



29 March 2018

Mr Daniel McAuliffe  
Structural Reform Group  
The Treasury  
Langton Crescent  
PARKES ACT 2600

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Dear Mr McAuliffe

### **Review into Open Banking in Australia – Final Report**

Prospa welcomes the opportunity to provide a response to the recommendations contained in the Final Report of the Review into Open Banking in Australia (the Report).

Our submission is informed by our six years of small business lending experience in Australia. We are largely supportive of the proposed Open Banking model and believe that swift implementation will open new ways for customers to control their finances, and create new opportunities for innovative and successful offerings.

#### Introduction

Prospa is the leading online lender to small business in Australia. We help small businesses access finance to seize opportunities and manage their cash flow. With access to finance, owners can develop, build and ultimately create jobs and contribute to economic development. Prospa is Australian-owned and operated and our proprietary technology platform was built specifically to suit the needs of Australian small business.

Using our smart technology platform and an online application, we can approve and fund loans of between \$5,000 and \$250,000 in less than one business day. We focus on the health of a business to determine creditworthiness, rather than the personal credit score of the owner. Prospa loans are often made in circumstances where traditional bank lending would require a long lead time and an asset, such as the family home, would be required as security.

Since 2012, Prospa has delivered over \$500m to more than 12,000 small businesses. In 2016, small businesses employed 44% of Australia's private sector workforce and generated 35% of Australia's GDP<sup>1</sup> and are a critical source of growth and job creation for the Australian economy.

#### Overview

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<sup>1</sup> Small businesses defined as having fewer than 20 employees; Jun 2003 to Jun 2017, ABS 8165. Counts of Australian businesses, from Jun 2003 to Jun 2017 (released in February 2018).

At a high level, Prospa is of the view that Open Banking reforms should be implemented as soon as possible for the ADI sector, and in as open a manner as possible.

Prospa is also of the view that in order for the benefits of open banking reforms to be enjoyed as widely as possible, the reforms should maximise participation across the economy. That means fast, easy and robust access to customers' data by, and participation from, third parties, sooner rather than later.

That said, Prospa also recognises that open banking should be implemented in a manner that will ensure the confidence of the Australian people and therefore their maximum participation and benefit.

The right reforms will bring a virtuous cycle of implementation of open banking, resulting in participation and benefit, leading to confidence in the open banking system, increased participation, enhanced benefit, increased competition and the perception of Australia as a leading financial technology hub, among other long term benefits.

Prospa generally supports the submission to the Open Banking Review's Final Report by FinTech Australia – particularly in relation to the importance of speedy and flexible implementation of the findings of the review, in order to maximise the opportunity for innovation for members of the fintech sector. Specific comments supporting the position of FinTech Australia will be set out in relation to relevant sections of the Report.

Prospa also supports the position of FinTech Australia in regard to the designation of additional areas of Financial Services to increase the availability and utilisation of data within a safe, secure framework, to bring about improved consumer and economic outcomes.

Prospa also supports the position of FinTech Australia that the new proposed CDR and Open Banking regime should clearly articulate a timeframe for consideration of Application Programming Interfaces (APIs) that allow 3rd parties to write data, as well as to read it.

Prospa agrees with FinTech Australia that our Open Banking regime would be far more impactful and deliver much greater benefits if write-enabled APIs were also included in its scope. Further Prospa agrees that write-enabled APIs are included as part of the formal 1-year review into implementation with a view to including this in scope within a year from then.

## Open Banking regulatory framework

### Chapter 2 Standards

Prospa supports an approach to standards setting that "ensure efficient and simple implementation and compliance, interoperability between accredited parties within and across sectors, and promote competition."<sup>2</sup>

In terms of regulatory approach, Prospa agrees with the position of FinTech Australia that the application of the ACCC's responsibilities with respect to competition in financial

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<sup>2</sup> Page 19 of the Review

services and technology space is a relatively new area that may require it to grow and build capability quickly to ensure the ACCC is prepared to meet the deadlines set forth in the review.

Prospa would be pleased to engage in robust and regular dialogue as a stakeholder, along with other participants in the sector to ensure the regulator is able to gain a strong appreciation of the more subtle nuances as they prepare for the coming regime. We also see value in the OIAC closely engaging with participants as part of this process.

## 2.5 – Agreed

The Standards should as much as possible align with standards being developed amongst key trading partners to ensure that investors are able to relatively quickly understand and have confidence in the developing Australian landscape. At present this is likely to include key standards being developed in the UK and the EU.

Prospa notes and supports the position of FinTech Australia that “Open Data initiatives are taking place at pace throughout the world, particularly in the UK and EU where the roll-out of GDPR is well underway. Of note, several key features of GDPR, such as the right to forget, may have implications for the design of the regime in Australia.”

Prospa shares the view of FinTech Australia in relation to the importance of the Data Standards Board undertaking regular international engagement with equivalent groups.

Standards should be developed with a view to maximising competition and the opportunity for participation of third parties in open banking.

## 2.6 – Agreed

It is imperative that there is strong representation from business lenders on the proposed Data Standards Body. This could be achieved through board membership or a stakeholder reference group.

As Australia’s Open Banking system is developed and implemented, it is of key importance that the spectrum of stakeholders and participants have ongoing and formal opportunities for input.

Prospa supports the position of FinTech Australia that the ACCC co-chair the DSB alongside an independent chairperson to ensure the industry is moving to deliver required standard-setting outcomes on time.

## 2.7 – Agreed

Accreditation will ensure that confidence in Open Banking is established and maintained with privacy protection a key imperative of the system.

Prospa agrees with the positions of a number of organisations referenced in the review, and supports an accreditation process for data recipients.

Accreditation methods should be developed with a view to maximising competition and the opportunity for participation of third parties in open banking.

## 2.8 – Agreed

Prospa supports a tiered risk-based approach that emphasises a seamless accreditation process to minimise costs and barriers to entry. Prospa believes that there should be ongoing engagement with stakeholders around matters such as existing accreditations.

Prospa agrees with this recommendation on the basis that tiers would be designed to facilitate more and faster accreditations. Tiered accreditation ought to be designed to ensure that it is available with the expenditure of reasonable resources and that full accreditation should also be made reasonably available to third parties.

Prospa notes the comment of the Review that "...accreditation should not require that unnecessarily intensive, or expensive, official certifications be obtained."<sup>3</sup>

Prospa notes the position of FinTech Australia that it is "wary of the need to have an accreditation regime that is based on two different dimensions (type of data as well as risk of organisation or use-case)." This is clearly a matter which must be considered closely through development and implementation of Open Banking.

Prospa also supports the position of FinTech Australia as set out in the following extract, that it is important:

*"...to properly assess data and security risks and safeguard the consumer, whilst allowing innovative new entrants to participate and thrive.*

*To minimise this risk and also minimise double-handling in regulation (which creates additional compliance burdens for both the participants and the regulators), the accreditation regime should provide automatic or streamlined access to certain tiers of accreditation for companies already holding licences such as an AFSL or ACL. There are already extensive and regularly audited risk, information security, and data use/disclosure obligations in place for such licensed entities that are undertaken by ASIC, with the ultimate goal of the regulator being much the same as for Open Banking.*

*FinTech Australia strongly recommends that the ACCC work in collaboration with the DSB to build, test and review the accreditation processes before launch."*

## 2.9 – Agreed

It is appropriate that the authority responsible for accreditation is also responsible for maintaining a public address book showing who is accredited.

## 2.10 – Agreed.

Prospa supports internal and external dispute resolution processes for the timely and fair resolution of customer complaints.

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<sup>3</sup> Page 24 of the Review

Prospa notes that the creation of a "single consumer data contact point" and "no wrong door for consumers" impose a significant burden on participants to facilitate complaints processes, requiring significant training requirements to ensure compliance.

Prospa supports the summary position of FinTech Australia that the Accreditation regime should:

- *Have a clearly defined process and timeframe appropriate for all parties (in particular, this may require additional resourcing and advance preparations by the Regulators to ensure turnaround times for accreditation are fast, particularly at lower risk tiers);*
- *Be independently governed by the ACCC;*
- *Not be over-onerous from a cost perspective, and seek to take advantage of other accreditation regimes that exist where possible; and*
- *Be considerate of how it may be utilised in other CDR related verticals (but not at the expense of momentum - especially if a regular process to review and potentially revise the regulations is also simultaneously created).*

### The scope of Open Banking

In relation to the scope of the Open Banking regime, Prospa supports the position of FinTech Australia that "*rules are not prescriptive over the scope of data, and that the DSB quickly establish clear processes to request data be added to the scope of the implementation project to ensure Competition benefits are met*".

#### 3.1 – Disagree in part

Prospa is of the view that under an Open Banking regime, all customer data should be obliged to be shared by parties holding that data - on direction from the customer. Prospa agrees that this should not include verification assessment or information not held in digital form.

Open Banking, in order to be effective, ought to enable customers to direct the sharing of their digital information with any party whatsoever. A data recipient might be a third party financial services provider, whom the customer wishes, to take care of their financial position, or indeed they may operate a platform from which the customer wishes to direct their finances. Provided parties are properly accredited, it should be possible for data to be directly shared with a data recipient. Prospa is also of the view customers should be able to direct how long a third party may have access to their data for, whether one-off, hourly, monthly or otherwise.

Prospa is of the view that the obligation to share data should also be applied to information supporting an identification verification assessment.

The EU has proven security issues around verifying identity can be overcome and should not pose a substantial challenge.

Requiring any data to be shared only with the customer creates the risk of creating friction, potentially making it harder or less likely for the customer to on-share their data - or indeed might cause data not to be shared.

Open banking should enable sharing of data to effectively occur on the basis of the customer's direction. Additional requirements on the customer beyond this have the potential to make the system ineffectual.

Non-sharing of ID information would also raise questions around the perceived trustworthiness of the third party with whom data is being shared, which is an important determinant in consumer acceptance of new ways of doing things; and could slow down take up of Open Banking initiatives.

### 3.2 – Agreed but extension required

Data holders should be required to share transaction data at any time when there is a regulatory requirement for it to be held.

The implication of this recommendation however, is that where data continues to be held, but this beyond the regulatory period for which it is *required* to be held, then it does not need to be shared. Prospa is of the view, that the implementation of this provision should be for the sharing of any data *held*, however there should be no mandatory requirement to share data which is no longer held, due to the lapsing of a regulatory requirement to retain the data.

### 3,3 - Agreed

Material enhancements of data or the aggregation of data in particular forms, may provide insights to IP, creditworthiness and other intellectual property, which is otherwise protected.

### 3.4 - Agreed

### 3.5 – Agreed

This is agreed for the same reasons as set out in 3.3

### 3.6 – Agreed

Product information required to be disclosed to the customer, should also be made available under Open Banking. The form that this information should take and how it should be shared should be the same as for the customer data.

### 3.7 – Agreed

Prospa believes customer data belongs to the customer not the bank or institution holding it. Making customers' data available to them opens new ways to better control their finances, and creates new opportunities for innovative and successful offerings.

### 3.8 – Agreed

While a phasing approach should be undertaken, data sharing should be enabled and mandated as quickly and seamlessly as possible, with a view to maximise customer benefits, such as choice and competition.

3.9 – Agreed

In order for Open Banking to be more than simply a mechanism to move between institutions it should include data that is able to provide insight to the financial history of the customer.

This will provide the best path to innovation, enabling the creation of products which track spending and saving behaviour and enable to creation of products which maximise other opportunities for the customer - for example investment opportunities or saving opportunities. In the small business context, this data will enable greater insight into the historical cash flow and profitability of the business. More data means more opportunities to lower risks for small business lenders. Historical will mean that o-pen data presents more and greater opportunities for open banking to be of greater value to customers and the wider community.

3.10 - Agreed, noting comments in relation to recommendation tiered accreditation above.

3.11 - Agreed

3.12 – Agreed

### Safeguards

4.1 - Agreed

4.4 – Agreed

It is important however that a legislative regime for open banking data provides clear guidance around terms of directions to release and that there is a clear protection from liability for a party releasing data, where they have been lawfully directed to do so. Any lawful release should be strictly protected.

Directions for release of data should be made clearly, in a common lexicon, in order to ensure clarity for both the customer and also the provider of services.

4.5 – Agreed

It is preferable that some form of indication of what is acceptable information is included in the scheme. Reforms should be clear about what constitutes being “fully informed”.

4.6 – Agreed

4.7 – Agreed

In order for the scheme to provide customers with confidence and for it to have integrity, it is important that joint account holders have full transparency and control of their data and proposed data sharing.

#### 4.8 – Agreed

As far as possible these standards should align with the most recognised standards in use internationally. Security measures should ensure customers have confidence and protection, without creating barriers to potential innovations.

Security measures should only be implemented for the purposes of protecting security and should not unnecessarily impede competition.

#### 4.9 - Agreed:

A framework for the allocation of liability between participants should be implemented and should align with existing legal frameworks.

#### Data transfer mechanism

Prospa strongly supports the position of the support set out in the Report for the adoption and leverage of standards and principles from other jurisdictions. This will have the benefit of reducing the cost and time required to consider all issues as we can use learnings from other jurisdictions to inform implementation of an initial standard; and increasing interoperability between Australia and other jurisdictions with a pathway towards global interoperability and compliance.

If the Australian economy and the Australian people are to enjoy the substantial benefits of technology associated with financial services, it is crucial that regulators take steps to catch-up and keep-up with international regulatory initiatives. It is also important to ensure that parochial solutions to problems which have already been solved overseas are not unnecessarily implemented.

#### 5.1 – Agreed

APIs will allow interoperability and exchange of data as easily as possible. Maximising interoperability enables expanded and more innovative approaches to banking and finance for consumers and business.

#### 5.2 – Agreed

The UK Open Banking technical specification should be the starting point for the data transfer Standards.

#### 5.3 – Agreed

It is important to ensure extensibility to enable future functionality.

#### 5.5 – Agreed

#### 5.6 – Agreed

Data transactions should be as frictionless as possible. Persistent authorisation is consistent with ongoing confidence in open data exchange.



Prospa is of the view that maximising authorisation will provide the most benefit to customers.

5.7 - Customers should be able to authorise access to transaction data in full. Data recipients should not be limited to accessing pre-set functions or sending blocks of their own code to run on the system of the bank or its partner or prevented from caching data. However, participants should be free to offer services that provide more limited data, to data recipients who have lower levels of accreditation.

5.8 – Agreed

Prospa believes that, with reasonable accreditation standards, it should be made possible for middleware players to innovate and participate in the system for open data as freely as possible - developing products and offering services.

Middleware providers will have a significant impact by enhancing the value delivered by open banking and data sharing.

### Implementation

Prospa strongly supports the review's recommendation that a consumer campaign be run in conjunction with implementation to ensure strong take-up of the regime by both would-be accredited entities and consumers. As we have previously indicated, consumer trust will be a critical component of success for Open Banking, and the Government's public support will be essential to build trust and consideration. This was also a core component of the implementation of Open Banking in other jurisdictions.

6.2 – Agreed

6:3 - Agreed in part:

Prospa believes the commencement date to capture transaction data relating to transactions should be extended earlier than 1 January 2017. The banking sector has been aware Open Banking will be implemented and should be prepared for its implementation.

Such a recent data capture date means that the significant benefits of Open Banking will be muted for some time to come, given the limited scope of historical banking transaction history that will be made available under the regime under the recommendation.

6.6 – Agreed

Following the commencement of open data it will be important to be in a position to assess whether it is achieving the desired outcomes both in terms of regulatory implementation, but also whether there are any amendments required to ensure benefits are being realised by consumers and customers.

It is noted there is no timeframe within which the review is to be completed. In order to ensure a timely review process and implementation of recommendations, a review completion date may be appropriate.

### Conclusion



Prospa strongly supports the speedy and broad implementation of Open Banking in a robust manner which will build long term confidence in Open Banking.

We congratulate the author of the Report, Mr Farrell and the review team, as well as the Australian Government in moving to practical, timely and swift implementation of the Report's considerations and findings.

Prospa stands ready to be consulted and participate in the ongoing development and implementation of Open Banking in Australia.

Yours sincerely

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