

EDR Review Secretariat  
The Treasury  
Langton Crescent  
PARKES ACT 2600

Email: [EDRreview@treasury.gov.au](mailto:EDRreview@treasury.gov.au)

To whom it may concern

**Re. SUBMISSION ON INTERIM REPORT: REVIEW OF THE FINANCIAL SYSTEM EXTERNAL  
DISPUTE RESOLUTION FRAMEWORK**

The Australian Retail Credit Association (ARCA) notes the findings of the Interim Report from this Review, in particular Draft Recommendation 1 relating to the establishment of a single external dispute resolution scheme for financial, credit and investment disputes.

ARCA is the peak industry body for organisations involved in Australia's retail credit risk sector, including as users of the credit reporting system. We were established to promote common standards of best practice in credit risk assessment and responsible credit procedures.

Membership to ARCA is voluntary and includes nearly all significant bank consumer credit providers, many key finance companies, and all major Australian credit reporting bodies (CRBs).

Australia's credit reporting system is regulated through Part IIIA of the *Privacy Act 1988* (the Privacy Act), associated regulations, the *Privacy (Credit Reporting) Code 2014* (the CR Code), and additional minor regulatory instruments. The credit reporting system is regulated by the Office of the Australian Information Commissioner (OAIC). Complaints and disputes arising under Part IIIA or the CR Code are dealt with by EDRs recognised by the Information Commissioner under section 35A of the Privacy Act. The Financial Ombudsman Service (FOS) and the Credit and Investments Ombudsman (CIO) are both recognised EDRs for this purpose.

As participants in the consumer credit reporting system and as financial services licensees, our Members are required to hold membership with a recognised External Dispute Resolution (EDR) scheme. Our Members are members of the FOS or the CIO.

ARCA wishes to reinforce the concerns we raised in our first submission to this Review, to the extent that they have not been dealt with by the Review in the interim Report. As noted in our first submission ARCA supports a robust, efficient and transparent complaints and dispute resolution framework in the financial system. We support IDR as a primary forum for dispute resolution, as well as easy access to EDR where necessary. Although we have identified a few concerns with the current arrangements that may provide room for improvement, we strongly support the current multi-scheme framework.

### ***Single scheme***

We do not support the introduction of a single scheme in place of FOS and CIO. We see no merit in considering a single body system; in fact we have strong concerns that a single EDR scheme invites real risk of reduced service outcomes.

These risks include those typically associated with a monopolistic structure and may include delayed dispute resolution, less flexibility in responding to the dynamics of the financial system, less opportunity for qualified staff to refine their areas of expertise, less innovation and reduced opportunities for schemes to strive for excellence in efficiency and outcomes. These matters have not been satisfactorily addressed in the draft report – and the proposal to merge the two current providers is not backed by sufficient evidence or argument to undertake such a fundamental restructure of a settled ‘complaints management market’.

ARCA recommends further analysis and review is undertaken of the proposed approach with key stakeholders, in addition to a full and proper examination of other options, such as the introduction of a triage service.

### ***Other issues***

ARCA notes that the range of issues we raised in our first submission have largely not been addressed in the Review’s Interim Report. These issues included the role of EDR schemes in fixing policy settings without reference the views of regulators, or the broader public policy environment. Further, we are concerned that the current regulatory arrangement does not provide a clear right of review on specific complaints around cases or procedures.

Regardless of whether the Review supports a single scheme or the current arrangements there is a real need for an improved operating framework for EDR scheme(s). Such a framework should include clearer guidelines and practices. All EDR schemes should be guided by the application of the law and, where this is considered to be conflict with “fairness”, that approach should be considered a departure from the norm that is available but not the prevailing approach. We see this as the only reasonable approach available to ensure compliance and effective operation by any scheme participant.

Further, there should be a mandatory requirement that, when a ruling departs from applicable law on the basis of fairness, that the facts, reasons and basis of that determination should be made clear. All determinations should be properly documented including noting the reasons underpinning the determination. Such a requirement will not only assist to ensure clarity of logic is applied to individual determinations, but will also improve accountability of the whole EDR process.

This significant issue was only given cursory consideration in the draft report. ARCA recommends the Review examine this issue further in the context of the final report.

ARCA appreciates the opportunity to provide this additional submission, and we wish the Review all the best in considering these significant matters.

For further information, please contact me directly on 0424 244 777 or [mgijselman@arca.asn.au](mailto:mgijselman@arca.asn.au).

Yours sincerely

A handwritten signature in black ink, appearing to read 'M Gijselman', with a stylized flourish at the end.

**Matt Gijselman**  
**Head of Government, Regulatory & Industry Affairs**