



**Commonwealth
Bank**

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Ms Claire McKay
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Sent via email: Claire.Mckay@treasury.gov.au; Data@treasury.gov.au
CC: CBAOpenBanking@cba.com.au

24 October 2022

Dear Ms. McKay,

Subject: Action initiation in the Consumer Data Right (CDR)

The Commonwealth Bank of Australia (the CBA) welcomes the opportunity to comment on the exposure draft legislation to enable action initiation in the CDR.

The Australian CDR model is unique globally as it extends beyond banking across sectors including energy and telecommunications with future expansion proposed by Government. This makes it a valuable consumer data platform that will empower consumers and small business to capitalise on the value of their data.

The CBA believes the introduction of CDR action initiation will further position Australia at the forefront of digital economies. The CBA supports the Government's commitment to rolling out CDR economy wide and believes it has the capacity to deliver tangible economic benefits for the broader Australian economy.

The CBA supports the model of action initiation, and the intent of the legislation, proposed by Treasury with strong consumer protection and security measures in place to address the additional risks that will be introduced into the CDR ecosystem. We agree that only the instruction layer should be regulated within CDR, which will result in more efficient execution of action instructions and maintain ecosystem stability.

There are a number of challenges associated with the introduction of action initiation. These include an appropriate liability model, the charging of fees, selection of payment rails and a governance framework for participants that is reflective of the additional risks.

General Design Principles

As the UK Open Banking experience has demonstrated, this is a complex proposal and will require extensive consultation to address both the implementation challenges and new risks.

From a payments initiation perspective, these include:

- the adoption of an appropriate liability model;
- the preservation of financial stability;
- fee recovery and costs; and
- consistency with payment rails.

Implementation of general action initiation will need to be assessed through extensive consultation and may influence where the greatest implementation value lies.

A phased implementation approach should be adopted that aims to achieve an efficient, effective and stable ecosystem that is able to be rolled-out as quickly as possible, and benefits the consumer and the economy as a whole.

The CBA believes the following core principles should guide the design of CDR policy making:

- **Consumer focused** – consumer value and benefit must continue to be the primary driver of CDR policy. Consumers should be in control of their data via a strong consent framework that is simple but effective. Wherever possible, CDR should be easy and efficient, while remaining safe and secure, for consumers to use.
- **Safe and Secure** –to maintain trust in the ecosystem it is imperative that sufficient safeguards are in place to preserve data security, consumer privacy and maintain current standards of financial and consumer protections.
- **Broaden CDR coverage across more datasets and sectors** – the Government should continue to accelerate the growth of CDR via additional sectors and datasets to stimulate innovative customer value propositions, encourage consumer participation, promote greater competition on a level playing field and move Australia towards a leading digital economy by 2030.

Key themes and challenges

We recommend the following key areas be addressed as part of the proposal to introduce action initiation with CDR, some of which will be addressed at CDR rule making stage and others concurrent with related policy reforms.

1. Consumer protection

Action initiation will introduce newer and more significant risks to the CDR ecosystem. These need to be appropriately addressed to ensure the ongoing success of CDR.

As the digital economy evolves, the privacy and security of data will become even more important. For this reason, we recommend that privacy safeguards should apply to all ecosystem participants including to sponsored arrangements and unaccredited third parties such as trusted advisors.

In the wake of elevated scams risk and activity both in Australia and abroad, implementation of strong accreditation standards and security controls across the CDR ecosystem spectrum are essential. Australians reported record scam losses of \$2 billion in 2021. In the same period, the UK experienced a 39% increase in Authorised Push Payments (APP) fraud resulting in the loss of £583.2 million. Impersonation and investment scams are the largest category of APP losses.

Therefore, strengthening security measures and phasing out the practice of screen-scraping is recommended as part of the commencement of action initiation within CDR.

2. CDR Roadmap and alignment with Treasury Payments Review

As per the Farrell Inquiry into the Future Directions of CDR (the Farrell Inquiry) recommendations, “the Government should create an integrated roadmap for the implementation of the Consumer Data Right in collaboration with stakeholders in the private and public sectors.” This roadmap should align to the broader Treasury Strategic Plan for Payments. Changes to the payments ecosystem will have overlaps that should be considered in the design. For example, the scope of payment service providers and safeguards protecting customers and the payments system may also extend to accredited action initiators (AAI’s) within CDR with potential to align and simplify regulatory requirements for these dual participants

Treasury payments regulatory reforms including the development of a streamlined payments licence will have implications for the CDR action initiation regime. Overlaps between the payments licensing regime and accredited action initiators within CDR should be considered in the design. The CDR Roadmap should also prioritise sectoral expansion.

3. Phasing and Implementation

As highlighted in the recent Statutory Review of the CDR, Treasury should ensure that “the regulatory architecture is as seamless as possible for participants and consumers” and that related initiatives such the payments system reforms, the Data Availability and Transparency Act 2022 and Privacy Act 2001 review are designed in a way that promote innovation and allow ecosystem interoperability. This will lead to improved public policy outcomes for consumers, broader stakeholders and benefits to the Australian economy.

Coordination will particularly be relevant to payments initiation. To ensure payments action initiation is supported by appropriate protections and safeguards, introduction of payments initiation should be coordinated with Treasury’s implementation of relevant recommendations of the Review of the Australian Payments System such as updating and mandating the e-Payments Code and introducing a payments licensing regime. As different

payments initiation experiences may have very different risk attributes, a staged approach has potential to maximise consumer benefit while minimising risk.

The CDR designation approach should be informed by additional consultation to ensure the approach balances the benefits derived from the introduction of additional functionality with the risk, cost and complexity of implementation needed to introduce the incremental capability.

Avoiding scope complexity in the early stages will enable faster speed to implementation and consumer value. Action initiation should initially be introduced for simpler products and consumer types (e.g., personal/business individual, joint) to reduce ecosystem build complexity, cater for prioritised use cases and enable a greater focus on data quality. The roll-out of CDR should continue to be progressed and be focused on future sectors and datasets that are a rich source of consumer data and can drive greater consumer choice, product innovation and enable consumers to enrich their decision making.

4. Governance and Risk management

Payment and action initiation will significantly increase the risks within the CDR ecosystem and a more stringent accreditation framework will need to be implemented to mitigate the additional risks.

In conclusion, the CBA supports the introduction of action initiation within CDR. We look forward to continued consultation with Treasury to support the future expansion of the CDR.

Thank you for the opportunity to provide feedback. If you would like to discuss this information further, please contact me on [REDACTED], or by email to [REDACTED].

Yours sincerely,



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