



24 October 2022

Claire McKay
Director
Consumer Data Right Division
The Treasury
Submitted via email to: data@treasury.gov.au

Dear Ms McKay,

Consultation on the Exposure Draft of legislation to enable action initiation in the Consumer Data Right (CDR)

The Australian Finance Industry Association (AFIA)¹ appreciates the opportunity to comment on the *Treasury Laws Amendment (Measures for Consultation) Bill 2022: Consumer Data Right – Implementing Action Initiation* ('the Exposure Draft').

AFIA is the only peak body representing the entire finance industry in Australia. We represent 158 members, including bank and non-bank lenders, neobanks, finance companies, fintechs, providers of vehicle and equipment finance, car rental and fleet providers, and service providers in the finance industry.

We are the voice for advancing a world-class finance industry, with our members who are at the forefront of innovation in consumer and business finance in Australia. Our members finance Australia's future.

We collaborate with our members, governments, regulators and customer representatives to promote competition and innovation, deliver better customer outcomes, and create a resilient, inclusive and sustainable future.

SUBMISSION

AFIA supports the introduction of action initiation as the next frontier of the CDR. We believe it will ensure the CDR framework is fit for the future, and has the potential to catalyse innovative use cases and make existing payment flows more efficient.

However, we believe that the expansion to action initiation should be timed with consideration given to the current status of the CDR ecosystem and ongoing expansion that is already in progress. Further, cybersecurity considerations should play an important role in further consultation.

¹ www.afia.asn.au

Ecosystem maturity

AFIA suggests that action initiation implementation should take place after there has been sufficient time for Authorised Deposit-taking Institutions (ADIs) and Non-Bank Lenders (NBLs) to operate within the existing bounds of the CDR. At present, CDR application programming interface (API) availability is not yet mature, with data quality and connection challenges persisting for Authorised Data Recipients (ADRs). This could have flow-on impacts on, for example, the ability for Action Service Providers (ASPs) to execute action initiation requests.

We believe that maturity in the fundamental data sharing functionality of the CDR is a building block that will underpin new aspects of the framework, including action initiation, and should be prioritised first.

Sectoral Phasing

Further, AFIA has concerns regarding the ability for NBLs to engage with concurrent consultation, and potentially implementation, of both data sharing and action initiation. It is important that NBLs have equal opportunity to participate in rulemaking consultations as other designated entities, who may be further along the path of data sharing implementation.

This is compounded by the difference in scale between some nascent NBLs and existing institutions, including ADIs, in both compliance and technical development capacity. If NBLs must engage with both CDR expansions simultaneously, it may present a large competitive advantage to existing CDR participants, some of whom provide services that compete with NBL products.

Therefore, we suggest that action initiation only be mandated for existing CDR participants when NBL data sharing has matured. As new sectors are brought online, firms will need an on-ramp to the CDR that provides them a realistic pathway to absorb the substantial development and operational changes required. We believe that data sharing is the first stage of CDR integration for NBLs and should reach a level of usability and maturity before action initiation commences for any CDR participants. This would provide a model for future CDR expansion in both sectors and functionality while maintaining a level playing field.

Action Phasing

Additionally, AFIA supports a considered rollout of actions, which should be phased in over time with similar actions grouped together, to support effective consultation. ASPs must adhere to licensing requirements and regulation which must be carefully considered as context for each action. We encourage engagement between industry and regulators, as well as between regulators, in this regard.

Action rollout should be pursued with a view to developing a regulatory system fit for the future, by engaging with other ongoing developments in financial services. This may include, for example, using the New Payments Platform (NPP) instead of the superseded Direct Entry system, or synthesis between Accredited Action Initiator (AAI) licensing and any future payments licence (Recommendation 9 of the *Payments system review (2021)*²).

² The Treasury (2021). *Payments system review: From system to ecosystem*. Retrieved from <https://treasury.gov.au/publication/p2021-198587>.

Cybersecurity

Finally, AFIA is concerned about the potential cybersecurity implications of action initiation, in that it may open a new avenue for scams and fraud. In the United Kingdom, the value of fraud committed through Authorised Push Payments increased by 39 per cent in 2021 to over £583.2 million³, surpassing all types of payment card fraud (£524.5 million).⁴ We believe it is important that action initiation requests contain sufficient information for ASPs to evaluate the veracity of a user's identity, given that ASPs are obligated to act on a valid action initiation request 'as if it came from the consumer themselves'.

CLOSING COMMENTS

Thank you for the opportunity to provide this submission. We look forward to participating in ongoing dialogue on this issue.

Should you wish to discuss our submission, or require additional information, please contact me at

██████████ or ██████████.

Yours sincerely,




Roza Lozusic

Executive Director of Policy and Strategy

³ UK Finance (2022). *Annual Fraud Report 2022*, p 47. Retrieved from <https://www.ukfinance.org.uk/policy-and-guidance/reports-and-publications/annual-fraud-report-2022>.

⁴ *Ibid*, p 13.