

30 July 2021

Consumer Data Right Division
Treasury
Langton Crescent
PARKES ACT 2600

By email: data@treasury.gov.au

Dear Sir/Madam

**The Treasury Consultation – Consumer Data Right rules amendments (version 3)
Submission by Australian Finance Group Ltd ACN 066 385 822**

1. Background

Australian Finance Group Ltd (**AFG**) was founded in 1994, was listed on the Australian Securities Exchange in 2015, and has grown to become one of Australia's largest finance broking groups. Approximately 2,975 brokers (of which approximately 1400 are credit representatives of AFG) arrange residential mortgages, commercial finance and other loan products through AFG.

AFG also operates AFG Home Loans and AFG Securities and acts as the originator and servicer of white label home loans and securitised home loans as a non-ADI lender.

AFG welcomes the opportunity to respond to the Treasury's Consultation on the exposure draft amendments to the *Competition and Consumer (Consumer Data) Rules 2020* (version 3 of the rules) (the **Draft Rules**) and explanatory materials.

For the purposes of this submission, AFG's response is limited to the Draft Rules relating to disclosures to 'trusted advisers'.

2. Definition of ‘trusted adviser’

The current definition of ‘trusted adviser’ in rule 1.10C(2)(f) of the Draft Rules includes as a class ‘*mortgage brokers within the meaning of the National Consumer Credit Protection Act 2009*’.

‘Mortgage brokers’ are defined in section 15B of the *National Consumer Credit Protection Act 2009* (Cth) as an Australian Credit Licence (ACL) holder, or a credit representative of an ACL holder, that carries on a business of providing credit assistance in relation to credit contracts secured by mortgages over residential property but does not act as a credit provider and does not just offer credit assistance in relation to credit products of only one credit provider.

Therefore, commercial finance brokers, consumer asset finance brokers and personal loan brokers are all excluded from this definition.

We submit that customers of all finance brokers (including consumers applying for asset finance and personal loans) would also benefit from their broker being a ‘trusted adviser’ in the same way the customer of a mortgage broker benefits from this arrangement and that the class of ‘trusted adviser’ in rule 1.10C(2)(f) of the Draft Rules should be expanded to:

“all providers of credit assistance within the meaning of the National Consumer Credit Protection Act 2009”.

This is consistent with the proposal introduced by the Treasurer Josh Frydenberg in November 2020, to capture all credit assistance providers within the best interest duty obligations currently applicable only to mortgage brokers under the *National Consumer Credit Protection Amendment (Supporting Economic Recovery) Bill 2020* which has also been supported by the Senate Economics Legislation Committee in its report dated March 2021.

In addition, to encourage and facilitate the provision of credit to small businesses, this definition could also be expanded to capture commercial finance brokers who assist small proprietary companies (as defined in the *Corporations Act 2001* (Cth)) to apply for credit contracts.

3. Extension to administration staff working with ‘trusted adviser’

In the case of mortgage brokers (and most finance brokers), their business model usually involves administration staff that assist the broker to process applications for finance.

However, the current definition of ‘trusted adviser’ in rule 1.10C(2)(f) only includes the broker themselves and does not extend to any administration staff who may assist the broker to provide credit assistance.

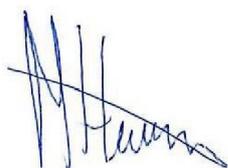
It does not appear to be consistent with the intent of the legislation and Draft Rules to require only the individual broker, rather than their business operation, to be able to access the consumer data from an accredited person.

We submit that this would delay the process of credit assistance and undermine the intent of the Open Banking regime, which is to provide a more efficient and better outcome for consumers. We believe that this limitation would likely increase the time the broker would take to provide the required credit assistance.

This issue could be clarified in the explanatory materials to state that (with the consumer's express consent) in addition to the mortgage broker, any administrative staff assisting the mortgage broker to provide credit assistance, whether employed by the mortgage broker or another entity, would also fall within this 'trusted adviser' category.

Please do not hesitate to contact AFG if you require any further detail about the matters raised in this submission. We appreciate the opportunity to provide input into the development of the Draft Rules and look forward to working with you further to ensure the Draft Rules remain fit for purpose and continue to enable competition.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Mark Hewitt', with a horizontal line drawn through it.

Mark Hewitt

General Manager Industry & Partnership Development
Australian Finance Group Ltd