

Response to Open Banking Issue Paper

To the Open Banking Review Secretariat,

The *Review into Open Banking in Australia* comes at an exciting time: FinTech innovation, evolving data sharing best practices, and global recognitions that personal information is owned by individuals, converge to allow a rethink of this century's most significant institutions.

It's clear from the previous recommendations that Australia would benefit from improved consumer protections around personal information and data sharing; and it is also clear financial services innovation will be driven by open data. If the Murray Inquiry, Harper Review, PC's Report Report, and Coleman report don't yet make a sufficient case for ensuring consumers have access to their banking data, it is unclear what will.

Now that the value of an Open Banking system is recognised, it should be focused on the institutional level structures of the banking system that may have caused disincentives towards such a consumer-focused approach to personal data to have already evolved.

After all, that personal information is owned by individuals should already be a core principle of the law and any deviation from this should be seen as an historical anomaly to be corrected.

Those who manage information management initiatives will attest that too narrow a focus on the data itself can mean the context and therefore benefits of your data initiative are missed. In this way, "open banking data" should be seen in the full context of "open banking". Also, "personal data" should be understood to be part of the more significant concern of "identity management". Indeed, the reason personal information must be protected is beyond just privacy issues, and relates to how your personal information can be used to act on behalf of your identity.

Summary of Recommendations

Restricting the scope of "open banking" to only the "open data" concerns is too limited. The scope of open banking should instead be the disaggregation of banking services. This includes open data, but must be more broad to cover:

1. Separation of banking services from identify management services. Banks currently hold personal information and must do so in order to provide financial services. Consumers should instead be able to select an identity management provider separately from their financial services provider(s).
2. Enable "money warehousing" services. This is a simple money storage service that completely removes client monies from the banks' lending and investment activities.
3. Broaden the scope of the Open Banking terms of reference to consider a reduction in the relationship between the Reserve Bank of Australia and selected financial services institutions

#1 - Separation of banking services from Identity services

Australians must be able to choose the provider of their identity services providers separately to the provider of their banking services.

As identity services become more critical, the current aggregation of identity services and banking services will give existing banks an unfair advantage as the default provider of identity services. Consumers may, of course, choose the same bank to provide both identity services and banking services.

As per legislation relating to individuals interacting with government, the right to deal with banks anonymously should be established. The implications in law for Anti-money-laundering (AML) and other regulations which require access to personal information may partially shift responsibilities to identify service providers.

Currently, emerging best practice in sharing bank data with third parties includes the tokenisation and removal of personal information. In some jurisdictions, this tokenisation approach is also required to be performed as part of the technical implementation of data handling software systems. Under this arrangement, strict compliance requires that personal information is tokenised and stored in a local jurisdiction and only re-combined with transactional information at the point when combined information needs to be presented back to a bank employee's computer screen.

Separation of identity and banking services extends this emerging best practice in data sharing initiated by banks to the relationship consumers have with banks themselves.

Consumers would be able to anonymously engage banking services while only providing assurance that they have an eligible identity, and relying on the third-party identity management service provider to confirm this without sharing personal information with the bank.

If any organisation wanted to see an individual's banking data in a way that combined so-called personal information with so-called transactional information this would be physically impossible without the cooperation of the owner of the identity or their chosen identity management service provider.

The current debate regarding so-called back-door access to encryption may also be better resolved if management of identify and its relationship to service provision is tackled concurrently.

#2 Ensure the availability of a "money warehousing" service for general consumers

It is currently difficult to participate in the Australian economy or even workforce without a relationship with a bank. The likely irreversible trends towards a cash-less society mean this relationship is required to enable the electronic infrastructure required for stable payments and transfers. The benefits of these trends are undisputed. However, currently forming a relationship with a bank necessarily means being involved in the bank's lending and investment practices - which put that money at risk.

In a cashless society, there must be a substitute for the ability for consumers to hold cash physically and outside of the banking system. This doesn't imply this is an effective

investment strategy only that it is a right of individuals as important as the rights to their personal data at the heart of the open banking review's current limited scope.

Currently, client money and leverage ratio legislation makes decisions on how much a bank can leverage client money on an aggregate level. If principles of open banking are based on disaggregation - which they should be - these decisions should be available to the consumer. A "money warehousing" service would allow for money to be stored as per a warehouse service for physical goods. This money would not participate in the lending and investment activities of the bank at all. This would be a choice that consumers make for whatever percentage of their cash they desire.

From an open data perspective, when a consumer uses a money warehousing service they would do so with the expectation that details of their transactions would not be stored except for the explicit purpose of audits on the amount of money warehoused. This, combined with separation of banking services from identity services, would ensure that its possible to opt-out of data sharing all together. This follows the principle of disaggregation of banking services, and creates "privacy by design".

This would also give governments an additional metric to assess the state of the Australian economy. Where consumers choose money warehousing, rather than other forms of saving and investment, this is a measure of confidence as well as an expression of their rights. The use of money warehousing services is an explicit show of confidence in the strength of the currency while also having some of the economic effects of a negative interest rate.

#3 Consider Open Banking Review to include a reduced relationship between the Reserve Bank of Australia and selected financial services institutions

This is a big topic, and the complexity and potential for unintended consequences for any proposed changes only highlight barriers to openness in the banking system.

Where ADIs hold Exchange Settlement Balances to ensure they are able to settle when the cash market is closed, this could be considered analogous to a consumer's right to hold cash via a money warehousing service. While the relationship between the RBA and selected banks exists, it seems more open to also have the cash warehousing service available to consumers as above. It is recognised that if all consumers opt to utilise cash warehouse services the ability for RBA to target interest rates would likely be impacted.

RBA's open market operations are based on proposals from financial institutions. This is not "open" in any sense that concedes that it represents a closed market of investments not available to consumers. While the right to freely exchange would be a truly open society, it's unclear how open banking initiatives that only focus on data sharing solve the "Cantillon effect" where this relationship benefits selected financial institutions at the expense of consumers.

If the Open Banking terms of reference were to be expanded to include review of this relationship it may enable a more broad innovation in the banking system informed by a more broad range of industry expertise.

Final Note

As the scope and terms of reference for the open banking review is limited to data sharing, the initial focus should be on the first two points above. We appreciate the opportunity to provide this feedback on the issue paper.

Kind regards