



Association of Building Societies and Credit Unions

23 August 2007

Exposure Draft of Bill
Office of Access Card
Department of Human Services
By email: accesscard.bill@humanservices.gov.au

Dear Sir/Madam

Exposure Draft Human Services (Enhanced Service Delivery) Bill 2007

Thank you for the opportunity to comment on the 21 June 2007 Exposure Draft of the Human Services (Enhanced Service Delivery) Bill 2007. Please accept our apologies for providing these comments at this late stage.

Abacus – Australian Mutuals is the industry association for credit unions and mutual building societies. Abacus draws together the representation activities of the former Credit Union Industry Association (part of Cuscal Ltd), National Credit Union Association and Australian Association of Permanent Building Societies. For more detail on Abacus and its members, see www.abacus.org.au.

Credit unions and building societies provide banking services to 4.5 million Australians and are Authorised Deposit-taking Institutions (ADIs) subject to the *Banking Act 1959*, Australian Financial Services Licensees subject to the *Corporations Act 2001*, and Reporting Entities subject to the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act).

Our comments on the Draft Access Card Bill are restricted to its interaction with the new AML/CTF Act.

Proof of identity

Credit unions and building societies and other ADIs have for many years been subject to obligations under the *Financial Transactions Reports Act 1988* to verify the identity of customers. The AML/CTF Act subjects a wider range of financial sector participants to broader and ongoing customer identification obligations from December 2007.

This will massively increase demand by consumers for proof of identity documents. Consumers will not be able to open an account with a credit union, building society or bank, or obtain various other services designated in the AML/CTF Act, unless the provider can verify the consumer's identity.

As noted in the Draft Bill's Explanatory Material, individuals may choose to use their card as a convenient proof of identity document. Abacus believes that many consumers will most definitely choose to use their Access Card for this purpose. The alternatives available to

them include birth certificates, passports and drivers' licences, but the Access Card is likely to be more common and more readily available than these other documents.

Reporting Entities can't provide services to customers whose identity can't be verified. The AML/CTF Act is aimed at fighting money laundering and terrorism financing but its most direct and immediate impact on the vast majority of law-abiding Australians is to increase demand for proof of identity documentation.

It is therefore critically important that the Draft Bill's intention of permitting Access Card holders to elect to use their cards for lawful purposes they choose is clearly and unambiguously expressed in full recognition of the AML/CTF Act.

Further, it should be explicitly expressed in the Bill's Explanatory Statement that the Access Card can be used, at the card holder's choice, as a proof of identity document in the context of the AML/CTF Act.

If service providers, such as credit unions and building societies, decide that there is too much regulatory risk in relying on the Access Card for identity verification purposes they will refuse to accept it and individual choice will be consequently restricted.

AML/CTF Regulated Entities face heavy penalties if they provide services without verifying the identity of customers. However, under the Draft Bill they will face heavy penalties if they make a statement that an individual "could reasonably understand" to mean that the individual is required to produce his or her Access Card.

A customer seeking a banking service, such as a transaction account, will be told they must provide proof of identity before the service can be provided. If the only proof of identity document held by the customer is an Access Card, they could form the view that they are being "required" to produce the card.

AML/CTF Reporting Entities will have to consider whether to avoid exposure to the risk of being accused of making such a statement by having a policy of not accepting Access Cards for proof of identity purposes. Such a policy would undoubtedly alienate potential customers and would harm the competitive position of the Reporting Entities.

The penalties for "requiring" production of an Access Card are so heavy that, as noted in the Draft Bill's Explanatory Material, some stakeholders took the view that offences would never be prosecuted.

However, to respond to these concerns the Draft Bill introduces a new concept of "infringement notices" to be issued by the Secretary of the Department of Human Services.

This system of infringement notices, intended to deal with "less egregious" cases of unlawfully demanding an access card, would also be a factor for Reporting Entities to consider in weighing up regulatory, financial and reputation risks of accepting Access Cards as proof of identity documents.

Creating a potentially highly useful new means of verifying identity and simultaneously creating severe regulatory risk for entities seeking to rely on it is a recipe for consumer confusion and frustration.

Surface of card

Access Card holders who wish to exercise their right to use the card as a convenient proof of identity document should be given the opportunity to maximise the card's utility in this respect.

Under the AML/CTF Rules, Reporting Entities must verify the customer's "full name" and either the customer's date of birth or the customer's residential address.


The Draft Bill's Explanatory Material says: "Some individuals may want to include their birth date on the surface of the card. The Bill will allow individuals to include their birth date if they choose to do so. Otherwise, the card surface will not include details of an individual's date of birth."

We believe many individuals will choose this option if they are aware that inclusion of date of birth will increase the utility of the card as a proof of identity document.

It is also important for the utility of the card as a proof of identity document that it include the customer's "full name", rather than initials.

Please don't hesitate to contact me on 02 6232 6666 to discuss any aspect of this submission.

Yours sincerely



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