

## Mandatory Comprehensive Credit Reporting Exposure draft law and explanatory materials

This table sets out the key elements of the Mandatory Comprehensive Credit Reporting Regime and shows the relevant sections and references.

It is intended to help you locate those parts of the Bill which reflect the key elements of the Mandatory Comprehensive Credit Reporting Regime.

Issue	Bill ref.	Brief explanation
<b>Who must supply data?</b> <i>(Paragraphs 1.34 to 1.42 of the explanatory material)</i>		The mandatory regime applies to <b>eligible licensees</b> .
Large ADIs and their subsidiaries that hold an Australian Credit License	133CN(1)(a)	On 1 July 2018 an eligible licensee is a large ADI and any of its subsidiaries that hold an Australian Credit Licence.
Extending the regime to other credit providers	133CN(1)(a)	A large ADI is an ADI that has total resident assets greater than \$100 billion.
Definition of credit provider	Item 2 ss5(1)	A regulation can be made to extend the regime to other credit providers.
Definition of large ADI	Item 3 ss5(1)	
<b>When must the data be supplied?</b>		The first bulk supply must be made within 90 days of the first 1 July after the credit provider becomes an eligible licensee. The first supply must include information on 50 per cent of open and active accounts.
Initial bulk supply <i>(Paragraphs 1.39 to 1.42 of the explanatory material)</i>	133CR(1) &	
Remaining bulk supply <i>(Paragraphs 1.40 to 1.42 of the explanatory material)</i>	133CR(3)	The second bulk supply must be made within 90 days of the 1 July that occurs 12 months later. This supply must include information on the remaining accounts not included in the first supply or that have subsequently opened.
Ongoing supply <i>(Paragraphs 1.54 to 1.61 of the explanatory material)</i>	133CT	Updates on existing accounts and information on new accounts must be supplied within 20 days of the end of the month when the update occurred or the account opened.
Regulations can recognise an equivalent arrangement for ongoing supply. <i>(Paragraphs 1.62 to 1.65 of the explanatory material)</i>	133CT(1)(b)(i)	

Issue	Bill ref.	Brief explanation
<b>Who must the data be supplied to?</b>		The initial supply of data must be made to an <b>eligible credit reporting body</b> .
Initial bulk supplies <i>(Paragraphs 1.91 to 1.99 of the explanatory material)</i>	133CR(1) & 133CR(3)	For an eligible licensee on 1 July 2018, an eligible credit reporting body is a credit reporting body the licensee had a contract with on 2 November 2017.
Ongoing supplies <i>(Paragraphs 1.98 and 1.99 of the explanatory material)</i>	133CT(1)(a) & 133CT(1)(b)(iv)	The ongoing supply of credit information must be provided to a credit reporting body that received the initial bulk supply and who continues to have a contract with that credit provider.
Definition of eligible credit reporting body	133CN(2)	Regulations can be made to set out an eligible credit reporting body for credit providers that become eligible licensees after 1 July 2018.
<b>Which accounts must be included in supply?</b> <i>(Paragraphs 1.85 to 1.90 of the explanatory material)</i>	133CO	The mandatory regime applies to <b>eligible credit accounts</b> .
Which accounts must be included in the first bulk supply?	133CR(2)	These are accounts which provide, or can provide, consumer credit. Consumer credit includes home loans, personal loans, credit cards and overdrafts.  An eligible licensee can select which accounts make up the initial bulk supply.
<b>Principle of reciprocity</b> <i>(Paragraphs 1.116 to 1.126 of the explanatory material)</i>	133CV	The 'principle of reciprocity' applies under the mandatory regime.
A credit reporting body cannot share data with a credit provider who has not supplied comprehensive credit information.	133CV(1)	A credit reporting body cannot share credit information with a credit provider unless the credit provider has shared comprehensive credit information.
A credit reporting body must share data with a credit provider who has supplied comprehensive credit information on at least 50 per cent of its accounts.	133CV(2)	The principles of reciprocity applied by the Bill do not apply if the credit reporting body and credit provider are signatories to the <i>Principles of Reciprocity and Data Exchange</i> .
A credit reporting body must share data with a credit provider who has supplied comprehensive credit information on at least 100 per cent of its accounts and 12 months has passed since the credit provider first requested information.	133CV(3)	A regulation can be made to recognise other arrangements between a credit provider and credit reporting body which support the principles of reciprocity.

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Regulations can recognise an equivalent arrangement.	133CV(4)	
<b>What data must be supplied?</b>		Mandatory credit information is credit information within the definition of the <i>Privacy Act 1988</i> .
What is mandatory comprehensive credit information? <i>(Paragraphs 1.66 to 1.75 of the explanatory material)</i>	133CP	A credit provider is only required to share the credit information that can be disclosed under the <i>Privacy Act 1988</i> and which the credit provider holds. A credit provider is not required to seek out information it does not hold.
How much repayment history information must be supplied? <i>(Paragraphs 1.76 to 1.81 of the explanatory material)</i>	133CS(4) & 133CU(3)	Repayment history information must be supplied for all accounts for the three months preceding the 1 July from when the obligation to supply data was first triggered.
Regulation to extend the definition of 'credit information' <i>(Paragraphs 1.82 to 1.84 of the explanatory material)</i>	133CP(1)(b)	
How must the data be supplied? ASIC determination Technical standards <i>(Paragraphs 1.100 to 1.112 of the explanatory material)</i>	133CQ 133CQ(2) 133CQ(4)	Regulations can be made to expand the definition of 'credit information'.  ASIC has the power to prescribe technical standards which set out how the data must be supplied or the particulars of information.
<b>How is data protected?</b>		The existing protections under the <i>Privacy Act 1988</i> on the use, disclosure and security of data remain in place to protect information under the mandatory regime.
When an eligible licensee does not need to supply data? <i>(Paragraphs 1.44 to 1.51 of the explanatory material)</i>	133CR(1)(b)(ii) 133CR(3)(b)(ii) 133CS	
Data must be stored in Australia <i>(Paragraphs 1.168 to 1.169 of the explanatory material)</i>	Item 11 ss20Q(3) <i>Privacy Act 1988</i>	In addition, an eligible licensee is not required to supply information if it does not reasonably believe the credit reporting body is keeping the information secure.  An amendment to the <i>Privacy Act 1988</i> requires that data is stored in Australia or with a Certified Cloud Service provider.
<b>Giving statements to the Treasurer</b> <i>(Paragraphs 1.160 to 1.167 of the explanatory material)</i>		Eligible licensees and eligible credit reporting bodies must give the Treasurer statements about the mandatory comprehensive credit regime.
Statements from credit providers	133CX(1) & 133CY(1)	
Statements from credit reporting bodies	133CX(2), 133CY(2) & 133CZ	Statements about the initial bulk supplies must be given within 6 months of the 1 July from when the supply is required.

Issue	Bill ref.	Brief explanation
		<p>Statements about ongoing supply must be given within 3 months after the end of the year to which they relate.</p> <p>A credit reporting body must give the Treasurer statements about the on-disclosure of information within 3 months of the end of the year to which they relate.</p>
<b>Review of the mandatory regime</b>	133CZH	An independent review of the mandatory regime must be completed by 1 January 2022. It must be tabled in Parliament.
<b>Penalties and other enforcement powers</b> <i>(Paragraphs 1.130 to 1.138 of the explanatory material)</i>		ASIC may seek civil penalties where an eligible licensee fails to supply credit information or a statement to the Treasurer.
Consequences for not supplying credit information		ASIC may also seek a civil penalty if a credit reporting body breaches its on-disclosure obligations or fails to supply the Treasurer with a statement.
Consequences for disclosing information when the 'principles of reciprocity' have not been met.		
Consequences for not supplying statements to the Treasurer.		<p>The maximum civil penalty that can be imposed is currently \$420,000 for a natural person and \$2.1 million for a body corporate.</p> <p>Criminal penalties may also be imposed up to \$21,000.</p>
<b>ASIC's powers to obtain information and monitor the regime</b> <i>(Paragraphs 1.137 to 1.159 of the explanatory material)</i>		Many of ASIC's existing powers are extended to the mandatory comprehensive credit reporting regime requirement so that it can monitor and ensure compliance with the supply requirements and on-disclosure restrictions.
Issuing an infringement notice	Existing s331	
Obligation to provide ASIC with a statement or an audit report	133CZD	
Obligation to give ASIC information required by the regulations	133CZE	
Obligation to provide ASIC with assistance	133CZF	
Inspection of books and information gathering powers	Items 5 to 10	
<b>Commencement date</b>		1 July 2018.