



Katherine Sleeth  
Executive Manager Open Data  
Everyday Banking  
Level 4, The Foundry, 1 Locomotive Street,  
South Eveleigh, NSW, 2015

Ms Claire McKay  
Director  
Consumer Data Right Division  
Commonwealth Treasury

Sent via email: [claire.mckay@treasury.gov.au](mailto:claire.mckay@treasury.gov.au)  
CC: [Data@treasury.gov.au](mailto:Data@treasury.gov.au); [CBAOpenBanking@cba.com.au](mailto:CBAOpenBanking@cba.com.au)

14 April 2022

Dear Ms. McKay,

**Subject: Consumer Data Right Open Finance Sectoral Assessment Non-bank lending**

The CBA is pleased to provide feedback to Treasury on the Consumer Data Right (CDR) Open Finance Sectoral Assessment Non-bank lending consultation paper issued 15 March 2022.

The CDR is positioned as a key pillar of the Government's Digital Economy Strategy and the CBA supports the Government's implementation of an economy-wide CDR.

CBA welcomes the announcement of Open Finance as the next priority area of CDR. We note that this sector comprises four distinct datasets of non-bank lending, merchant acquisition services, general insurance and superannuation that will be delivered and designated in a phased approach.

The expansion of CDR into non-bank lending will enrich the customer value proposition of CDR and assist in meeting the policy objectives of promoting the interests of consumers, as well as driving competition and innovation. As the CDR expands, it will be important to maintain the foundational principles of privacy and security to ensure ongoing trust and confidence in the regime.

In this submission, we offer our views on the issues raised in the consultation paper.

**Scope of data holders**

From a policy perspective, the scope of non-bank lenders should capture all organisations engaged in lending to retail and business consumers.

The non-bank lending sector in Australia is diverse and therefore it is important that the scope of data holders appropriately reflects the structure and composition of the lending market.

Buy now, pay later schemes (BNPL), fringe credit (also known as "payday" lenders) and private investment funds providing direct lending to business are examples of entities that should be included.

The CBA supports consideration of a materiality threshold to exclude smaller firms, noting the costs of participating in CDR may be a barrier to entry and discourage innovation. The threshold should be subject to

further consultation by Treasury, and could for example rely upon an organisation's number of customers, annual revenue or other relevant metric. However, it is important to note that lending to consumers or businesses is a sophisticated product offering that requires access to significant capital and robust technology systems. Therefore, even if a non-bank lender is materially smaller, the business model would suggest that their ability to share data under CDR would be easier to implement compared to similar sized businesses in other industries.

**Recommendation 1: The scope of proposed non-bank lenders should be sufficiently broad to include all entities engaged in personal and business lending activity.**

#### Definition of non-bank lender

Treasury should adopt a broad definition of "non-bank lender" to capture all forms of financial services credit. Reliance solely upon existing statutory definitions tied to a "credit facility" in the ASIC Act 2001 (Cth) or a "registrable corporation" per the Financial Sector (Collection of Data) Act 2001 (Cth) may not achieve the intended policy outcome of capturing all entities who provide a loan facility to a retail or business customer.

As part of the ongoing consultation process, further discussion will be required along with appropriate time to consider the scope and impact of the definition. The CBA welcomes future dialogue with Treasury to develop an appropriate description.

The definition should achieve the CDR's policy objectives of empowering consumers to use their data to inform decision making, drive competition and innovation of products and services to ensure a level playing field, and become the future engine room for the data economy.

**Recommendation 2: We recommend that the definition of non-bank lender be subject to further consultation once the scope of data holders is determined.**

#### Scope of datasets

The CBA agrees that sectoral product data and consumer data should be designated in the non-bank instrument and that non-bank lenders share data on equivalent terms.

CBA supports a broad approach to the non-bank lending designation that includes a wide source of datasets, including BNPL, fringe credit, private investment firms and other types of entities engaged in non-bank lending. A flexible approach will enable future designations to be made without the need for additional designation instruments.

**Recommendation 3: The non-bank lending designation should be broadly designed so that product and consumer datasets are aligned. It should maintain flexibility to introduce future sectoral datasets.**

#### Eligible customers

The definition of "eligible customers" under the existing banking rules should also apply to non-bank lending.

We agree that consumers must have an online account to be eligible. This is consistent with the banking rules and the overarching policy aims that data be shared under the auspices of a safe, secure and trusted digital platform.

**Recommendation 4: The definition of "eligible customers" under the banking designation should apply to non-bank lenders.**

### Other complementary datasets

The CBA agrees that expanding the CDR to government held consumer datasets would be of notable benefit to retail and business consumers. It would also align to the Government's Australian Data Strategy, released on 14 December 2021, in which 'enabling data use' is a key tenet. Sharing this data is also a key deliverable of the National Data Commissioner.

- Australian Taxation Office Data – business and personal taxable income, tax liability, business activity statement to facilitate credit risk assessment and loan approvals, optimal financial management and debt consolidation for the benefit of consumers and business.
- Australian Securities and Investments Commission (ASIC) registers – to provide corroborating information relating to company registrations and registered officers (e.g.: for SME lending).
- Centrelink data – to assist with verifying a customer's financial position.

There would also be benefit in exploring the consumer data held by governments at a state and territory level that could be shared via the CDR.

- At a State level, data sourced from the relevant Land Titles Authorities including property titles – to expedite loan approval and settlement processes.
- At a local government level, records of council rate notices – to enable consumers to have a consolidated view of their property liabilities.

**Recommendation 5: Government held consumer data should be included as a future dataset under CDR.**

### Materially enhanced information

The CBA agrees with Treasury that data holders should not be required to disclose "materially enhanced information" about the use or sale/supply or products under CDR but may be authorised to disclose it through the CDR on a voluntary basis.

The designation instrument for Open Finance non-bank lending should extend this principle.

**Recommendation 6: An exclusion for materially enhanced information should be adopted in the Open Finance designation instrument.**

### Phasing of data sharing

The CBA agrees with Treasury that the commencement of obligations under the proposed Open Finance designation should occur in a phased, sequential manner. The timeline for implementation should be practical, and allow sufficient time for new data holders to become accredited and build the technical and compliance capability to commence sharing of data.

As with the roll out of CDR across the banking sector, the right balance will need to be struck between ensuring that the industry is given enough time to implement the changes properly but also ensure that it is done with speed so that consumers and businesses can take advantage of accessing their data.

The size and sophistication of non-bank lenders should be taken into account when rolling out CDR. As with banking, the Government could consider giving smaller non-bank lenders more time than larger ones. Given some non-bank lenders are of a similar size to medium sized banks the banking sector roll out could be used as a benchmark.

**Recommendation 7: We recommend that Treasury scale the roll out of CDR across non-bank lenders in a similar way as was done with banking, with larger organisations given the same timeframes as similar sized banks.**

In conclusion, the CBA supports the proposal to expand the CDR to non-bank lenders for the reasons outlined above.

We would be pleased to discuss this submission in more detail with you. Feel free to contact me on 0417 065 382, or by email to [Katherine.Sleeth@cba.com.au](mailto:Katherine.Sleeth@cba.com.au) if you wish to do so.

Yours sincerely,



Katherine Sleeth  
Executive Manager Open Data  
Commonwealth Bank of Australia