intermediaries are able to progress down this path, then it follows that more advanced products of this nature, utilising CDR data, will be accessible to both small and large organisations, benefitting competition.

Accreditation, collection and use

As an intermediary, Equifax's intentions would be to process transaction data on behalf of consumers, and then provide a number of products and services to data recipients that have been produced with the CDR data.

For Equifax to be able to efficiently do this, we would need to have permissions to both collect and use the CDR data ourselves under an intermediary accreditation and relevant consents from consumers. We note that one of the limitations of the

outsourced service provider model is that we would not be able to use the data for purposes other than those specified by the Data Recipient themselves, which would likely limit the products and services we are able to supply to market.

Equifax therefore supports the accreditation of intermediaries to enable them to both collect and use CDR data.

This would be of clear benefit to consumers and to competition in the market, as it would assist in particular in maximising the benefits and value that accredited recipients could obtain from CDR data collected and on-provided by an intermediary, which would be reflected in turn in the value and benefit of the products and services that may be offered by recipients to consumers, and assist them to price their products and services more efficiently.

Equifax considers that the current criteria for accreditation under the CDR Rules, and current obligations and default conditions on accredited recipients, are likely to be, by and large, also suitable for accredited intermediaries who both collect and use CDR data. The CDR Rules will of course need to be modified to allow for the on-provision of CDR data by accredited intermediaries. Further, more detailed, consideration will need to be given as to whether there are particular current accreditation criteria or obligations that require modification, to allow for the contemplated activities of an accredited intermediary. In this respect, Equifax notes that, where intermediaries are accredited to collect and use CDR data, the data minimisation principle in the CDR Rules may place impractical limits on the use of CDR data by the intermediary to provide its products and services to data recipients. For example, intermediaries may need to use CDR data for the purpose of developing algorithms or models to process CDR data in a way that provides meaningful insights to data recipients. Consideration should be given to appropriate modification of the data minimisation principle in the case of intermediaries, to ensure such activities are not unduly restricted.

In the interests of maximising flexibility in the development of intermediary service models, Equifax also supports, as an additional measure to accreditation of intermediaries, enabling outsourced service providers to collect or facilitate the collection of CDR data on behalf of accredited persons. Under the current CDR rules, accredited data recipients may disclose CDR data to outsourced service providers (**OSPs**), provided relevant contractual provisions are in place. It would be sensible and efficient to also enable OSPs to receive CDR data direct, on behalf of an accredited person. Data protections are already in place in respect of CDR data in the hands of OSPs, given the requirement for contractual protections between the data

recipient and the OSP. Additionally, paragraph 7.6(2) of the CDR rules, which currently deems any use or disclosure of CDR data by an OSP to be use or disclosure of the accredited data recipient who disclosed it to the OSP, could be expanded to apply to the case where an OSP receives the data directly on behalf of an accredited person.

Authorisation and consent

Equifax notes that the current authorisation and consent requirements under the CDR Act and CDR Rules may result in friction and confusion for consumers, in circumstances where intermediaries are enabled to collect, use and on-provide CDR data to recipients. This is due to the potential need for multiple separate authorisations and consents to enable:

- (i) disclosure of CDR data by a data holder to an accredited intermediary;
- (ii) collection and use of the CDR data by the intermediary;
- (iii) disclosure of CDR data by the intermediary to a recipient; and
- (iv) collection and use of the CDR data by the recipient.

Equifax submits that consideration should be given to appropriate methods of streamlining this process, for example by enabling consent and authorisation management through a single portal or dashboard, and/or standardisation of the approach to obtaining the multiple authorisations and consents required, through a single process for the consumer.

In this respect, Equifax submits that consideration should be given to expanding the permitted disclosures by accredited intermediaries (paragraphs 7.5 to 7.7) to enable authorised disclosures of CDR data by accredited intermediaries to recipients under the Privacy Safeguards, covered by the consents given by consumers for collection, use and disclosure of CDR data by the accredited intermediary. Currently such disclosures are not permitted under the CDR Rules.

We would welcome any engagement that results in the smoothing of the authorisation and consent experience. Any significant additional friction experienced by end consumers in this regard would likely limit the take-up of new products and services.

Disclosure to non-accredited persons

Equifax supports the concept of non-accredited persons receiving CDR data and the CDR Rules should cater for this if possible. Absent such provisions, a consumer may choose in any event to obtain their own CDR Data and disclose it on their own account, without the benefit of protections under the CDR regime. There are many potential small business and startup recipients who would benefit from the availability of CDR data in the provision of products and services to consumers (for example, mortgage brokers), but who would find the accreditation requirements onerous and hence are unlikely to participate in the CDR regime as presently structured.

The CDR Rules could provide for authorised disclosures by accredited intermediaries to non-accredited recipients for particular purposes, and subject to the consent of consumers. Defining the purposes for which the CDR data can be disclosed would be appropriate as it would limit the circumstances in which such disclosures can be made and the permissible use of the CDR data in the hands of the non-accredited recipients.

Liability

Equifax submits that the current liability framework is likely to be suitable to deal with the introduction of intermediaries. Accredited intermediaries, and accredited recipients of CDR data from those intermediaries, would automatically be subject to the Privacy Safeguards in their capacity as accredited data recipients, and to the current liability regime for any breach of those Privacy Safeguards.

As noted above, in the case of outsourced service providers (OSPs) that collect or facilitate the collection of CDR data on behalf of accredited persons, paragraph 7.6(2) of the CDR rules, which currently deems any use or disclosure of CDR data by an OSP to be use or disclosure of the accredited data recipient who disclosed it to the OSP, could be expanded to apply to the case where an OSP receives the data directly on behalf of an accredited person. The accredited person would then be subject to the current liability regime applicable to accredited persons, in respect of the acts of the OSP.

In the case of disclosures by accredited recipients to non-accredited third parties, Equifax submits that the current liability framework is likely to be appropriate, noting that consumers may under the current CDR regime obtain their own CDR data

and disclose it to non-accredited third parties, without limitation. Where accredited recipients are permitted to disclose CDR data to non-accredited recipients, they will be subject to limitations on disclosure under the Privacy Safeguards, and the associated liability regime. Such disclosures would also be subject to the consent of consumers. If disclosures may only be made for limited purposes, that will in turn limit the purposes for which the data may be used by the recipients.

Equifax appreciates the opportunity to provide this submission in support of the inclusion of intermediaries in the Consumer Data Right regime. Our point of contact on CDR matters: Alex Scriven, Head of Open Data Products.

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