



Privacy Commissioner  
Te Mana Matapono Matatapu

## Proposed Amendment No 7 to Credit Reporting Privacy Code 2004

### Information Paper

19 September 2012

The Privacy Commissioner invites submissions on the proposed amendment by **31 October 2012**. Submissions may be emailed to [Code@privacy.org.nz](mailto:Code@privacy.org.nz) or mailed to:

Credit Reporting Privacy Code Amendment  
Office of the Privacy Commissioner  
PO Box 466  
Auckland 1140

Submissions may be made public by the Privacy Commissioner or released under the Official Information Act.

Any enquiries may be addressed to Daimhin Warner on 09 302 8680.

# Information Paper

## Introduction

This information paper explains proposed Amendment No 7 to the Credit Reporting Privacy Code 2004. Submissions may be made by **31 October 2012** to [Code@privacy.org.nz](mailto:Code@privacy.org.nz).

In summary, Amendment No 7 will:

1. Permit credit reporters to disclose credit information to credit providers for the purpose of identity verification under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (“AML/CFT Act”).
2. Continue the obligation on credit providers to notify existing customers if they intend to share credit account information with credit reporters for a further four years.
3. Reflect the changes to the “public health or safety” exceptions to information privacy principles 10 and 11 being made by the Privacy (Information Sharing) Bill.
4. Correct an error in the summary of rights.

## 1. Disclosure of credit information for AML/CFT Act identity verification

Part 2 of the AML/CFT Act will, from 30 June 2013, require certain agencies to conduct due diligence to verify their customers’ identities in particular circumstances. One option permitted by this Act is for these agencies to verify identity on the basis of information provided by a reliable and independent source.

The Commissioner is satisfied that the credit reporting system may offer a credible and independent source of information to assist credit providers to meet these new requirements.

The amendment will permit credit reporters to disclose credit information to credit providers, with the authorisation of the individual concerned, for the purpose of AML/CFT Act identity verification.

The amendment is limited to credit providers as these agencies are already involved in the credit reporting system and will, usually, have an existing relationship with credit reporters. However, credit reporting information would be available to credit providers for AML/CFT Act purposes even in circumstances where no application for credit is made but the AML/CFT Act requires a credit provider to obtain identity verification, such as in relation to certain occasional or high risk transactions.

Credit reporters will have to retain a footprint of AML/CFT Act identity verification enquiries on the individual’s access log. However, the amendment proposes to prohibit the use of these enquiries in credit scoring.

## 2. Continuing the obligation on credit providers to notify existing customers

Schedule 8 sets out a number of transitional arrangements associated with the introduction of comprehensive reporting. The schedule is set to expire on 31 March 2013.

Clause 4 of the schedule requires credit providers to notify existing customers of their intention to list credit account information with credit reporters.

While most transitional matters are now complete, the Commissioner has decided that this notice requirement should continue, given that only a small number of credit providers have yet moved to make the change to positive credit reporting. The notice obligation is fundamental to maintaining openness and accountability. Existing customers should expect to be properly informed whenever the change affecting them occurs.

On this basis, the amendment proposes to continue clause 4 of the schedule for a further four years, to 31 March 2017.

### **3. Removing “and imminent” from rules 10(1)(d) and 11(1)(c)**

Rules 10(1)(d) and 11(1)(c) of the code permit credit reporters to use or disclose credit information where there is a “serious and imminent” threat to a person’s life or health or to public health or safety. These exceptions mirror the wording of principles 10(d) and 11(f) of the Privacy Act.

The Privacy (Information Sharing) Bill was introduced to Parliament on 16 August 2011. If enacted, it will modify the “serious and imminent” exception to refer simply to a “serious threat”. It will provide that such a threat must be one which “an agency reasonably believes to be a serious threat having regard to all of the following:

- (a) the likelihood of the threat being realised; and
- (b) the severity of the consequences if the threat is realised; and
- (c) the time at which the threat may be realised.”

This bill has not yet been passed. Once enacted, a similar change should be made to the code, to ensure consistency with the Privacy Act.

This proposed change is being notified ahead of the bill’s passage through Parliament. This will enable the Commissioner to promptly make the change if, and when, the bill is enacted.

However, the Commissioner does not intend to issue this part of the amendment before Parliament has passed the bill. If the bill is substantially delayed, the Commissioner will consider splitting this part of the amendment off to pass at a date later than the remainder of the amendment.

### **4. Correcting the summary of rights**

Credit Reporting Privacy Code Amendment No 6 (Temporary) made a small correction to the code to ensure that the summary of rights was an accurate reflection of the law. That amendment expires on 31 March 2013 and so the proposed amendment makes this correction permanent.