

# Expanding the CDR to non-bank lending and narrowing the scope of CDR data in banking

Treasury analysis of the updated rules and the privacy impact assessment – November 2024

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Treasury is consulting on draft amendments to the *Competition and Consumer (Consumer Data Right) Rules 2020 (CDR Rules)* to expand the Consumer Data Right (CDR) to Australia's non-bank lending sector and narrow the scope of CDR data in banking.

In 2023, Treasury released a supplementary privacy impact assessment (PIA) prepared for Treasury for public consultation, in relation to draft CDR Rules for non-bank lending.<sup>1</sup> Treasury has since made updates to the draft amendments.

Treasury has reviewed the updates to the CDR Rules released for consultation against the PIA and they do not substantively affect the analysis in the PIA. The table below outlines in more detail the recommendations made in the PIA and Treasury's assessment of how the updates to the draft amendments in relation to non-bank lending impact upon the PIA recommendations. Other draft amendments in this package are substantively the same as those examined in the PIA and, therefore, do not require further assessment.

## PIA recommendations and Treasury's analysis of impacts of updates to exposure draft amendments

#	PIA recommendation	Treasury analysis of impacts of updates to exposure draft amendments
1	Treasury, together with the Office of the Australian Information Commissioner and the Australian Competition and Consumer Commission, consider what instructions or guidance can be developed for credit providers to ensure credit providers comply with the CDR, Part IIIA of the <i>Privacy Act 1988</i> and the Comprehensive Credit Regime	The updates to the exposure draft amendments do not substantively impact upon any interactions between the CDR Rules and the CCR in relation to handling credit reporting information. However, the PIA recommendation may be relevant to the updated draft explanatory materials Treasury has released together with the

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<sup>1</sup> Sparke Helmore Lawyers 2023, [Privacy Impact Assessment – Supplementary PIA to expand the Consumer Data Right to the Non-Bank Lending sector](#), July 2023.

#	PIA recommendation	Treasury analysis of impacts of updates to exposure draft amendments
	(CCR) in relation to the handling of credit reporting information.	exposure draft amendments. Should the proposed amendments be made, the draft explanatory materials would provide guidance on the interpretation of the rules. Treasury has updated the draft explanatory materials to reflect the updates to the draft amendments.
2	Treasury consider whether the exclusion to financial hardship information and repayment history information from “customer data” is sufficient or whether the exclusion should be extended to protect the privacy of vulnerable consumers.	The updates to the draft amendments do not substantively impact upon the proposed exclusion of financial hardship information and repayment history information from the scope of ‘customer data’ in relation to the non-bank lending sector. Under the updated draft amendments, these forms of information would still be excluded from CDR data sharing.
3	Treasury monitor the regulation of certain non-bank lending sector products, such as Buy Now, Pay Later (BNPL) products to identify any high privacy risks such that the non-bank lending CDR Rules should be amended to address those risks (for example, in relation to the marketing of such products).	The updates to the draft amendments do not substantively impact upon the regulation of BNPL products.
4	Treasury consider ways to support non-bank lenders who do not meet the <i>de minimis</i> threshold understand the benefits of the CDR and encourage them to voluntarily participate in the CDR and comply with the obligations of a data holder.	The updates to the draft amendments modify the proposed ‘de minimis’ threshold to narrow the range of non-bank lending data holders subject to CDR data sharing obligations. Under the updates to the draft amendments, non-bank lending data holders which do not meet the threshold could choose to join the CDR by notifying the ACCC.
5	Treasury monitor the implementation of data holder’s obligations to see if any privacy concerns arise. Treasury should engage with industry and stakeholders to identify instances where the information security / privacy-related IT infrastructure is particularly difficult to implement and if so, consider whether the timing of obligations should be amended.	The updates to the draft amendments set new proposed timing for the phased implementation of CDR data sharing in the non-bank lending sector, including new ‘tranche’ dates for types of non-bank lending data holders and obligations. The Government has signalled the intention to expand the CDR to the non-bank lending sector in early 2025, making it operational by mid-2026 to provide a sufficient transition time. <sup>2</sup>

<sup>2</sup> [Albanese Government to reset Consumer Data Right](#), 9 August 2024.