

## **POSITION PAPER: ADDITIONAL CREDIT PROFILE FLAGS**

**JANUARY 2017**

**For Member Feedback**

### **EXECUTIVE SUMMARY**

#### **Key points:**

- ARCA has prepared a preliminary proposal for the introduction of a range of new payment indicators to be reported in addition to, or in place of, numeric arrears age indicators for repayment history information (RHI).
  - The reform proposal is comprised of two types of flags, RHI-level flags and Account-level flags. Member input is needed to determine the optimum application of the two levels of indicator including those instances where a combination of the two, or two different flags, may be appropriate.
  - Current RHI reporting regulations only allow for a numeric indicator that signifies whether an account is current and up-to-date or the age of arrears.
  
  - To progress this matter ARCA will:
    - Seek further feedback from Members and finalise the policy position based on Board and Member feedback.
    - Develop an initial advocacy plan to achieve the required legislative outcome to deliver the flags proposal.
  - The advocacy plan and the proposed policy position paper will then be presented to the Board for final consideration and ratification.
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## **BRIEF**

The Privacy Act and the associated legislative framework for credit reporting is very restrictive in the account repayment data that can be exchanged. At present, whether or not a consumer has made a payment that was due during the reporting month with a numeric indicator signifying the number of months that the account has been in arrears is all that can be reported.

An ability to exchange additional data on a consumer's situation would support better responsible lending outcomes as well as enabling more effective credit decisions.

### **What is financial hardship?**

Some consumers face financial hardship (due to job loss or another change in circumstances) at certain points in their lives. The law does not make any allowance for altered reporting of RHI during the period the credit provider is considering the consumer's notice of hardship or during a temporary informal arrangement.

The *National Consumer Credit Protection Act 2009 - Schedule 1, National Credit Code* (NC Code) obliges credit providers to consider whether to change the consumer's contractual obligations in response to notice of financial hardship. Under the NC Code there are only two possible responses to a hardship notice:

- a) The credit provider may agree to change the credit contract, or
- b) The credit provider may not agree to change the credit contract.

### **Introducing a hardship flag for consumers whose credit contract has been changed as a result of a hardship notice**

As has long been advocated by industry, where a hardship notice has been received by a credit provider and the credit provider agrees to change the credit contract in response to the notice, ARCA is proposing a hardship flag to be included in the credit reporting system.

In these circumstances, the consumer's RHI should be reported against their new payment obligations as set out in the varied contract.

In this instance, ARCA proposes that it is appropriate to alert other credit providers to the consumers' recent hardship, to ensure a comprehensive picture of the consumer's financial situation is available and taken into consideration when making credit decisions.

As such, ARCA proposes a hardship flag be included as part of the account information.

### **Introducing a hardship-under-consideration flag for consumers whose hardship notice is currently under consideration by the credit provider**

Under the NC Code, allowing for the full process and timelines permitted, credit providers may take more than two months to consider a hardship notice and determine whether to agree to vary the consumer's payment obligations or not. Reporting a consumer who is experiencing financial hardship as increasingly delinquent in their repayments during this time, without context or additional information, raises concerns for industry, consumer advocates and regulators.

ARCA proposes the introduction of a *Hardship under consideration* (HUC) ‘flag’ that can be reported for the consumer’s RHI (instead of a numerical value of aged arrears) relating to the relevant product, to indicate that the credit provider is considering the consumer’s hardship notice.

### **Payment arrangement flag**

There are a significant number of instances which arise when a consumer is unable, temporarily, to meet their credit payment obligations and, most often pursuant to a collections conversation with their credit provider enters into a payment arrangement. Such an arrangement is not related to a Hardship situation.

In such instances, the underlying credit contract is not varied but a credit provider may agree to temporarily suspend their collections activities and/or enforcement rights in line with a “promise to pay” arrangement with the consumer.

While it is generally considered correct<sup>1</sup> to report RHI in line with the consumer’s arrears status, the inclusion of a **payment arrangement** flag that indicates that a credit provider has given an indulgence to the consumer and/or agreed to temporarily give relief to the consumer’s repayment obligations and has put in place a payment arrangement (A) would provide additional clarity and accuracy of information.

### **Additional flags considered**

Similarly, flags may be considered to indicate repayment periods where no payment is due (NPD) or where the account was the subject of a regulator or ombudsman dispute (D).

The introduction of these flags would add further ‘texture’ to the repayment information, providing benefits to both credit providers and consumers by providing a better representation of the consumer’s financial situation.

The proposed additional flags are set out below:

Flag	Detail
HUC	The credit provider is considering a hardship notice from the consumer
H	Hardship notice received and contract varied
A	Payment arrangement in place
NPD	No payment due
D	Account subject to a dispute with a regulator or industry ombudsman scheme

Indicator Proposed	Description	Initial Recommendation
Hardship-under-consideration (HUC) flag	Flag to be displayed on receipt of the hardship notice, while the credit provider is considering	HUC flag to replace RHI indicator for the period that the hardship

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<sup>1</sup> Noting the different view held by FOS in this regard

	whether to agree to a change in contract under Part 4, Division 3 of the NC Code.	notice is being considered.
Hardship (H) flag	To be applied to accounts when the contract has been changed in response to a hardship notice under Part 4, Division 3 of the NC Code (and thus where RHI is now being reported against varied repayment obligations).	Hardship flag to be applied at account level for a period of six months after the date of contract variation
Payment arrangement (A) flag	To be applied to indicate that a payment arrangement is in progress.	Payment arrangement flag to be applied at Account Level with RHI continuing to be reported in line with underlying contract obligations.
No Payment Due (NPD) flag	Indicator that more clearly represents RHI status when no payment is due on an account (typically in place of a "0"). For example, in the month an account is opened, or in the month it is paid up but not yet closed, or in the case of revolving facilities, where utilisation is at zero. Could also be used in conjunction with Account-level Hardship flag during a period of a payment moratorium put in place in the varied contract.	NPD indicator to be set at RHI level.
Dispute flag	Indicator to signify that the account, or a particular data field, is subject to an open dispute.	Option 1: Dispute indicator to substitute (temporarily while dispute is in progress) for data element under dispute. Option 2: Dispute indicator at Account Level to indicate that dispute is in progress together with message clarifying subject of dispute (default challenged)

### **Consultation and feedback**

ARCA has undertaken extensive industry consultation and briefed relevant regulators (ASIC, OAIC, APRA), industry associations, consumer advocate groups and industry ombudsman schemes on the concept of a flag.

ARCA is seeking Member feedback on these proposals. Issues that Members may wish to address in their feedback includes:

- How should it work when more than a single flag could apply (eg payment arrangements where a temporary payment “holiday” has been provided)?
- Does NPD provide enough information - there are several circumstances where NP could apply that capture very different circumstances?
- Do you support the proposed list of flags? Are there other flags that should be considered?
- Are there likely to be more customer complaints due to these flags? And if so, does the cost-benefit stand?
- Is the introduction of these new flags likely to be a significant change process, including to technology systems? And if so, does the cost-benefit stand?

Members wishing to register their early interest in this process or provide specific initial feedback are invited to contact Matt Gijsselman ([mgijsselman@arca.asn.au](mailto:mgijsselman@arca.asn.au)) by 15 February. Further details on this industry-led reform agenda will be released in due course.

### **Next steps**

The introduction of these flags will be subject to legislative changes to the credit reporting framework. ARCA has already noted our intention to raise this proposal with the Productivity Commission, in the context of their draft data inquiry report.

Given the significant positive impact these changes would have on the credit reporting system, we recommend that ARCA actively advocate for and progress this improvement in the coming months.

To progress this matter ARCA will:

- Review feedback from Members and finalise the policy position based on Board and Member feedback.
- Develop an initial advocacy plan to achieve the required legislative outcome to deliver the flags proposal.