Law Council
OF AUSTRALIA

Business Law Section

04 March 2020

Manager
Financial Services Unit
Financial System Division
The Treasury
Langton Crescent
PARKES ACT 2600

By email: ccr.reforms@TREASURY.GOV.AU

Dear Sir/Madam

Mandatory Comprehensive Credit Reporting Regulations

1. The Privacy Law Committee of the Business Law Section of the Law Council of Australia (the **Committee**) welcomes the opportunity to provide feedback on the Exposure Draft of the *National Consumer Credit Protection Amendment (Mandatory Credit Reporting) Regulations 2020* (**Regulations**). The Regulations are welcome in that they help address a gap in the law exposed by the relationship between hardship and repayment history information, specifically that the *Privacy Act 1988* (Cth), as amended by the *Privacy Amendment (Enhancing Privacy Protection) Act 2012* (Cth) (the **Enhancing Privacy Protections Act**) did not expressly provide for the inclusion of hardship information in the credit reporting system.

2. The Regulations address this by providing the relevant time period of 12 months where the hardship is reportable or not, as provided for in the table of Prescribed events and information in Clause 28TA (Ongoing supplies of mandatory credit information). The Regulations are drafted on the basis of the assumption that the information in question can be readily identified in a given credit system or process.

3. The Committee notes that consumer credit reporting is heavily regulated with serious penalties and sanctions for non-compliance and that the Regulations will be enacted after many of the credit reporting systems were built or updated to enable comprehensive credit reporting as permitted by Part IIIA of the Privacy Act, as amended by the Enhancing Privacy Protections Act with measures coming into effect in 2014. To that end, any gaps in implementation should be noted in future enforcement activity (if any).

The Committee would be pleased to discuss any aspect of this submission.

Please contact the chair of the Committee Olga Ganopolsky on Olga.Ganopolsky@macquarie.com or 02 8237 9194, if you would like to do so.

Yours faithfully

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Chair, Business Law Section

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