



NATIONAL AUSTRALIA BANK SUBMISSION

Statutory Review of the Consumer Data Right

May 2022

INTRODUCTION

National Australia Bank (**NAB**) appreciates the opportunity to make a submission to the Statutory Review of the Consumer Data Right (**the Review**).

NAB is an Accredited Data Holder in the Consumer Data Right (**CDR**), under the NAB and UBank brands. As at 20 May 2022, we have over 7,000 customers across these brands who have consented to share their data. NAB became an Accredited Data Recipient in September 2021.

We see significant potential and consumer benefit in the CDR and are committed to continuing to develop CDR-powered products and services, for the benefit of our current and future customers. However, there are certain aspects of the current CDR settings and standards that have impeded our ability to innovate quickly and bring use cases to market in an efficient manner.

We believe that these challenges can be overcome and have identified potential opportunities to resolve these in this submission. NAB would welcome the opportunity to work further with Treasury to remove these obstacles and continue to grow our CDR use-cases and innovate.

More broadly, NAB has a history of being active in the public policy discourse on CDR, including:

- September 2017 submission in response to the Review into Open Banking;
- March 2018 submission in response to the Review into Open Banking;
- September 2018 submission in response to the Treasury Laws Amendment (Consumer Data Right) Bill 2018;
- October 2018 submission in response to a further Treasury consultation on the CDR Bill;
- October 2018 submission in response to the ACCC's consultation on the Consumer Data Right Rules Framework;
- May 2019 submission in response to the ACCC's consultation on the Consumer Data Right Exposure Draft Rules;
- November 2019 submission in response to the Office of the Australian Information Commissioner's consultation on the draft CDR Privacy Safeguard Guidelines;
- February 2020 submission in response to the ACCC's consultation on how best to facilitate participation of third party service providers;
- May 2020 submission in response to Treasury's inquiry into future directions for the Consumer Data Right;
- July 2020 submission in response to the ACCC's consultation on the draft Consumer Data Right Rules and Privacy Impact Assessment that allow for intermediaries;
- October 2020 submission in response to the ACCC's consultation on the Consumer Data Right Rules expansion amendments; and
- May 2021 submission in response to the Data Standards Body's Design Paper on an 'opt-out' data sharing model for joint accounts.
- July 2021 submission in response to Treasury's on the Consumer Data Right rules amendments, version 3.

NAB welcomes the opportunity to discuss any aspect of this submission further.

1. Are the objects of Part IVD of the Act fit-for-purpose and optimally aligned to facilitate economy-wide expansion of the CDR?

NAB considers that the objects outlined in Part IVD of the Act, continue to remain fit-for-purpose.

However, while the objects are sound, there continue to be barriers that obstruct them from being realised in practice. As detailed in NAB's response to other questions in this paper, we believe that certain aspects of the current CDR statutory settings inhibit product innovation and create unnecessary friction, resulting in a sub-optimal customer experience, which we believe could prevent wider customer uptake of the CDR.

2. Do the existing assessment, designation, rule-making and standard-setting requirements support future implementation of the CDR, including to government-held datasets?

Our comments in relation to this question are focussed on the operational aspects of the roll out of the CDR (primarily in our experience as a data holder), rather than any specific provision in Part IVD of the Act.

Updates to the CDR Rules

The administration of updates to the CDR Rules (**the Rules**) has caused some challenges for NAB in the past. For example, go-live dates for changes to CDR operations have been required to take place on dates such as 1 July 2020 and 1 July 2021. With the new financial year being one of the busiest periods for enacting change and compliance measures at financial institutions, deferring these updates for a matter of weeks would have allowed for a much smoother implementation.

NAB appreciates that the CDR Rules are an evolving legal framework that is continually reviewed and revised, in response to input from policymakers and stakeholders. However, the absence of a regular cadence for updates to the Rules limits the ability for data holders and recipients to efficiently plan and prioritise their CDR investments and resourcing.

It would be beneficial for entities participating in the CDR, to have visibility over planned timelines for revisions to the Rules and the proposed scope of each revision. This would allow entities such as NAB to plan ahead to ensure time and resources are allocated to provide appropriate feedback to these proposed revisions, and make any adjustments to scheduled product improvements and functionality that may be necessary.

Feedback mechanisms

As previously mentioned, NAB appreciates the opportunity to provide feedback as part of this Statutory Review, and has also greatly appreciated the time of Treasury and the ACCC to meet and provide feedback on an ad-hoc basis.

On several occasions, feedback that NAB has wanted to provide has been identified in the process of consultation on changes or updates to the CDR Rules. However, the scope of these consultations is often quite narrow and subject to a short time window, which can prevent feedback that may be valuable or adjacent to the proposed changes, from being raised.

While NAB understands the need for these consultations to be targeted and efficient, it would be beneficial if there was greater opportunity to raise related or supplementary issues during these processes, in order to avoid duplication and inhibit product development and functionality.

Single source of truth for technical standards

NAB appreciates that the history and nature of the CDR necessitates various regulatory bodies and agencies being involved in its governance and operations. However, this has been the source of some confusion and delay in the past, when trying to clarify aspects of the technical standards. Guidelines from one party may imply one meaning, while the CDR Support Portal hosted on ZenDesk, may give a conflicting or slightly different interpretation.

Delays in confirming the correct information can impede customer innovation and product development, and the implementation of new CDR use cases. It would be helpful to data holders and recipients to have a single, accurate source of truth for technical standards, that they can turn to.

3. Does the current operation of the legislative settings enable the development of CDR-powered products and services to benefit consumers?

NAB has filed a confidential submission responding to Question 3, in which we outline some concerns on data use limitations and consent requirements.

4. Could the CDR statutory framework be revised to facilitate direct to consumer data sharing opportunities and address potential risks?

NAB considers that opening up direct-to-consumer data sharing opportunities would be of value to consumers and unlock further opportunities for innovation.

However, we recommend that Treasury closely considers the safety, fraud and scam aspects of this in close detail, to ensure that the right consumer protections are in place. The right authentication and authorisation standards will also need to be incorporated, to ensure a scenario where what could be considered screen-sharing by proxy, does not occur.

It may also be beneficial to delay the implementation of direct-to-consumer sharing until the uptake of current CDR use cases and functionalities has grown, and consumers are more familiar with these capabilities and the benefits that they can provide. A growth in the number of CDR users would also provide data holders and recipients with greater confidence around the commerciality of bringing direct-to-consumer sharing use cases to market.

5. Are further statutory changes required to support the policy aims of CDR and the delivery of its functions?

Digital Identity and CDR

While NAB does not see any need for statutory changes within CDR for Digital Identity, we consider that it is important to clarify and understand the continued intersection between CDR and Digital Identity. The nature of CDR is very different from the prominent use cases for Digital Identity services, but they are underpinned by some of the same principles with regards to empowering the consumer to be in control of their core identity data, including:

- who the consumer chooses to use as their validator/authenticator,
- what information is shared to a relying party (service organisation),
- and, that it happens via secure and open global technical standards.

The fundamental difference in the core use case for Digital Identity is the assurance offered by the identity provider – this is the assurance offered when a consumer asserts their identity to a relying party, creating a trusted ecosystem for identity providers and relying parties that ultimately benefit both the consumer and the organisations that are relying on that identity assurance.

With the expansion of CDR into other sectors, CDR and Digital Identity ecosystems will require strong interoperability, particularly between private and public sector networks. Each system needs to maintain their own independence, as not all Digital Identity use cases will involve data sharing or have a link into CDR use cases, but CDR will become a very important user of an interoperable digital identity ecosystem, driving strong consumer choice and a more streamlined approach to customer verification and authentication requirements under CDR.

We reiterate our support for interoperable but independent governance frameworks for CDR and Digital Identity, ensuring that the systems are separate but remain aligned, and a strong need for

interoperable public and private sector ecosystems. We would welcome further discussions on this topic.

Action initiation

NAB acknowledges the benefits that action initiation could provide to customers, and the new, innovative use cases that action initiation could permit. However, we note that the introduction of action initiation is likely to be contingent on the outcome of several impending payments-related consultations and inquiries, arising from the Review of the Australian Payments System. NAB looks forward to participating in these processes and would welcome the opportunity to engage in further discussions addressing action initiation in the CDR, at that point in time.

Future expansion of the CDR

NAB looks forward to working with Treasury on the expansion of the CDR to other sectors of relevance to our business, including Open Finance.

While we acknowledge that the focus of this Statutory Review is on the progress of CDR to date, it is a timely opportunity to consider the future direction of the CDR more broadly. We know that there are several sectors which Treasury is considering for further expansion of CDR, and recommend that Treasury considers digital platforms as a sector for expansion.

Given the vast presence of these platforms and the considerable volume of consumer data that they now hold, we see significant potential in the market for innovative customer use cases, and opportunities to ensure that consumers are fully empowered with control of their data.