



11 September 2024

Louise Staker
Director
Consumer Data Right Rules Unit
The Treasury
Langton Crescent
Parkes ACT 2600
Submitted via email to: louise.staker@treasury.gov.au

Dear Ms Staker

CONSUMER DATA RIGHT RULES: CONSENT AND OPERATIONAL ENHANCEMENT AMENDMENTS

The Australian Finance Industry Association (AFIA) is the only peak body representing the entire finance industry in Australia.¹ We appreciate the opportunity to respond to [Consumer Data Right Rules: consent and operational enhancement amendments](#).²

We represent over 150 members, including bank and non-bank lenders, 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 and our members 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. We provide new policy, data and insights to support our advocacy in building a more prosperous Australia.

¹ [Australian Finance Industry Association \(afia.asn.au\)](http://afia.asn.au).

² Commonwealth Treasury, *CDR rules: consent and operational enhancement amendments (August 2024)* ('Consultation Paper')
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FOREWORD TO OUR SUBMISSION

AFIA welcomes the opportunity to provide feedback on *Consumer Data Right Rules: consent and operational enhancement amendments*.³ AFIA has been supportive of the expansion of the Consumer Data Right (CDR) to the Non-Bank Lending ('NBL') sector, as a means to provide customers with greater choice over their finances, and foster competition within the industry. However, these benefits must be carefully balanced against compliance costs that coincide with implementing CDR for new participants in the CDR ecosystem.

The Assistant Treasurer and Minister for Financial Services the Hon Stephen Jones MP, in a speech at the Committee for Economic Development Australia (CEDA), stated that the CDR's expansion should focus on commercially viable use cases that will deliver tangible benefits to consumers, such as consumer lending.⁴ Minister Jones spoke of the three benefits of CDR:

1. *'It can drive competition*
2. *Foster innovation to deliver better goods and services for consumers, and*
3. *Streamline time consuming -processes.*⁵

AFIA acknowledges and supports the Government's efforts to expand the CDR, recognising the importance of the CDR for consumer choice and competition. A carefully calibrated implementation will help achieve the consumer benefits the Minister spoke of, while ensuring that the regulatory framework is fit-for-purpose for the NBL sector. The unique characteristics of NBLs requires a bespoke regulatory approach that reflect the sector's equally unique operational realities.⁶

Minister Jones said that, *'More needs to be done to refocus the CDR to deliver the greatest benefits to consumers and rein in costs' and 'we need to prioritise high value use cases as the ecosystem matures.'*⁷

As we noted in an earlier submission:

*'...the prevalence of bespoke arrangements in the NBL sector compared with banking, and the propensity for these to be weighted towards larger corporate customers, may make it reasonable to consider ...[excluding]... most products where little customer benefit relative to provider cost would be derived from CDR participation.'*⁸

³ Ibid

⁴ The Hon Stephen Jones MP, Address to Committee for Economic Development of Australia (CEDA) ([9 August 2024](#))

⁵ Ibid.

⁶ AFIA Submission on *Decision Proposal 318, the Non-Bank Lending Standards* ([8 December 2023](#)). ('DP 318')

⁷ The Hon Stephen Jones MP, 9 August

⁸ AFIA Submission on the *Consumer Data Right (CDR) rules and data standards design paper for non-bank lending (NBL) sector* ([1 February 2023](#))

AFIA recommends that any expansion efforts must ensure the CDR delivers tangible benefits to consumers while mitigating unnecessary regulatory burdens on NBLs. A tailored approach would ensure that businesses, particularly smaller NBLs, are not overburdened by compliance requirements that may have limited commercial use cases, and be difficult or costly to implement, potentially hindering their ability to operate effectively.

PROPOSAL 1: CONSENT REVIEW

AFIA is supportive of operational enhancements that streamline and make the CDR more efficient. AFIA concurs with the importance of Treasury's proposal to simplify the consumer bundle consents to simplify user experience, with a number of drop-offs from CDR occurring at this commencing stage.⁹ However, frequent changes to the scope and granularity of the current CDR regime are significant drivers of cost, particularly for smaller entities. AFIA recommends future enhancements be finalised before the CDR is expanded to NBLs, to ensure organisations with fewer resources are well equipped to manage implementation.

It is crucial that these changes do not result in additional complexity or regulatory burdens for NBLs through more complex compliance obligations. AFIA stresses the need for clear, practical guidelines that allow NBLs the flexibility to tailor consent processes to their specific products and customer interactions.

AFIA recommends limiting updates and focusing on high-value use cases prior to implementation, and ensuring changes are tailored to the specific needs of NBLs and NBL customers.

PROPOSAL 2: OPERATIONAL ENHANCEMENTS

AFIA supports in principle Proposal 2.1 which does not require nominated representatives to be identified in an online consumer dashboard and instead requires a process for allowing online administrators to be appointed as nominated representatives. We recommend, however, that the changes take into account the differences between organisations.¹⁰ Current processes to nominate representatives vary between business type and product, and the cost and complexity to require changes needs to be balanced against the utility and viability of use cases.

For instance, many lenders rely on paper-based processes for representative nomination, which align with their bespoke service models.¹¹ These processes are tailored to the specific needs of their clients and have been developed over time to ensure accuracy, security, compliance with existing regulatory obligations, and consumer needs. The proposal to shift these processes online (by requiring an online

⁹ Consultation Paper, page 8

¹⁰ Consultation Paper, page 10

¹¹ Consultation Paper, page 10

administrator to be able to act as a nominated representative for the purposes of data sharing in CDR) introduces significant costs and complexity for NBLs, many of which are smaller entities with limited resources. Implementing such changes would require substantial investment in new systems and processes, which may not be justified by the anticipated level of usage.

Another key concern is how this proposal for a new process might interact with existing internal processes for nominating business representatives. Organisations have well-established systems in place for verifying and nominating representatives, tailored to their operational needs and regulatory requirements. Any changes to CDR requirements should not conflict with these internal procedures to avoid creating conflicts or redundancies that could complicate compliance and increase security risks. AFIA recommends that any transition to online processes should include flexible implementation options that accommodate existing paper-based and manual systems, allowing businesses to adopt digital processes over a more realistic timeline.

CLOSING COMMENTS

AFIA supports Treasury's goal of enhancing operational efficiency, and encourages a balance against the practical realities and risks associated with implementing these changes. A more flexible, targeted approach that allows NBLs to maintain their existing systems, while offering online options where they make sense, would be most effective to achieve the goals of the CDR. AFIA believes flexibility should be maintained, and the CDR regime should not require organisations to shift to online processes, or retrofit online processes onto processes which were not designed for a digital environment. Where there is a clear commercial and viable use case for supporting a shift to an online process this should be carefully considered after thorough consultation.

Whilst not explicitly referenced in this consultation, other operational enhancements, such as reducing historical data requirements from seven years to one, and the introduction of clear exclusions of bespoke products such as fleet and novated leasing, corporate and white-label products (among other areas)¹² from the scope of non-bank lending rules are important and necessary enhancements. AFIA maintains the view that these items, among others canvassed in separate submissions, are critical operational enhancements of CDR, to deliver on the Minister's recently stated policy objectives.

AFIA recommends more extensive consultation periods and a greater emphasis on sector-specific feedback to ensure the rules are fair and effective for all participants prior to rolling this out to the NBL sector. Many smaller NBLs face considerable challenges when it comes to frequent updates and changes to compliance standards, especially when those changes do not directly apply to their core operations.

¹² See for example: AFIA Submission on the *Consumer Data Right (CDR) rules and data standards design paper for non-bank lending (NBL) sector* ([1 February 2023](#)); AFIA Submission on *Decision Proposal 318, the Non-Bank Lending Standards* ([8 December 2023](#)). ('DP 318')

Limiting unnecessary regulatory adjustments and concentrating on areas where CDR will provide clear benefits to both consumers and businesses will help the framework be implemented more effectively. By streamlining updates and targeting key areas, Treasury can mitigate the operational burden on NBLs, especially those with limited resources.

AFIA is committed to working with Treasury to ensure that the CDR's expansion promotes these goals and creates tangible benefits for all stakeholders involved.

I would appreciate the opportunity to discuss our recommendations and provide the Inquiry with further information about the specialised products, services and technologies offered by smaller lenders. Should you wish to discuss our submission or require additional information, please contact AFIA Policy Adviser, Kate Melville at kate.melville@afia.asn.au.

Yours sincerely



Roza Lozusic
Executive Director of Policy and Public Affairs