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Consumer Data Right Division  
Treasury  
Langton Crescent  
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**By email:** [data@treasury.gov.au](mailto:data@treasury.gov.au)

Dear Ms McKay

## **CDR SECTORAL ASSESSMENT FOR THE OPEN FINANCE SECTOR – NON-BANK LENDING CONSULTATION PAPER**

The Mortgage and Finance Association of Australia (**MFAA**) welcomes the opportunity to provide a response to Treasury's consultation on its CDR Sectoral Assessment for Open Finance, a framework that will boost innovation and competition in the finance sector and support the development of a safe and efficient digital economy in Australia.

As context to this submission, the MFAA is Australia's leading professional association for the mortgage and finance broking industry, with over 14,000 members. Our members include mortgage and finance brokers, aggregators, lenders, mortgage managers, mortgage insurers and other suppliers to the mortgage broking industry. Brokers play an important role in intermediated lending, providing access to credit and promoting choice in both consumer and business finance. Brokers facilitate almost two thirds of all new residential home loans<sup>1</sup> and four in ten small business loans<sup>2</sup> in Australia.

The MFAA's role, as an industry association, is to provide leadership and to represent its members' views. We do this through engagement with governments, financial regulators and other key stakeholders on issues that are important to our members and their customers. This includes advocating for balanced legislation, policy and regulation and encouraging policies that drive competition and improve access to credit products and credit assistance for all Australians.

### **OUR SUBMISSION**

The MFAA supports the implementation of the Consumer Data Right (**CDR**) and its extension to the non-bank lending sector. Including non-banking lending data into the CDR framework will facilitate equal opportunity across the market, promoting greater competition across the finance industry and

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<sup>1</sup> [MFAA Industry Intelligence Service Report 12<sup>th</sup> Edition](#) pg 4

<sup>2</sup> Productivity Commission research paper [Small business access to finance: The evolving lending market](#) pg 44

leading to greater choice and access to finance, improved credit decisioning and better outcomes for consumers.

We were pleased that the MFAA's recommendation was adopted to include mortgage brokers as trusted advisers in the CDR framework. The inclusion of mortgage brokers within the CDR framework is a strong acknowledgement that mortgage brokers play a critical role in the lending industry, providing consumers with greater choice of lenders and increasing access to finance.

Our responses to certain consultation specific questions can be found in **Annexure A**.

We also make the key recommendations below to support Treasury in its work on expanding the CDR framework to the non-bank lending sector.

### **RECOMMENDATION 1: ACCELERATE ADOPTION OF CDR THROUGH CONSUMER EDUCATION AND GOVERNMENT SPONSORED USE CASES**

As we note above, mortgage brokers are now responsible for two in every three new home loans in Australia, cementing the mortgage broking channel as the channel of choice for consumers. The market share is a recognition of an industry that has implemented significant reforms which continue to drive consumer trust and confidence in the sector.

Mortgage brokers provide consumers with information about mortgage and finance products, acting as the first point of contact for many consumers looking for a loan and assisting them to navigate the thousands of available products, helping customers to apply in what is often an onerous and overwhelming process. Mortgage brokers also play a critical role in a consumer's financial lifecycle, increasingly providing whole of service offerings by assisting their customers to become 'finance fit' through providing budgeting assistance and support. Mortgage brokers fundamentally work through understanding a customer's financial situation first, then helping and supporting them to find the most competitive and appropriate financing option.

CDR will be a game changer for mortgage brokers and their customers, but only if there is strong and quick take-up by consumers of CDR enabled technological solutions. CDR introduces a new system for consumers to navigate and therefore it is integral that consumer education on the use and benefits of CDR is a core part of the CDR framework. To maximise consumer adoption of the CDR system, it is crucial that consumer education programs are appropriately funded, designed, implemented, and evaluated in order to ensure that consumers adopt and therefore reap the benefits of the CDR. Special attention should be paid to educating customers on the role of a trusted adviser, the important role that it plays within the CDR framework and the particular benefits for consumers in sharing their CDR data with their mortgage broker.

To accelerate CDR adoption, there also needs to be a supportive environment through which technology is created to leverage the CDR. As trusted advisors, mortgage brokers, with the consent of the customer, can access a customer's CDR data. The mechanism by which that data is accessed is through an accredited data recipient. The CDR framework therefore requires the creation of technological solutions for that consent and access to occur. While we have observed an increased acceleration in the development of these technologies, we believe there is further opportunity for investment in the area through Government funded and sponsored use cases, test and build sandboxes and the provision of R&D incentives specific to the development of CDR related tech solutions.

### **RECOMMENDATION 2: EXPAND THE SCOPE OF OPEN FINANCE TO INCLUDE PRODUCTS SUCH AS BUY NOW PAY LATER (BNPL) AS WELL AS TO GOVERNMENT DATA SETS**

BNPL should be included in Treasury's expansion of CDR into Open Finance. BNPL providers hold an increasing amount and depth of consumer information, specifically in relation to consumer spending habits, and their discretionary and non-discretionary expenditure.

Research shows that the use of BNPL products have increased exponentially from 16.8 million in 2017-18 to 32 million in the financial year ending 2018-19 representing an increase of 90%. The use

of BNPL products continued to increase during the pandemic as consumers moved on masse to online retail platforms.<sup>3</sup> Over 30% of Australian consumers have now used BNPL to fund purchases, with an increasing number of BNPL options in the marketplace. BNPL adoption is expected to continue as consumer habits change and traditional credit products such as credit cards decline in popularity.<sup>4</sup>

The Farrell Report into the Payments System Review noted that BNPL arrangements had features of a credit product as well as a payment system.<sup>5</sup> Relevantly, as part of their responsible lending obligations, lenders are increasingly requiring information from customers of their BNPL use and commitments to assess customer loan applications. As CDR will allow consumers to share their financial information easily and quickly with their trusted advisors for lending application purposes, its true value will only be realised when there are comprehensive datasets within the system that give a whole of finance view of the customer. If Open Finance is to include merchant acquiring services, the purpose of which is to obtain card transaction (i.e. payment) data, it makes sense that Open Finance also includes BNPL data. In our view, for Open Finance to be truly inclusive of the whole of the non-banking lending sector, it needs to include BNPL.

We also believe that CDR should be expanded to apply to particular types of financial information shared with government. Of particular utility is tax return information to significantly enhance the income verification process for both self-employed and PAYG individuals.

### **RECOMMENDATION 3: INCLUDE FINANCE BROKERS IN THE CDR REGIME**

We note that the definition of trusted advisor currently applies only to mortgage brokers. In the same way as mortgage brokers, finance brokers support and assist their customers to obtain access to a range of finance options including for example personal loans and vehicle finance.

Like mortgage brokers, finance brokers that provide credit assistance to consumers must hold Australian Credit Licenses (**ACL**) or are credit representatives of ACL holders. Like mortgage brokers, finance brokers are subject to strict legislative requirements under the National Consumer Credit Protection Act (**NCCP Act**) including relevantly to have technological resources and risk management systems in place that enable them to comply with their obligations under the NCCP Act. Licensees must ensure that their credit representatives are covered by such systems. Finance brokers are also required under law to be fit and proper persons, hold professional indemnity insurance and hold membership with the Australian Financial Complaints Authority. In our view therefore, the current definition of trusted advisor is restrictive and should be expanded to finance brokers who hold an ACL or the credit representative of an ACL holder.

In line with the Government's commitment to make it easier, through CDR, for small businesses to access finance<sup>6</sup> and noting that brokers are an important channel in connecting small business borrowers with lenders,<sup>7</sup> we also support the inclusion of commercial brokers as trusted advisers.

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<sup>3</sup> [ASIC tips for making the most of buy now pay later | ASIC - Australian Securities and Investments Commission](#)

<sup>4</sup> [Payments System Review Issues Paper \(acc.gov.au\)](#)

<sup>5</sup> [Payments system review: From system to ecosystem \(treasury.gov.au\)](#)

<sup>6</sup> [Consumers to benefit from expansion of Consumer Data Right | Treasury Ministers](#)

<sup>7</sup> [Small business access to finance: The evolving lending market - Commission Research Paper \(pc.gov.au\)](#)

## Conclusion

The MFAA extends its thanks to Treasury for the opportunity to provide this submission. If you wish to discuss this submission or require further information, please contact me at [naveen.ahluwalia@mfaa.com.au](mailto:naveen.ahluwalia@mfaa.com.au) or Mike Felton at [mike.felton@mfaa.com.au](mailto:mike.felton@mfaa.com.au) or 02 8905 1301, or

Yours sincerely

*Naveen Ahluwalia*

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Head of Policy and Legal

Mortgage & Finance Association of Australia

## Attachment A

Below are our responses to certain specific questions in the Consultation Paper.

Questions	Responses
<p>How could sharing non-bank lending data encourage innovation or new use cases for CDR data? Are there cross-sectoral use cases that non-bank lending data can support, in particular with Open Finance/Banking?</p>	<p>Non-bank lenders have different and diversified lending criteria and niche product sets to ADIs and cater to specific markets. For example, non-bank lenders may accommodate market segments that would otherwise find it challenging to obtain loans with ADIs i.e. those with defaults or previous bankruptcies. Open Finance combined with Open Banking provides a richer overview of a customer's financial health, which will allow brokers to better match customers with products and services.</p>
<p>May the benefits of sharing non-bank lending data vary across particular consumer groups; for example, vulnerable consumers?</p>	<p>We suggest the inclusion of non-bank lending data into the CDR system has the potential to expand access to credit for vulnerable consumers. Consumers who may have personal and social characteristics that may affect a person's ability to manage financial interactions (ie speaking a language other than English, behavioural impairments due to intellectual disability or as a consequence of mental illness) or those who have experienced life events or temporary difficulties such as an accident, relationship breakdown, family violence, job loss or death of a family member are all considered to be vulnerable customers, however those vulnerabilities should not preclude them from accessing fit for purpose finance. A richer data environment created through the combination of Open Banking and Open Finance provides the opportunity to level the playing field for brokers working with vulnerable customers and to greater enable these customers to access financial products and services that are right and appropriate for them.</p>
<p>Would the designation of non-bank lending improve competition between lenders, including leveling the playing</p>	<p>Yes. Decisions by lenders can be made more quickly as a result of having a greater and more complete overview of a customer's financial health. This increase in efficiency will considerably enhance the customer experience when applying for a loan.</p>

Questions	Responses
field with banks, or lead to greater market efficiencies?	
If non-bank lending is designated, which entities should be designated as data holders?	We suggest this would be similar to the designations under Open Banking (i.e. the designation should be the lender, insurer or superannuation fund respectively).
Are there differences in the data held by non-banks and banks that would require adapting the rules and standards that apply to banks so that those rules and standards would apply to non-bank lenders? If so, why?	<p>We do not think there are significant differences to have different rules for banks and non-banks. For the introduction of non-bank lending data into the eco-system, the preference is that the data points provided by an ADI and a non-bank lender are aligned so that it is easier for entities to develop best use cases for consumers.</p> <p>Further to this, in our view, while Open Finance should potentially be easier than Open Banking given the existing work done by ADIs, the frameworks, data sets and technology established already may not necessarily suit smaller or more technologically advanced organisations.</p> <p>While in our view, early participation will result in significant benefits to consumers, we recognise that it may be sensible and prudent in an environment where the regulatory compliance burden is already high, to consider a staged implementation period for smaller organisations.</p>
Are there products offered by non-bank lenders that aren't covered by the existing rules and standards applying to banking data in the CDR? Are there CDR rules and standards that apply to banking data that warrant exclusion for non-bank lenders?	We are not aware of any.
Are there any government-held datasets that would be complementary to privately-held datasets and could support possible use cases in non-bank lending?	Yes. Tax return data and HR system data would significantly enhance the income verification process for both self-employed and PAYG individuals.

Questions	Responses
<p>Are there privacy concerns specific to non-bank lending that should be taken into account when considering the designation of the sector Do you consider the existing privacy risk mitigation requirements contained in the banking rules and standards are appropriate to manage the privacy impacts of sharing non-bank lending data?</p>	<p>We are not aware of any. For consistency, the consent framework rolled out with Open Banking should be mirrored in Open Finance.</p>
<p>Do you consider the existing privacy risk mitigation requirements contained in the banking rules and standards are appropriate to manage the privacy impacts of sharing non-bank lending data?</p>	<p>Yes, the consent-based regime is sufficient and appropriate to be applied to Open Finance.</p>