



30 July 2021

Consumer Data Right Division
Treasury
Langton Crescent
Parkes ACT 2600

By electronic mail: data@treasury.gov.au

Consumer Data Right Rules Amendments (Version 3)

Dear Sir/Madam,

Visa Inc. ("Visa") is pleased to receive Treasury's *Consumer Data Right Rules Amendments (Version 3)* ("the revised rules"). Visa welcomes continued opportunities to collaborate with Treasury and other Australian government bodies to fulfill the objectives of the Consumer Data Right ("CDR") and Open Banking¹ and shares Treasury's goals of enhancing and leveraging the CDR for the benefit of Australian citizens and businesses. We agree with Treasury that the revised rules will help to accelerate these benefits by lowering barriers to entry in the CDR ecosystem, thereby allowing more Australians to leverage their data in common banking scenarios. We share below our observations on the four primary issues amended for consultation in the revised rules.

Sponsored tier of accreditation and a CDR representative model

We are pleased to see that the revised rules propose that accreditation may be at either the unrestricted level or a sponsored level. In prior consultation responses to both Treasury and the Australian Competition and Consumer Commission ("ACCC"), Visa has supported efforts to create

¹ Visa has provided written responses to the following consultations on the development of the CDR in Australia:

- October 28, 2020: Visa's public submission to "Consumer Data Right rules expansion amendments" is available online at: <https://www.accc.gov.au/system/files/Visa%20%2829%20October%202020%29.pdf>
- July 20, 2020: Visa's public submission to "Draft rules that allow for accredited collecting third parties (intermediaries)" is available online at: https://www.accc.gov.au/system/files/Visa%20%2820%20July%202020%29_0.pdf
- May 19, 2020: Visa's public submission to Australia Treasury in response to Treasury's "Inquiry into the Future Direction of the Consumer Data Right" is available online at: <https://treasury.gov.au/sites/default/files/2020-07/visa.pdf>
- February 10, 2020: Visa's public submission to "Facilitating participation of intermediaries in the CDR Regime" is available online at: <https://www.accc.gov.au/system/files/CDR%20Rules%20-%20intermediaries%20consultation%20submission%20-%20Visa.pdf>
- March 2018: Visa's public submission to the "Review into Open Banking in Australia – Final Report" is available online at <https://treasury.gov.au/sites/default/files/2019-03/T282002-Visa.pdf>

levels of accreditation beyond the unrestricted level. We agree that lowering barriers for entities that might not otherwise meet the requirements for an unrestricted level of accreditation is an important step towards broadening the types and range of potential participants in the CDR ecosystem, especially as we may not yet be able to anticipate the business models and relationships that may emerge at this early stage of CDR adoption. To maximise opportunities for ecosystem inclusion and help realise the benefits that a robust CDR ecosystem will grant consumers, Visa encourages Treasury to continue to take a flexible and agile approach to sponsored accreditation and a CDR representative model. Furthermore, the accreditation levels should allow the relationships among different parties in the ecosystem to evolve through commercial agreements guided by consumer demand and preferences. This will ensure the CDR continues to bring consumers the products and services they want and to promote a vibrant and innovative ecosystem in Australia.

Allowing consumers to share their data with trusted professional advisers

Visa welcomes Treasury's amendments proposing that "[a]n accredited person may invite a CDR consumer to nominate one or more persons as trusted advisers of the CDR consumer", including qualified accountants, persons admitted to the legal profession, financial counselling agencies, and similarly licensed professionals.² We agree with Treasury that consumers should have the choice to share their CDR data with regulated parties outside the CDR system, pursuant to commercial terms that address important issues like data security, safety, and consumer preference. Ultimately, a more inclusive environment will encourage more innovators to participate in Australia's data ecosystem, making it both more competitive and responsive to consumer and business needs.

Allowing participants to share CDR insights with consumer consent for specific purposes

The primary motivation and purpose for the CDR should be to benefit consumers. Visa commends Treasury for its focus on consumer consent, allowing consumers to share the information and insights they believe will help them realise the greatest benefits of the CDR. In order to earn and maintain consumer trust, it is important that consumers understand what they are consenting to and feel empowered to manage the use of their data. As we stated in our response to Treasury's *Inquiry into the Future Direction of the Consumer Data Right*, Visa believes that when asked to share their personal information, consumers should be provided information to make informed consent decisions based on transparency on how that data will be used, assurances that it will be used responsibly, and rights to maintain or withdraw consent.³ To this end, Visa is pleased to see that the revised rules provide that in the case of an insight disclosure consent, the consumer must be provided with "an explanation of the CDR insight that will make clear to the CDR consumer what the CDR insight would reveal or describe."⁴ Additionally, we applaud Treasury for adding

² Competition and Consumer (Consumer Data Right) Rules 2020 with proposed amendments, Section 1.10C, page 25.

³ Visa's public submission to Australia Treasury in response to Treasury's *Inquiry into the Future Direction of the Consumer Data Right*, May 2020, page 3, available online at <https://treasury.gov.au/sites/default/files/2020-07/visa.pdf>.

⁴ Competition and Consumer (Consumer Data Right) Rules 2020 with proposed amendments, Section 4.11(3)(ca), page 58.

language stating that a request to seek to collect CDR data “ceases to be valid if the collection consent is withdrawn.”⁵ While we support these consumer-focused provisions, we again acknowledge that the CDR is still in early stages of development and we do not yet know the beneficial use cases that may arise. Therefore, we encourage Treasury to maintain flexibility in consent-based areas such as consumer insights.

Creating a single consent data sharing model for joint accounts

Visa appreciates that Treasury has taken steps to enhance the consumer experience and convenience by enabling consumers to consent to sharing CDR data concerning joint accounts in a manner that aligns more closely with the existing abilities for joint account holders to view and share joint account data. Furthermore, we commend Treasury for offering consumers three options for the disclosure of CDR data relating to a joint account: the pre-approval option, the co-approval option, and the non-disclosure option. This aligns with Visa’s recommendations that more than one disclosure option will provide consumers with a greater level of individual control over sharing CDR data from their joint accounts.

We note that under the pre-approval option, CDR data relating to the joint account may be disclosed by one joint account holder on the authorisation of that joint account holder without the approval of other account holders.⁶ Visa previously commended this balanced approach, which considers important consumer experience risks, including delays in the ability to disclose data, while maintaining proper oversight and protection to each of the joint account holders.⁷

Visa appreciates the opportunity to provide our perspectives on Treasury’s *Consumer Data Right Rules Amendments (Version 3)*. We value Treasury’s ongoing consideration of the views of all stakeholders in the CDR policy development process, and we look forward to continuing to support the Australian Government as it transitions to a data-sharing economy.

Yours sincerely,



Julian Potter
Group Country Manager
Australia, New Zealand & South Pacific

⁵ Competition and Consumer (Consumer Data Right) Rules 2020 with proposed amendments, Section 4.3A(4), page 50.

⁶ Competition and Consumer (Consumer Data Right) Rules 2020 with proposed amendments, Section 4A.4, page 71.

⁷ See Visa’s public submission to “Consumer Data Right rules expansion amendments” (October 2020), available online at <https://www.accc.gov.au/system/files/Visa%20%2829%20October%202020%29.pdf>.