Consumer Data Right Rules – non-bank lending and banking data scope

ACCC Submission

December 2024

Executive Summary

1. The Australian Competition and Consumer Commission (ACCC) supports the expansion of the Consumer Data Right (CDR) to non-bank lending. The ACCC provided a submission to Treasury's initial consultation on the draft rules to expand CDR to non-bank lending in October 2023.[1] The submission supported harmonising the non-bank lending rules with existing rules applying to the banking sector to the extent possible and provided specific suggestions for Treasury to consider before finalising the rules. It also emphasised the importance of monitoring the impact of the expansion of CDR to the non-bank lending sector on consumers experiencing vulnerability. This recognises that, compared to banks, non-bank lenders may be more likely to provide loans to 'non-conforming borrowers' such as those who have a poor credit history. The ACCC's previous submission is available on Treasury's website.[2]
2. The exposure draft rules have been revised to reflect significant elements of stakeholder feedback provided during the previous consultation. This includes revisions to clarify the operation of the de minimis threshold in determining which non-bank lenders will have mandatory CDR obligations. This submission focuses on proposed changes to the non-bank lending rules since the previous consultation, as well as new proposals that aim to reduce the scope of data sharing in the banking sector. Our submission provides suggestions for Treasury to consider as it finalises the proposed changes. Our comments draw on the ACCC's experience as a competition and consumer regulator, a CDR co-regulator, and our engagement with CDR participants.
3. The ACCC acknowledges the Government's intention to reset the CDR to deliver better consumer outcomes, including through reducing compliance costs for CDR participants and facilitating high value use cases for consumers.[3] The changes in the exposure draft rules that would narrow the scope of CDR data are intended to reduce regulatory burden and compliance costs for data holders in the banking and non-bank lending sectors.
4. This submission highlights the need to monitor and remain focused on the likely impact of the proposed changes on consumers using CDR, as well as on parties that provide CDR services. We encourage Treasury to provide more information about the anticipated impact on both data holders and consumers, of the proposed removal of specified niche and small target products from mandatory data sharing.
5. In addition, we do not support removing the requirement for data holders to comply with the data standards in relation to the format of any voluntary data they share. This proposal is likely to create inconsistencies and reduce standardisation in the way voluntary product data is shared, which may undermine the usefulness of product data shared through CDR. We have proposed some alternatives to address the concern that requiring compliance with data standards may deter some data holders from sharing data on a voluntary basis.

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1 Treasury, *Consumer Data Right rules – expansion to the non-bank lending sector*, https://treasury.gov.au/consultation/c2023-434434-expansion

2 ACCC, *Consumer Data Right in non-bank lending: Exposure draft rules – ACCC submission (October 2023)*, *https://treasury.gov.au/consultation/c2023-434434-expansion*.

3 The Hon Stephen Jones MP, *Address to the Committee for Economic Development of Australia*, 9 August 2024.

Introduction and role of the ACCC

6. The ACCC welcomes the opportunity to comment on the Treasury's consultation on draft amendments to the *Competition and Consumer (Consumer Data Right) Rules 2020* (the CDR Rules) to expand CDR to the non-bank lending sector and narrow the scope of CDR data for the banking sector.

7. The ACCC is an independent Commonwealth statutory agency that promotes competition, fair trading and product safety for the benefit of consumers, businesses, and the Australian community. The ACCC's primary responsibilities are to enforce compliance with the competition, consumer protection, fair trading, and product safety provisions of the *Competition and Consumer Act 2010* (Cth) (CCA), regulate national infrastructure and undertake market studies. The ACCC also has a Competition Enforcement Branch and Financial Services Team that examines competition issues in the financial services sector through market studies, advocacy and investigative work.

8. The ACCC's CDR roles include accrediting potential data recipients, establishing and maintaining a Register of accredited persons and data holders, assessing applications for exemption from CDR obligations, monitoring and promoting compliance with the CDR Rules and taking enforcement action in collaboration with the Office of the Australian Information Commissioner (OAIC), and providing regulatory guidance to stakeholders about their obligations under the CDR. The ACCC also plans, designs, builds, tests, manages and secures enabling technologies for the CDR. As implementer and regulator of the CDR, the ACCC looks forward to working with Treasury, the Data Standards Body and the OAIC in expanding CDR to non-bank lending.

9. In assessing the impact of the draft non-bank lending rules, the ACCC has analysed the factors in section 56AD(1)(a) and (b) of the CCA,[4] including the likely effect of making the rules on the interests of consumers, promoting competition and data-driven innovation, the efficiency of relevant markets, and the public interest.

Extension of the rules to the non-bank lending sector

10. The ACCC supports the expansion of CDR to non-bank lending. This will make it easier for consumers to compare products across the banking and non-bank lending sectors and use relevant data to aid decision making. However, the ACCC notes that some non-bank lenders specialise in providing loans to 'non-conforming borrowers' such as those who have a poor credit history. These lenders may be more likely to offer high interest, short term credit products to consumers, such as payday loans. These products may not be appropriate substitutes for mainstream banking products and can trap consumers in difficult-to-escape debt cycles.

11. As outlined in our previous submission[5], we recommend Treasury appoint an appropriate body to conduct a review of the operation of CDR in the non-bank lending sector 12 months after obligations commence for large providers. This will allow Treasury to

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4 See s56BR *Competition and Consumer Act 2010* (Cth). When consulted under paragraph 56BQ(c), the Commission must analyse the kinds of matters referred to in paragraphs 56AD(1)(a) and (b) in relation to the making of the rules.

5 ACCC, *Consumer Data Right in non-bank lending: Exposure draft rules – ACCC submission*, October 2023, p. 3.

monitor the impact of the rollout on consumers experiencing vulnerability and assess whether additional consumer protections are needed.

Updated de minimis threshold for non-bank lenders

12. The de minimis threshold is the set of criteria that determine whether a relevant non-bank lender[6] is subject to mandatory data sharing obligations in the CDR. Treasury has revised the proposed de minimis threshold from the previous draft rules. The intention is to unlock data from the largest non-bank lenders for high-value use cases, while limiting potential costs and regulatory burden for smaller providers.

13. The changes clarify the inclusion of a relevant non-bank lender's associated entities in the calculation of the de minimis threshold and increase both the financial and customer number limbs of the de minimis threshold for 'large providers'. The draft rules also require a relevant non-bank lender to notify the ACCC if it satisfies the financial limb of the de minimis threshold for a large provider but does not have more than 1,000 customers, and to respond to requests for information from the ACCC in specified circumstances.

Inclusion of associated entities

14. The draft rules have been revised to make clear that the financial threshold for initial and large providers is calculated based on the total value of resident loans and resident finance leases reported by the lender and each of its associated non-bank lenders.[7] The intention is to capture the combined value of a relevant non-bank lender's resident loans and resident finance leases where it is the direct lender, as well as those it administers on behalf of other non-bank lenders. This should ensure relevant non-bank lenders are not inadvertently excluded from CDR obligations due to their corporate structures, including where a relevant non-bank lender may be a servicer entity. It would also ensure relevant non-bank lenders with sufficient resources are required to participate in CDR.

15. The ACCC supports the policy intent but suggests Treasury further consider the definition of an 'associated non-bank lender'. The draft rules define an 'associated non-bank lender' to include a related body corporate of the lender, or another lender that administers resident loans or resident finance leases on behalf of the lender.[8] The ACCC is concerned this definition may not capture the complex financing arrangements in the non-bank lending sector. In particular, the use of the word 'administer' may suggest a one-way relationship between two lenders. It may not capture all relationships between relevant non-bank lenders, such as when one lender is considered the underwriter or contract manager for another. We consider that Treasury should clarify the term 'associated non-bank lender' in the rules and/or explanatory materials and provide relevant examples to ensure it captures the diverse financing and customer relationships between non-bank lenders.

16. Treasury should also consider whether reliable data is available to measure whether relevant non-bank lenders with complex corporate structures have met the financial threshold. The ACCC notes data from the Australian Prudential Regulation Authority (APRA) can be used to determine the value of resident loans and resident finance leases, where the relevant non-bank lender is the direct lender. However, it is not clear to the

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6 *Consumer Data Right (Non-Bank Lenders) Designation 2022* (Cth) s 4, definition of a 'relevant non-bank lender'.

7 Draft rules, subclause 6.2(1) and (3) of schedule 3.

8 Draft rules, clause 6.2 of schedule 3.

ACCC whether there are equivalent datasets or reporting requirements for resident loans and resident finance leases administered by a relevant non-bank lender on behalf of another non-bank lender.

17. If a relevant non-bank lender has met the financial threshold for a large provider, it must, if requested by the ACCC, provide the total value of its resident loans and resident finance leases. This includes any resident loans and resident finance leases where the non-bank lender is the product manager. However, the ACCC would need access to reliable, verifiable data to know whether a relevant non-bank lender has met the financial threshold, and therefore that it would be required to respond to a request from the ACCC under proposed subclause 6.3(1). Without such data, the ACCC would find it difficult to monitor when relevant non-bank lenders that operate under a loan servicer or product manager structure have met the financial threshold and to know to which entities to issue requests.

Size of the de minimis threshold for large providers

18. The proposed financial threshold for large providers has increased from $500 million in the previous draft of the proposed rules to $1 billion, and the customer threshold has increased from 500 customers to 1,000 customers.

19. The ACCC supports the revised proposal which should promote consumer benefit by unlocking data from key non-bank lenders, while minimising compliance costs for smaller players. As outlined in our previous submission, non-bank lenders have historically been subject to lower levels of regulation than traditional banks.[9] Some non-bank lenders may face challenges building a CDR solution that is compliant with relevant information security requirements. The revised de minimis threshold should better ensure only providers with sufficient resources are subject to mandatory data sharing obligations. These providers are better equipped to develop appropriate systems to support the safe and secure transfer of CDR data, and they service more Australian consumers than their smaller counterparts.

20. The increased de minimis threshold for large providers will mean consumers of the smaller non-bank lenders will not have guaranteed access to CDR. We understand that Treasury has taken this consequence into account and determined that it is outweighed by the benefit of reducing the regulatory burden for smaller non-bank lenders, who may face disproportionately high costs to implement CDR solutions. Further, non-bank lenders that do not have mandatory data sharing obligations may choose to voluntarily participate in the CDR for commercial reasons.

Customer threshold for large providers

21. In addition to meeting the financial threshold, the draft rules also require a provider to have more than 1,000 customers on the commencement date or on a 1 July after the commencement date, to be considered a large provider. As outlined in the previous ACCC submission, customer numbers are not recorded by APRA and there is currently no requirement for non-bank lenders to report this information.

22. In recognition of this, the draft rules have been revised to require a relevant non-bank lender that has met the financial threshold for a large provider to inform the ACCC as

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[9] ACCC, *Consumer Data Right in non-bank lending: Exposure draft rules – ACCC submission (October 2023)*, https://treasury.gov.au/consultation/c2023-434434-expansion.

soon as practicable if it has 1,000 customers or less and therefore should not be subject to CDR obligations. The ACCC may also compel a relevant non-bank lender that has met the financial threshold to provide information regarding the financial and customer limbs of the de minimis threshold. That is, the relevant non-bank lender must, on request, provide its total value of resident loans and leases and indicate whether it also has more than 1,000 customers.

23. The ACCC supports the introduction of notification requirements, which provide a lever to assess when a relevant non-bank lender may have met the large provider qualification. However, under the proposed drafting it is not clear that a relevant non-bank lender that meets the financial threshold but has not provided a notification to the ACCC about its customer numbers is subject to data sharing obligations. Treasury may wish to consider whether it would be appropriate for the rules to make clear that a prospective data holder would be deemed to have CDR obligations in this scenario. Without this certainty, there may be limited incentive for affected non-bank lenders to proactively notify the ACCC of their customer numbers, limiting the utility of proposed subclause 6.3(2).

Narrowing the scope of CDR data

Removal of data sharing obligations for niche products

24. The proposed amendments reduce the list of products for which data sharing would be mandatory for data holders in the banking and non-bank lending sectors. Under the draft rules, data related to consumer leases, foreign currency accounts, margin loans, reverse mortgages and asset finance (excluding standard auto finance), would no longer be considered required product or consumer data. This would remove the requirement for banking and non-bank lending data holders to share consumer and product data in relation to these product types. Such data could continue to be shared voluntarily through CDR.

25. We understand Treasury has conducted preliminary analysis on the value of data associated with these products to high value use cases. Treasury has formed the view that the consumer benefit associated with making these products available for CDR data sharing is outweighed by the costs to data holders, given CDR data associated with these products is unlikely to be shared at scale.

26. The ACCC notes the list of products that are proposed to be made voluntary for data sharing includes products that may be more likely to be used by consumers experiencing vulnerability. For example, pensioners with a diminished income may use reverse mortgages, while migrant workers from non-English speaking backgrounds may use foreign currency accounts to remit earnings to their family members overseas. These consumers may benefit from access to CDR data sharing. For example, they may leverage CDR to better understand or improve their financial situation, to compare and switch products, or to share data so they can receive advice from a trusted adviser such as a financial adviser.

27. We recognise that this potential consumer benefit may be outweighed by the cost to current and future data holders of sharing data associated with these products via CDR. However, it would be helpful for Treasury to share more information about the information relied on to propose removal of these products. In addition to anticipated costs to data holders, it would be relevant to consider the number and demographic of consumers using these products, and the likely impact on these consumers of these

products no longer being available for CDR data sharing. This will help ensure there are no unintended consequences to these consumers if these products are removed.

Exclusion of products with less than 1,000 customers

28. The exposure draft rules propose to remove the requirement for a data holder to share data in relation to products that have not been supplied to at least 1,000 eligible CDR consumers for at least one full financial year.[10]

29. The proposed exclusion would align with the parameters of the existing mechanism for banking data holders to trial products without those products being subject to CDR obligations. Under the trial product exemption, a data holder is exempt from data sharing obligations for a product that meets the requirements of a trial product, including that it is supplied to no more than 1,000 customers. If the proposal to exempt products with less than 1,000 eligible CDR consumers from CDR obligations on an ongoing basis is implemented, there may be no ongoing need for a trial product exemption in the banking and non-bank lending sectors.

30. It appears a product that is supplied to 1,000 or more eligible CDR consumers for a full financial year but later has numbers drop below this level would remain in scope for CDR data sharing obligations. The ACCC considers this an appropriate approach. It would prevent consumers experiencing service interruptions where products drop in and out of scope and would align with the approach taken to data holders that later fall below the de minimis threshold. However, given this may not be without doubt, we suggest Treasury clarify the application of the rules to in scope products that later fall below 1,000 eligible CDR consumers.

31. In addition, the ACCC queries the intended interaction of the proposed exclusion of products with less than 1,000 eligible CDR consumers, with the customer threshold that applies in determining whether a relevant non-bank lender is a large provider. A relevant non-bank lender may be considered a large provider if it has met the large provider qualification, including having an aggregate of over 1,000 customers across all its products. However, the same non-bank lender may not have any data sharing obligations if each of its individual products are supplied to less than 1,000 CDR consumers. While the relevant non-bank lender would not have any data sharing obligations, it would remain a data holder for CDR purposes and be required to comply with relevant requirements, such as CDR reporting requirements as set out in rule 9.4. We suggest Treasury clarify the intended application of the rules in this scenario to minimise confusion and ensure a pragmatic approach can be adopted.

32. Finally, we note Treasury has not provided information about the number of banking and non-bank lending products it expects to be covered by this exclusion. That information would assist in assessing the impact of the proposed exclusion, including whether it would exclude a significant proportion of products from CDR. We suggest Treasury seek and publish information about the anticipated reach of this proposal before finalising the rules.

[10] Draft rules, subrules 3.1(1) and 3.2(2).

Impact on compliance costs

33. Given non-bank lenders have yet to build their CDR solution, reducing the scope of products that must be shared may reduce the complexity involved in designing and building a compliant CDR data sharing solution. This could reduce CDR implementation costs and allow efficient resource reallocation towards the development of data-driven innovation, for example by allowing funds to be used to develop new products or use cases.

34. In contrast, data holders in the banking sector have already built CDR solutions to share product and consumer data for the products Treasury is proposing to make voluntary. Therefore, the proposal to narrow the scope of CDR data may only marginally reduce costs for banking sector data holders in the short to medium term. Furthermore, banking data holders may incur costs if they choose to amend their CDR solution and remove the function to share data for relevant products. However, the ACCC acknowledges that banking data holders may see compliance cost reductions over time as they bring new products to market that are not subject to mandatory CDR data sharing obligations.

Fees for the disclosure of voluntary CDR data

35. In the CDR, a fee cannot be charged for the disclosure of required product data or required consumer data[11], but may be charged for voluntary product or voluntary consumer data. While the CDR Rules currently allow charging for voluntary CDR data, the volume of voluntary data flowing through CDR is minimal and the ACCC is not aware of any participants currently charging for such voluntary data.

36. However, Treasury's proposal to narrow the scope of products for which data holders would be obliged to share data in the CDR could significantly increase the amount of voluntary CDR data in the system. This would increase the range of data where participants would be permitted to charge a fee.

37. While we do not oppose data holders being able to charge a fee for disclosure of voluntary CDR data, it is important that any fees are reasonable and proportionate. The ACCC may intervene in circumstances where the fee for disclosing or using specified chargeable CDR data in a designation instrument is unreasonable.[12] However, neither the banking[13] nor non-bank lending[14] designation instruments specify any chargeable CDR data. This means the ACCC would be unable to intervene to limit unreasonable fees for the disclosure of voluntary data.

38. The ability to charge fees for sharing voluntary data may create a barrier for customers of these products to use CDR, even where this data is made available by a data holder. Consumers already sharing CDR data in relation to affected products may be adversely impacted if data holders begin charging unreasonable fees for the disclosure of relevant data. This may have a disproportionate impact on the potentially higher proportion of consumers experiencing vulnerability who use affected products and who may leverage CDR solutions to understand and improve their financial situation.

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11 See note 3 to Rule 2.4(3) and note 3 to Rule 4.6(4)(b) of the CDR Rules and *Competition and Consumer Act 2010* (Cth) s 56AM(4).

12 See s 56BV *Competition and Consumer Act 2010* (Cth).

13 *Consumer Data Right (Authorised Deposit-Taking Institutions) Designation 2019.*

14 *Consumer Data Right (Non-Bank Lenders) Designation 2022.*

39. Treasury should examine whether the current CDR framework for limiting unreasonable fees remains appropriate. To mitigate against exorbitant fees, it may be possible for the CDR rules to include a reasonableness requirement. This could make clear that a data holder that wishes to charge for voluntary data may only charge a fee that is reasonable and/or proportional to the costs incurred by the data holder in sharing that data. In addition, Treasury should consider strengthening the ACCC's ability to intervene to limit the charging of unreasonable fees for sharing voluntary CDR data.

Compliance with the data standards

40. A primary purpose of the data standards is to require information on products to be shared in a standardised way. If data is not shared in a standardised way it can be challenging for recipients to use it to provide goods and services to consumers. The draft rules propose to remove the requirement for data holders to comply with the data standards when disclosing product data voluntarily.[15] Data holders would remain required to use a product data request service which conforms with standards applying to the features of that service, when disclosing voluntary product data. The ACCC understands Treasury's policy intent is to encourage data holders to share product data voluntarily, by removing the risk of civil penalties for non-compliance with data formatting requirements.

41. The ACCC is concerned this proposal may undermine the usefulness of product data shared through CDR and impede the purpose for which that data is shared. Removing the requirement for voluntary product data to be formatted as per the Data Standards is likely, over time, to result in increased variation in the format in which voluntary product data is shared. Significant variations in formatting may risk making product data incomparable, meaning consumers and data recipients may not use the data that is being shared to compare products accurately and reliably across different service providers.

42. The ACCC is aware of existing issues with CDR data quality, particularly in relation to product reference data. On 5 April 2023, the ACCC published the Data Quality in the Consumer Data Right: Findings from Stakeholder Consultation paper.[16] The paper highlighted the importance of product reference data in improving the information available to potential customers of relevant products. Shortcomings in product reference data can make it difficult for data recipients to use this data as a basis for a consumer-facing product or service. The paper noted that as CDR uptake grows, the impact of data quality issues is becoming increasingly important.

43. On 13 September 2024, we released a report on the outcomes of our targeted compliance review of CDR product reference data.[17] The report found there are still significant shortcomings in the quality of product reference data in the CDR ecosystem. For example, we observed that data holders are taking inconsistent approaches to disclosing data about home loan products. Data quality issues may make it difficult for data recipients to use product data as a basis for developing new products or services.

44. These issues may be further exacerbated if data holders are no longer required to comply with the data standards when disclosing voluntary product data. If data is not disclosed in a consistent manner, data recipients will need to expend resources

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15 Draft subrule 2.4(2A)

16 ACCC, *Data quality in the Consumer Data Right: Findings from stakeholder consultation*, April 2023.

17 ACCC, *Consumer Data Right compliance review of product reference data: ACCC observations*, September 2024.

standardising the data, or the data may be completely unusable. Given the potential cost associated with this work, data recipients may prefer not to facilitate access to voluntary product data, particularly in circumstances where they may be charged a fee. This may ultimately impede service providers' ability to use relevant data and develop innovative use cases which promote competition and benefit consumers.

45. For the reasons outlined above, we recommend Treasury reconsider the proposal to remove data holders' requirement to conform with the data standards when disclosing voluntary product data. In addition to hindering access to standardised product data for consumers and data recipients, it may provide minimal benefit to data holders. Existing data holders that have already built CDR solutions that comply with data formatting requirements would be unlikely to experience significant cost savings. New data holders will have more choice in how they format this data, but may find it simpler to comply with established formatting requirements which will apply to other data they must share through CDR.
46. We suggest Treasury consult specifically on any concerns data holders may have about complying with the data standards when sharing product data voluntarily. If stakeholder feedback indicates the risk of financial penalty is a driver of costs for data holders, there may be other ways to mitigate this. For example, it may be possible to retain the requirement to comply with the data standards when sharing product data voluntarily, while removing the attached civil penalty. Administrative and non-financial remedies would remain available to the ACCC in the event issues with data quality arise.[18] This approach could incentivise data holders to share voluntary product data in a consistent and accurate manner while removing cost concerns.

Other proposals

White-labelled products

47. The draft rules allow the transfer of data sharing obligations between data holders in the banking and non-bank lending sectors. If one data holder (a brand owner) offers a product on behalf of a data holder who enters into a contract with a CDR consumer (a white labeller), the white labeller may comply with the rules in place of the brand owner. Alternatively, if two data holders are related bodies corporate, one of the data holders may elect to comply with the rules in place of the other. In both situations, the data holders must agree to this arrangement in writing.

Written agreement

48. Requiring data holders to agree to a written election will help clarify the data sharing obligations of data holders in these arrangements, and ensure consumers have certainty about which data holder is responsible for sharing their data.

Additional flexibility

49. The ACCC understands there is a diverse range of white labelling arrangements in the banking and non-bank lending sectors. To ensure CDR data sharing requirements do not conflict with these arrangements, we support enabling flexibility for data holders in how they comply with the rules. To provide additional flexibility, we would support Treasury

[18] See Part VI, Part IVD, Division 2, subdivision B and s 56FE *Competition and Consumer Act 2010* (Cth).

considering whether a brand owner should also be able to comply with the rules in place of a white labeller. This would also align with existing ACCC guidance which allows either data holder in a white label arrangement to comply with the rules in place of the other.[19]

Compliance obligations in the absence of an election

50. We note the draft rules also do not specify which data holder in a white labelling arrangement is responsible for complying with the CDR rules in relation to a covered product in the absence of a written election. This may be appropriate given the wide variety of white labelling arrangements that exist, and the difficulty in developing a one size fits all approach. Our guidance indicates that in the absence of an election, we generally consider white labellers to be responsible for complying with the rules, to avoid duplication. However, we acknowledge the complexity of white labelling arrangements, and the need to consider the specific circumstances of each arrangement. We encourage Treasury to continue engaging with stakeholders to better understand the diversity of white labelling arrangements that exist, and to further refine and clarify how CDR obligations apply in these scenarios. Where circumstances permit, delineating clear lines of responsibility will promote compliance, simplify investigations and enable more targeted enforcement action.

Record keeping

51. The draft rules propose that a data holder that elects to comply with the rules in the place of another data holder must keep and maintain records in relation to this election. While the ACCC supports a record-keeping obligation, we suggest Treasury consider whether the record-keeping requirement should apply to both data holders in the related bodies corporate or white-labelling arrangement, rather than only the data holder that elects to comply with the rules. In addition, it would assist the ACCC's compliance efforts if the data holder that elects to comply with the rules was required to report the election to the ACCC. This would ensure the ACCC is aware of the written election and knows where to direct any relevant compliance activity.

Interoperability across sectors

52. Finally, we note the current drafting suggests such agreements can only occur within "the same sector".[20] We would support Treasury investigating the potential for transferring compliance responsibilities between data holders across different sectors, particularly across the non-bank lending and banking sectors. This may provide beneficial flexibility given the wide range of white-labelling arrangements that exist across both sectors.

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[19] ACCC, *Approach to disclosure of consumer data: white label products*, March 2022; ACCC, *Approach to disclosure of product data: white label products*, March 2022.

[20] The ACCC notes draft clause 1.2 of schedule 3 sets out separate definitions for the 'banking sector' and the 'non-bank lenders sector'. Since the draft rules considers these sectors to be distinct, the transfer of data sharing obligations as set out in draft clause 7.1A of schedule 3 cannot occur across these sectors under the current draft rules.