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The Secretary
Senate Finance and Public Administration Committee
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

24 March 2011

BY ELECTRONIC SUBMISSION

Dear Secretary,

This submission is made jointly by Citigroup Pty Limited (Citi) and its related body corporate, Diners Club Pty Limited (Diners Club). We are grateful for the opportunity to give comments on the proposed amendments to the Privacy Act and Australian Privacy Principles. The majority of our comments on the Exposure Drafts are incorporated in the submissions that have and will be made by the Australian Bankers' Association. This submission therefore relates only to those elements of the proposed amendment legislation that disproportionately impact our business.

Exposure Draft – Credit Reporting

Repayment History Information and Diners Club

Diners Club is an issuer of charge cards. Charge cards operate in a similar manner to credit cards except that the liabilities under a charge card must be repaid in full each month.

Pursuant to Regulation 62(1) of the National Consumer Credit Regulations 2010, as an issuer of charge cards, Diners Club is exempted from the obligation to maintain an Australian Credit Licence.

Section 108(4) of the Exposure Draft prohibits a credit reporting agency from disclosing credit reporting information that is, or was derived from repayment history information, unless the disclosure is to a credit provider that is a licensee under the National Consumer Credit Protection Act (NCCPA).

Section 132(2) limits the disclosure of repayment history information to a credit reporting agency by a credit provider to those credit providers that are licensees.

Likewise section 135 sets out the circumstances where a credit provider may disclose credit eligibility information about an individual. In particular subsections (4) and (5) limits disclosure of repayment history information by a credit provider only to credit providers who are licensees.

As an exemptee under the licensing requirements of the NCCPA, Diners Club would therefore be

excluded from receiving or providing repayment history information either from or to a credit reporting agency; or from or to other credit providers, including its related bodies corporate such as Citi.

Additionally section 110 permits the use of credit reporting information about an individual by a credit reporting agency for the purpose of direct marketing by a credit provider provided (among other things) that the credit provider is a licensee and as a consequence Diners would be excluded from conducting such activities.

We assume that this is an unintended consequence of the legislation as the effect to exclude charge card providers from the benefits of enhanced reporting appears illogical. That a business is structured in such a way so as to not require an Australian Credit Licence should not in itself mean that it is inappropriate for that business to have access to repayment history information. We propose therefore that:

- i. references in the exposure draft to “licensee” be replaced by “licensee or exempted credit provider”; and
- ii. a new definition of “exempted credit provider” be inserted into the Act to read:
 “exempted credit provider” means any provider of credit under a credit contract to which Schedule 1 of the National Consumer Credit Protection Act would apply but for an exemption under that Act.

Exposure Draft – Australian Privacy Principles

APP 1 – open and transparent management of personal information

APP 1 prescribes a number of elements as to the minimum content of an organisation’s privacy policy. The prescribed information includes whether the organisation is likely to disclose personal information to overseas recipients and if so, to disclose the countries in which such recipients are likely to be located.

Citi entirely supports the concept that disclosure of personal information overseas should only take place to the extent that there are appropriate safeguards in place to protect that information. Our business relies on our customers having confidence in the security of their personal information. However, we disagree with the requirement to list the relevant countries in an organisation’s privacy policy.

As a global organisation many of Citi’s functions are outsourced offshore and/or centralised in various countries. These functions are frequently reviewed and relocated to ensure quality and efficiency. As a consequence Citi cannot reasonably disclose in its privacy policy each overseas recipient that may handle personal information about Citi customers.

In our view the requirement to list relevant countries is unnecessarily burdensome and could be costly to Citi because of the need to monitor any changes in the status of overseas recipients and to amend the privacy policy accordingly. Provided that personal information is kept secure we also doubt the value of disclosing this information to individuals. We therefore propose that section 2(4)(g) of the APPs is deleted.

Please contact me should you wish to discuss any of the comments in this letter.

Yours sincerely,

Daniel Richmond
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Diners Club Pty Limited