

29 January 2024

Scams Taskforce
Market Conduct and Digital Division
The Treasury
Langton Crescent
Parkes ACT 2600

By email: scampolicy@treasury.gov.au

Dear Scams Taskforce

SCAMS – MANDATORY INDUSTRY CODES

The Mortgage and Finance Association of Australia (**MFAA**) appreciates the opportunity to review and make comment on the Scams – Mandatory Industry Codes consultation paper (**Consultation Paper**). With circa 15 000 members, the MFAA is Australia's peak body for the mortgage and finance broking industry representing mortgage brokers, lenders, aggregators, mortgage managers and suppliers to the mortgage and finance broking industry. For more information about the MFAA, see **Attachment A**.

Effectively managing cybersecurity risk, safeguarding personal information, and responding to the risk of scams are interconnected efforts and requires a whole of industry response to mitigate risk for the benefit of consumers and small businesses.

To that end, the MFAA have raised cybersecurity as a whole-of-industry challenge and has established a cybersecurity working group comprising of major lenders and major aggregators to co-create solutions for the benefit of small broking businesses and their customers.

OUR SUBMISSION

The MFAA welcomes and supports the Government's initiative to develop a Scams Code Framework.

As the Consultation Paper notes, despite the increase in scam related activity, there is currently no overarching regulatory framework to set clear roles and responsibilities for Government, regulators, and the private sector in addressing scams. We therefore welcome and support the Government's initiative to develop a Scams Code Framework, and in particular support the introduction of a mandatory banking industry specific code to set obligations in mitigating the risk of, and responding to, scam related activity.

In our submission, we seek not to address the consultation-specific questions, but instead to provide recommendations that we hope to be helpful in progressing Treasury's work in this area. Our specific recommendations are:

- Make it a Code obligation to reduce requirements on mortgage and finance brokers to collect and hold customer personal information, and

- Make it a Code obligation for lenders to educate mortgage and finance brokers on ways to minimise the risk of scams for the benefit of our mutual customers.

Context for our submission

Brokers play a critical role in intermediated lending, providing access to credit and promoting choice in both consumer and business finance. Brokers facilitate more than two thirds of all new residential home loans¹ and approximately four out of ten small business loans² in Australia. Importantly, brokers are at the coalface of 71.5% of all mortgage transactions in Australia, and increasingly also small business lending.

Similar to most industries, our members have reported an observed increase in scam related activity with their customers. The types of scams reported by our members fall broadly into two categories – impersonation scams and payment redirection scams.

Impersonation scams often involve a scammer posing as a customer to a broker, and under the guise of supplying the information the broker needs to provide their services, sends instead malicious files to the broker designed to infiltrate the broker's technology to steal customer personal information.

Payment redirection scams involve where a scammer infiltrates the communications between a broker and their customer with the intent to direct the customer to direct their funds in a particular way. This risk is more prevalent when a broker assists a customer to complete a transaction that involves the purchase of a property, as that purchase requires a flow of large amounts of money.

Recommendation 1: Make it a code obligation to reduce requirements on mortgage and finance brokers to collect and hold customer personal information

Our members continue to be concerned about the amount of personal information that they are currently required to collect and hold on behalf of lenders. While the Government's Digital ID Framework will likely in future alleviate risks associated with the collection of personal information, cybersecurity and scam risk is immediate and requires an immediate response.

In addition to regulatory obligations, contractual obligations with lenders require brokers to collect and hold personal information to fulfil Know Your Customer (**KYC**) and Verification of Identity (**VOI**) obligations under AML/CTF laws, and this includes to hold that information for periods longer than may be required by legislation.

The more personal information that small broking businesses are required to collect and hold increases the risk of impersonation and payment redirection scams resulting from phishing and email hacking. Mitigating the risk of scams means reducing the amount of personal information that small businesses are required to hold, improving document retention practices, and finding better ways to meet regulatory obligations.

To that end, some practical considerations for a scams specific banking code include:

- a requirement for banks to only require mortgage and finance brokers (and other intermediaries) to meet document retention requirements that adhere to statutory limits and destroy any information that brokers are not required to hold once that information is passed to the lender,
- where the customer has been identified by a trusted identification verification service approved by the bank, there should be a commitment from the bank not to require a broker to hold identification information, and
- encouraging banks to increase the use of identity verification services for KYC and VOI purposes (or at least in all instances, providing customers with the choice to do so).

¹ [MFAA Industry Intelligence Service Report 16th Edition](#) pp 4.

² Productivity Commission research paper [Small business access to finance: The evolving lending market](#) pp 44.

Recommendation 2: Make it a code obligation for lenders to educate mortgage and finance brokers on ways to minimise the risk of scams for customers

As an industry association, the MFAA has prioritised educating our small business members as well as equipping them with knowledge and expertise to educate their customers.

The Consultation Paper identifies the need to educate consumers to recognise and report scams. With 71.5% of all mortgages going through mortgage brokers (in addition to small business lending), the role of mortgage and finance brokers in educating customers to recognise scams, particularly as part of lending transactions will be critical.

To that end, we support a codified obligation to require lenders to provide support and education to mortgage and finance brokers (as well as other intermediaries) who are at the coalface dealing with customers on sensitive transactions. Education should centre around measures to prevent, detect, disrupt and respond to scams and this includes how brokers should educate customers to be alert and aware during the home buying and settlements processes.

We support the proactive role the ABA and COBA and its members are playing in educating consumers about scams and just as importantly, how to protect themselves against them. In our view therefore, these obligations can be implemented through updates to banking industry codes (i.e. the ABA's Banking Code of Practice³ and the COBA Code) or the codification of the recently launched codification of the Scam-Safe Accord.

CLOSING REMARKS

The MFAA extends its appreciation for the opportunity to provide this submission. If you wish to discuss this submission or require further information, please contact either me at naveen.ahluwalia@mfaa.com.au or Stefania Riotto at stefania.riotto@mfaa.com.au.

Yours sincerely

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³ We made this recommendation in the MFAA [submission](#) in response to ASIC's Banking Code of Practice Consultation Paper, January 2024.

Attachment A – About the MFAA

With circa 15,000 members, the MFAA's members include mortgage and finance brokers, aggregators, lenders, mortgage managers, mortgage insurers and other suppliers to the mortgage and finance broking industry.

The MFAA's role, as an industry association, is to provide leadership and to represent its members' views. We do this through engagement with governments, financial regulators and other key stakeholders on issues that are important to our members and their customers. This includes advocating for balanced legislation, policy and regulation and encouraging policies that foster competition and improve access to credit products and credit assistance for all Australians.