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Via email: [data@treasury.gov.au](mailto:data@treasury.gov.au)

### **Consumer Data Right – Exposure draft legislation to enable action initiation**

The FBAA appreciates the opportunity to make a submission in relation to the exposure draft legislation.

We do not propose a formal submission towards the draft legislation but wish to contribute our thoughts through this letter.

The FBAA is closely monitoring developments with the CDR and is in regular contact with members. The practical application of the CDR is still in early development stages and we expect to have greater involvement when the time comes to consider the practical implementation of the obligations.

At the present time, our primary concern is that the regime is correctly positioned to ensure all groups that need to participate are recognised. The CDR will not be effective if it is too complex and if service providers are excluded in circumstances where consumers would have an expectation that those service providers could participate.

The CDR rules currently define the classes to whom a person must belong in order to come under the definition of trusted adviser. The FBAA has previously highlighted a concern that finance brokers have been inexplicably omitted from the class of persons who can be a trusted adviser. The current rules recognise mortgage brokers as a class of trusted adviser. In many cases, finance brokers and mortgage brokers provide credit assistance to consumers for the same range of credit products. The only difference is that mortgage brokers provide credit assistance in relation to home loans in addition to other credit products. It is a mistake to assume that mortgage brokers only provide credit assistance in relation to home loans or that consumers only want the CDR to allow participation in relation to finance involving home loans.

To provide an example, a consumer dealing with a finance broker in relation to motor vehicle finance could not benefit from any of the innovations of CDR. This is because their broker sits outside the current definition of *trusted adviser*. That same consumer could benefit from the CDR regime if their finance broker also provided credit assistance in relation to home loans because that broker would then fall under the definition of mortgage broker that is a recognised class of person who can be a *trusted adviser*. It is not relevant to the consumer whether their finance broker provides credit assistance in relation to home loans or not since they are seeking credit assistance in relation to motor vehicle finance.

In this example, the broker is providing credit assistance to a consumer in relation to asset finance. Yet what determines whether a consumer can participate in the CDR is whether that broker provides home loan credit assistance to other consumers on other occasions.

This cannot be consistent with the objectives and intended operation of the CDR regime.

We refer to our short submissions made in April and September of 2022 in support of this position.

We feel that consultation on the development of the CDR regime is being adversely impacted by the exclusion of a valid group of trusted advisers.

We are ready and willing to further discuss this with members of Treasury if you require.

Yours faithfully

Peter J White AM  
Managing Director

Life Member – FBAA  
Life Member – Order of Australia Association

Executive Chairman & Co-Founder - The Sanity Space Foundation  
Advisory Board Member – Small Business Association of Australia (SBAA)  
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