



21 November 2017

Open Banking Review Secretariat
The Treasury
Langton Crescent
PARKES ACT 2600

Email: OBRsecretariat@treasury.gov.au

Dear Mr Farrell,

SMSF ASSOCIATION SUPPLEMENTARY SUBMISSION ON OPEN BANKING REVIEW

The SMSF Association (SMSFA) welcomes the opportunity to make a supplementary submission to the Open Banking Review. We noted the challenging issues at the Melbourne consultation on 20 October 2017 and believe the SMSFA has the ability to offer a further voice on customer interests regarding protections, consent and controls on behalf of individuals.

The SMSFA was strongly supportive of Open Banking in its initial submission noting that the benefits for SMSF trustees, administrators and financial technology firms would be extremely advantageous to the SMSF industry and the financial sector as a whole. We envision the efficiency of the sector to greatly increase if these measures are implemented successfully.

We believe it is worthwhile to further expand on issues concerning the security, privacy and consent concerns of individual trustees as customers of open banking data. We originally stated,

...ultimately, the creation of an open banking system requires excellent data security. There must be security, governance and authentication controls implemented across the entire regime to protect the interests of consumers. We strongly encourage that these controls are made standard throughout the banking sector so that any consumers interacting with open banking will have a simplified experience in authorising the use of their data. Data security will also be essential to protect the intellectual property of companies.

The point has been made that individuals who have less financial resources and may be less financially literate should be duly protected in an open banking regime. The SMSFA agrees with this notion but adds that even the financially literate are vulnerable with regards to open banking data and should also benefit from the same protections.

Protections – Who can be licensed to use and request data?

The SMSFA agrees with the industry consensus that there must be some form of accreditation and regulation of third parties who use and request open banking data. This could be conducted by an appropriate accreditation body that provides safeguards and protections over entities accessing and using the open data. The body would be responsible for creating and upholding accreditation



standards, collecting service fees, and monitoring for regulatory breaches. We would support a working group of relevant industry stakeholders to facilitate this body and act as standard setters and certifiers.

Despite the fact that third party service providers may provide services that span across several different activities it is likely that the vast majority of the entities accessing open banking data would be subject to an Australian Financial Services License (AFSL) regulated by Australian Securities and Investment Commission (ASIC). The SMSFA believes that any accreditation system could consider being based on this framework. Given our familiarity with the AFSL, we believe the following factors could be utilised by the accreditation body in some form.

ASIC have previously implemented modified AFSLs for different financial service businesses' needs. For example, ASIC provided a limited AFSL to replace the 'accountants exemption' on 1 July 2016. This license was created to allow for accountants who provide a limited range of financial services relevant to SMSFs to be licensed without the compliance burden of a full ASFL. This process of a limited AFSL is worth considering as a restricted accreditation framework which caters specifically for open banking where third parties who request to use open banking data but may not be providing financial advice. The creation and application of agreed standards can then further be managed through an open banking working group.

Alternatively, third parties who request to use open banking data could seek an AFSL with the relevant limited authorisations needed to provide their services to retail customers. ASIC could assist by streamlining process for these entities seeking to acquire an AFSL with open banking accreditation which would allow them to operate within ASIC's regulatory purview.

Given that AFSLs are regulated by ASIC, this provides a sensible starting point to allow a limited or restricted AFSL which contains open banking data standards to be built upon. Furthermore, the current AFSL regime can rely on synergies between insurance requirements, annual audits and requirements such as ethical and best interests obligations which will be essential in protecting customer data.

A licence or accreditation based on agreed standards that alleviate the concerns of security, privacy of data and insurance levels will allow individuals to have trust in the system, which is essential for any open banking data regime. In addition, using the AFSL regime as a starting point would potentially allow for an expansion of open banking data services to a broader financial services open data policy over time (for example, opening up superannuation account data for similar purposes).

Consent and Controls – How does this look?

The SMSFA supports that the customer should have ultimate choice on the sharing of their data and must fully understand what they are agreeing to. In this regard, the form of consent is essential to ensure that individuals have trust and confidence in the system. This is especially important for groups that are less familiar with financial technology such as SMSF trustees who are from an older demographic. An effective, transparent form of consent will allow customers to fully understand what third parties intend to do with their data.

The open banking review should give consideration to a standardised framework that all data requesters must adhere to. This would mean that whenever an individual uses a third party provider



to request data from an original source, the consent authorisation design is similar across all providers. We understand that the existing requirements for SMSF trustees to provide authorisation for their banks to provide data feeds to SMSF administrators and software providers is problematic due to each institution having different and complex authorisation processes. A more standardised authorisation approach as part of the implementation of an open banking policy would avoid these problems.

We believe that standardised authorisation can be implemented with common sense solutions. For example, to elicit trust there should be clear 'on/off' check boxes regarding what data third party firms have access to. Before each 'permission' there should be simple information about what a third party can do with that data. Transparency on the use and terms of data must be in plain English and the outcomes out of the use of data should be clearly stated. This would be similar to the setup of applications on modern mobile devices.

It should also not be an all in or out design, allowing for individuals to choose what aspects of data categories they will share. Within that, we stress that any design should only allow for providers to ask and request relevant permissions. For example, a third party provider who is just amalgamating bank accounts into one centralised application should not ask for or need to request life insurance data. Adequate controls need to be in place for this behaviour.

The SMSFA strongly believes that clear, concise permissions are essential to open banking. Detailed and lengthy terms and conditions should not be acceptable in any regime due to the fact individuals will not understand what they are signing up for. SMSF trustees, will also want confidence and clarity that their personal data will not be made available to others in ways they did not agree to. This is consistent with feedback from SMSF administrators who state that some trustees have an unwillingness to pass banking data on through the current methods to increase the efficiency of preparing financial accountants.

Customers should also be given the right to retract their consent at any time. From that point onwards no 'new data' can be received and all received data should no longer be used in the context that consent was given. The SMSFA understands that data held whilst under consent would most likely still be useable for information purposes by the third party.

We also believe it may be appropriate for individuals to receive further protections than small businesses and other entities. This can be implemented through the form of consent, in which individuals must satisfy additional simple consent mechanisms.



If you have any questions about our submission please do not hesitate in contacting us.

Yours sincerely,

A handwritten signature in black ink that reads 'John L. Maroney'.

John Maroney
Chief Executive Officer
SMSF Association

ABOUT THE SMSF ASSOCIATION

The SMSF Association is the peak professional body representing SMSF sector which is comprised of over 1.1 million SMSF members who have \$696 billion of funds under management and a diverse range of financial professionals servicing SMSFs. The SMSF Association continues to build integrity through professional and education standards for advisors and education standards for trustees. The SMSF Association consists of professional members, principally accountants, auditors, lawyers, financial planners and other professionals such as tax professionals and actuaries. Additionally, the SMSF Association represents SMSF trustee members and provides them access to independent education materials to assist them in the running of their SMSF.