

# EXPOSURE DRAFT



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## **National Consumer Credit Protection Amendment (Mandatory Comprehensive Credit Reporting) Regulations 2018**

I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 2018

Peter Cosgrove  
Governor-General

By His Excellency's Command

Scott Morrison **[DRAFT ONLY—NOT FOR SIGNATURE]**  
Treasurer

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## 1 Name

This instrument is the *National Consumer Credit Protection Amendment (Mandatory Comprehensive Credit Reporting) Regulations 2018*.

## 2 Commencement

(1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. The whole of this instrument	The day after this instrument is registered.	

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

(2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

## 3 Authority

This instrument is made under the *National Consumer Credit Protection Act 2009*.

## 4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

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## Schedule 1 Amendments

### Schedule 1—Amendments

#### *National Consumer Credit Protection Regulations 2010*

##### **1 At the end of Chapter 3**

Add:

#### **Part 3.8—Licensees supplying credit information to credit reporting bodies etc.**

##### **28T Accounts that are not eligible credit accounts**

For the purposes of paragraph 133CO(c) of the Act, the following kinds of accounts are prescribed:

- (a) accounts that are margin lending facilities (within the meaning of Chapter 7 of the *Corporations Act 2001*);
- (b) accounts that relate to the provision, or possible provision, of consumer credit (within the meaning of the *Privacy Act 1988*) if, in each case, the holder of the account has not expressly agreed to the provision, or possible provision, of the consumer credit;
- (c) accounts of a kind no longer issued by a credit provider if the number of those accounts held with the credit provider:
  - (i) is less than 10,000; and
  - (ii) is less than 3% of the total number of all the accounts held with the credit provider that relate to the provision, or possible provision, of consumer credit (within the meaning of the *Privacy Act 1988*);
- (d) accounts created to give effect to deeds of novation if, in each case:
  - (i) the deed of novation is between an employee, employer and a credit provider, and involves the transfer of some or all of the rights and obligations under a lease; and
  - (ii) the account is held by the employee;
- (e) accounts that provide for the provision of consumer credit (within the meaning of the *Privacy Act 1988*) under a charge card contract made available by a credit provider as described in subregulation 62(1).

##### **28U Ongoing supplies of mandatory credit information**

For the purposes of item 4 of the table in subsection 133CU(1) of the Act, an event specified in column 1 of an item in the following table, and the information specified in column 2 for that event, are prescribed.

<b>Prescribed events and information</b>		
<b>Item</b>	<b>Column 1</b>	<b>Column 2</b>
	<b>Events</b>	<b>Information</b>
1	Repayment history information (within the meaning of the <i>Privacy Act 1988</i> ) comes	The repayment history information
2		<i>National Consumer Credit Protection Amendment (Mandatory Comprehensive Credit Reporting) Regulations 2018</i>

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Amendments Schedule 1

<b>Prescribed events and information</b>		
<b>Item</b>	<b>Column 1</b>	
	<b>Events</b>	
	into existence in relation to an eligible credit account for which mandatory credit information has previously been supplied under Division 2 of Part 3-2CA of this Act	
2	Default information (within the meaning of the <i>Privacy Act 1988</i> ) comes into existence in relation to an eligible credit account for which mandatory credit information has previously been supplied under Division 2 of Part 3-2CA of this Act	The default information
3	The opening (or reopening) of an eligible credit account with a member of a banking group of which the licensee is the head company, provided this happens after the licensee has supplied the CRB with mandatory credit information under subsection 133CR(3)	Mandatory credit information for that account

## 28V When protected information must not be on-disclosed

- (1) For the purposes of subsection 133CZA(2) of the Act, the following conditions are prescribed for the credit reporting body and a credit provider:
  - (a) the protected information (see subsection 133CZA(1) of the Act) was:
    - (i) supplied under Division 2 of Part 3-2CA of the Act to the credit reporting body; or
    - (ii) derived from information that was supplied under that Division to the credit reporting body; by another credit provider that was a signatory to the principles mentioned in subregulation (3) at the time of that supply;
  - (b) those principles have the effect of restricting the further disclosure of one or more kinds (the **restricted kinds**) of information making up the protected information.
- (2) For the purposes of subsection 133CZA(2) of the Act, the restricted kinds (if any) are prescribed (see paragraph (b) of that subsection).
- (3) For the purposes of paragraph (1)(a), the principles are those titled “Principles of Reciprocity and Data Exchange”, dated 31 May 2017 and published by the Australian Retail Credit Association, as amended from time to time.

Note: The Principles of Reciprocity and Data Exchange could in 2018 be viewed on the Australian Retail Credit Association website (<http://www.arca.asn.au>).
- (4) For the purposes of paragraph (1)(b), if those principles would only restrict the credit reporting body if that body were a signatory to those principles, treat that body as if it were a signatory to those principles.

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- (5) Treat paragraph (1)(b) as ceasing to apply to a restriction if that restriction is subject to conditions and those conditions are met.

### 28W Reports about initial bulk supplies of credit information—information to be given by licensee

*Information to be included in statement given after the first bulk supply*

- (1) For the purposes of paragraph 133CZC(1)(a) of the Act, the following kinds of information are prescribed in relation to a statement that is required to be given by the licensee within 6 months after the 1 July referred to in subsection 133CR(1) of the Act:
  - (a) for each eligible credit reporting body to which the licensee must supply mandatory credit information:
    - (i) the number of accounts held with the licensee for which mandatory credit information has been supplied to that body under that subsection; and
    - (ii) the number of accounts held with each member of a banking group of which the licensee is the head company for which mandatory credit information has been supplied to that body under that subsection; and
    - (iii) the number of accounts held with the licensee for which mandatory credit information has not been supplied to that body under that subsection; and
    - (iv) the number of accounts held with each member of a banking group of which the licensee is the head company for which mandatory credit information has not been supplied to that body under that subsection;
  - (b) for each account covered by paragraph (a)—the type of that account;
  - (c) a list of the account types for which mandatory credit information has been supplied by the licensee under that subsection;
  - (d) for the accounts covered by subparagraph (a)(i) or (ii):
    - (i) the number of those accounts for which a correction under section 21U of the *Privacy Act 1988* has been made during the 5-month period (the **5-month period**) starting on that 1 July; and
    - (ii) the number of those accounts for which a request under section 21V of the *Privacy Act 1988* has been made during the 5-month period; and
    - (iii) the number of those accounts for which a correction has been made during the 5-month period in response to a request covered by subparagraph (ii); and
    - (iv) the number of those accounts for which a complaint under subsection 23A(2) of the *Privacy Act 1988* has been made during the 5-month period.

*Information to be included in statement given after the second bulk supply*

- (2) For the purposes of paragraph 133CZC(1)(a) of the Act, the following kinds of information are prescribed in relation to a statement that is required to be given by a licensee within 6 months after the 1 July referred to in subsection 133CR(3) of the Act:

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- (a) for each eligible credit reporting body to which the licensee must supply mandatory credit information:
  - (i) the number of accounts held with the licensee for which mandatory credit information has been supplied to that body under that subsection; and
  - (ii) the number of accounts held with each member of a banking group of which the licensee is the head company for which mandatory credit information has been supplied to that body under that subsection;
- (b) for each account covered by paragraph (a)—the type of that account;
- (c) a list of the account types for which mandatory credit information has been supplied by the licensee under that subsection;
- (d) for accounts for which mandatory credit information has been supplied by the licensee under subsection 133CR(1) or (3) of the Act:
  - (i) the number of those accounts for which a correction under section 21U of the *Privacy Act 1988* has been made during the 12-month period (the **12-month period**) starting on the 1 December immediately before that 1 July; and
  - (ii) the number of those accounts for which a request under section 21V of the *Privacy Act 1988* has been made during the 12-month period; and
  - (iii) the number of those accounts for which a correction has been made during the 12-month period in response to a request covered by subparagraph (ii); and
  - (iv) the number of those accounts for which a complaint under subsection 23A(2) of the *Privacy Act 1988* has been made during the 12-month period.

## 28X Reports about initial bulk supplies of credit information—information to be given by credit reporting body

*Information to be included in statement given after the first bulk supply*

- (1) For the purposes of paragraph 133CZC(2)(a) of the Act, the following kinds of information are prescribed in relation to a statement that is required to be given by a credit reporting body within 6 months after the 1 July referred to in subsection 133CR(1) of the Act:
  - (a) for each licensee required to supply mandatory credit information to the credit reporting body—the number of accounts for which such information has been supplied by the licensee to the body under that subsection;
  - (b) the number of disclosures made by the credit reporting body that:
    - (i) were made to a credit provider; and
    - (ii) were of protected information (within the meaning of subsection 133CZA(1) of the Act); and
    - (iii) were made during the 5-month period (the **5-month period**) starting on that 1 July;
  - (c) for the accounts covered by paragraph (a):
    - (i) the number of those accounts for which a correction under section 20S of the *Privacy Act 1988* has been made during the 5-month period; and

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- (ii) the number of those accounts for which a request under section 20T of the *Privacy Act 1988* has been made during the 5-month period; and
- (iii) the number of those accounts for which a correction has been made during the 5-month period in response to a request covered by subparagraph (ii); and
- (iv) the number of those accounts for which a complaint under subsection 23A(1) of the *Privacy Act 1988* has been made during the 5-month period.

*Information to be included in statement given after the second bulk supply*

- (2) For the purposes of paragraph 133CZC(2)(a) of the Act, the following kinds of information are prescribed in relation to a statement that is required to be given by a credit reporting body within 6 months after the 1 July referred to in subsection 133CR(3) of the Act:
  - (a) for each licensee required to supply mandatory credit information to the credit reporting body—the number of accounts for which such information has been supplied by the licensee to the body under that subsection;
  - (b) the number of discloses made by the credit reporting body that:
    - (i) were made to a credit provider; and
    - (ii) were of protected information (within the meaning of subsection 133CZA(1) of the Act); and
    - (iii) were made during the 12-month period (the **12-month period**) starting on the 1 December immediately before that 1 July;
  - (c) for accounts for which mandatory credit information has been supplied to the body under subsection 133CR(1) or (3) of the Act:
    - (i) the number of those accounts for which a correction under section 20S of the *Privacy Act 1988* has been made during the 12-month period; and
    - (ii) the number of those accounts for which a request under section 20T of the *Privacy Act 1988* has been made during the 12-month period; and
    - (iii) the number of those accounts for which a correction has been made during the 12-month period in response to a request covered by subparagraph (ii); and
    - (iv) the number of those accounts for which a complaint under subsection 23A(1) of the *Privacy Act 1988* has been made during the 12-month period.

## 2 Regulation 38 (after subparagraph (b)(xxii) of the definition of *infringement notice offence*)

Insert:

- (xxiia) section 133CT;
- (xxiib) section 133CW;
- (xxiic) subsection 133CZA(2), (3) or (4);
- (xxiid) subsection 133CZC(1) or (2);
- (xxiie) subsection 133CZG(6);
- (xxif) subsection 133CZH(2);
- (xxig) subsection 133CZI(1);

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Amendments **Schedule 1**

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