

30 July 2021

Ms Kate O'Rourke  
First Assistant Secretary  
Consumer Data Right Division  
The Treasury

By email: [data@treasury.gov.au](mailto:data@treasury.gov.au)

Dear Ms O'Rourke,

### **Consumer Data Right rules amendments (version 3)**

COBA appreciates the opportunity to provide a submission on the Consumer Data Right (CDR) rules amendments (version 3).

COBA is the industry association for Australia's customer owned banking institutions (mutual banks, credit unions and building societies). Collectively, our sector has \$147 billion in assets. Customer owned banking institutions account for around two thirds of the total number of domestic Authorised Deposit-taking Institutions (ADIs) and deliver competition and market leading levels of customer satisfaction in the retail banking market.

Implementation of the CDR for COBA member banking institutions is a significant and complex technology transformation project which is occurring against a backdrop of a global pandemic and many other non-CDR regulatory change projects. This has proved challenging to all stakeholders, including banking institutions, their key technology suppliers, regulators and policymakers, as illustrated by the need to make significant changes to the CDR Rules proposed in this consultation.

These proposed amendments are needed to accelerate the benefits of the CDR for consumers by reducing barriers to participate in open banking and to support growth of the CDR ecosystem.

We support facilitating greater participation in the CDR regime and providing greater control and choice to consumers in sharing their data, subject to strong protection for customer data and preservation of the customer trust that customer owned banking institutions have built up over decades.

### **Key points**

Subject to points 1 & 2 below, COBA supports amendments to the Rules to:

- empower consumers to share their CDR data with certain classes of 'trusted adviser' (such as their accountant, lawyer, tax practitioner, BAS agent, licensed financial adviser or planner, financial counsellor or residential mortgage broker), or to share limited 'insights' obtained from CDR data
- support new pathways for participation in the CDR by allowing an accredited person to sponsor other parties to become accredited or allow their agents to participate in the system, and
- amend the settings that apply to data sharing for joint accounts to enhance consumer experience and convenience by enabling consent to sharing CDR data about joint accounts to be provided in a manner that aligns more closely with the existing ability of joint account holders to view and share joint account data.

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Additional points:

1. There must be clarity about liability for any consumer detriment that may arise from expanding the CDR ecosystem, to avoid confusion by consumers about the roles and responsibilities of data holders versus the roles and responsibilities of data recipients and third parties.
2. Data holders must be given adequate time to implement changes to the joint accounts' settings, with this period commencing at the point of finalisation of all elements of the regime, including all related standards.

### **Increasing pathways to participation & trusted advisers**

The proposed new pathways by which participants can engage with the CDR regime, i.e. sponsored affiliates, CDR representatives and data collection by outsourced service providers (OSPs), are intended to provide flexibility for CDR participants to manage risk and liability through commercial arrangements.

We note that the models are designed to maintain trust and confidence in the CDR because any use or disclosure of CDR data by affiliates, representatives or OSPs is subject to the same requirements and protections that apply to unrestricted accredited persons.

This is an important concern to COBA members who want to ensure there is clarity, and no room for confusion by consumers, about the responsibilities of data holders versus the responsibilities of data recipients and trusted advisers. This will be important for complaints handling, dispute resolution and providing remedies to consumers when things go wrong.

### **Joint Accounts**

COBA is persuaded that the proposed approach to joint accounts, i.e. an implied consent model, is a reasonable way to address concerns that the current approach involves high levels of friction that will reduce CDR benefits.

#### Disclosure options

We support the proposed disclosure options with the default being the pre-approval option. An important fact is that the CDR regime for data sharing is more safe and secure than currently available options. Currently, explicit approval from all joint account holders is not required for data sharing outside the CDR regime. As noted in the explanatory materials: "Currently joint account holders may independently share their joint account data in CSV or PDF format, or via screen scraping, without consent from or notification to the other account holders."

COBA members would like more clarity around what would happen to the data that has already been shared, if one joint account holder decides to withdraw consent to data sharing after data has been shared by another joint account holder. COBA would welcome more clarity on the obligations of the data recipient, or other related parties, in this instance to destroy the data and make sure it is no longer being shared.

#### Notification requirements

COBA members would like more clarity around the naming conventions and terminology used in the disclosure option management service and other notification requirements so that there is uniformity across the ecosystem and consumers are receiving consistent messaging across their various providers. COBA members are also supportive of the ability for consumers to set preferences such that they would not receive certain notifications that data holders would otherwise be required to provide.

### Staged implementation of the Rules

COBA notes that Treasury has set the new compliance date for joint account data sharing in the banking sector as 1 April 2022. While this may allow for a reasonable timeframe for the changes to be considered and implemented, data holders need to have the full package of measures to be implemented including the CX standards and guidelines, not just the rules. The countdown to compliance should commence once data holders have all the relevant information, including data standards, with adequate time allowed.

The pace and volume of new regulatory requirements is currently imposing a heavy burden on COBA members. In addition to regulatory change, compliance resources in the first quarter of 2022 will also be required to implement changes to card schemes and other payments system infrastructure.

### **Direct to consumer**

We note that the Rules amend clause 6.6 of Schedule 3 to remove the 1 November 2021 compliance date for 'direct to consumer' CDR obligations.

We support allowing for further consultation about the way in which direct to consumer obligations should be provided for, in machine-readable form via APIs and the way in which the data standards should provide for this.

Thank you for the opportunity to respond to this consultation. If you wish to discuss any aspect of this submission, please contact Esther Rajadurai ([erajadurai@coba.asn.au](mailto:erajadurai@coba.asn.au)).

Yours sincerely,



**Michael Lawrence**  
**Chief Executive Officer**