

Consumer data right in non-bank lending

CDR rules and data standards design paper

December 2022

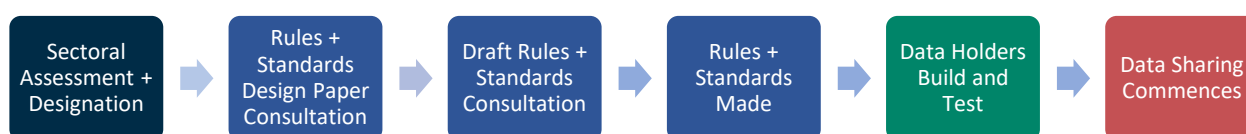
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Purpose of design paper

This design paper commences the next stage in rolling out the Consumer Data Right (the CDR) to the non-bank lending sector. This paper seeks feedback on the proposed policy specifications or principles to support the development of sector-specific rules and data standards to implement the CDR in the non-bank lending sector.

Extending CDR to a new sector



On 21 November 2022, the Assistant Treasurer and Minister for Financial Services formally designated the non-bank lending sector as subject to the CDR.

The *Consumer Data Right (Non-Bank Lenders) Designation 2022* (the Designation Instrument) specifies the classes of information that may be shared through the CDR, as well as the non-bank lenders that may be data holders. The Designation Instrument itself does not impose data sharing obligations. The requirement to disclose particular data (CDR data) emanates from the [Competition and Consumer \(Consumer Data Right\) Rules 2020](#) (the Rules), which provide the framework for the operation of the CDR.

The Rules consist of core rules, which have been developed to apply universally across all sectors of the economy, and sector-specific rules (set out in Schedules to the Rules). The Rules for the non-bank lending sector will include defined terms for the sector; eligibility requirements for CDR consumers in the sector; the data sets that may or must be disclosed when product or consumer data requests are made in relation to the sector; dispute resolution requirements; and the staged application of the Rules to the sector.

Treasury is responsible for advising the Minister, who has the authority to make and amend the Rules, on amendments to maintain and expand the regime.

The Data Standards Body (the DSB) develops the Consumer Data Right Standards (the Data Standards) which underpin the technical delivery of the CDR. The Data Standards set out requirements for data security and format, and specify consumer experience (CX) standards for the implementation of the CDR. Like the Rules, the Data Standards have also been designed to apply universally across sectors to the extent possible. However, sector-specific Data Standards are also developed for each new sector.

Consultation on non-bank lending Rules and Data Standards

The CDR is now active in banking, with data sharing having been progressively rolled out since July 2020. Given the parallels between Open Banking and non-bank lending data sets and products, Treasury expects that the Rules and Data Standards applying to the non-bank lending sector will align, where appropriate, with existing Rules and Data Standards for the banking sector. This paper identifies where a deviation from the approach taken in banking may be necessary for non-bank lending.

Further, this paper identifies two changes that are proposed to the banking Rules to ensure consistency between the two sectors.

Treasury and the DSB seek feedback on the proposed policy approach set out in this paper, as well as the consultation questions, by 31 January 2023. Feedback can be provided via email to data@treasury.gov.au. Feedback, comments and ongoing discussion can also be lodged on the public [GitHub page](#) maintained by the DSB.¹ Treasury will also be conducting a Privacy Impact Assessment (PIA) considering the privacy risks of making the non-bank lending Rules. Treasury seeks feedback on any privacy issues or risks relating to the non-bank lending Rules that should be addressed in the PIA.

Feedback provided in response to this paper will be used to develop the draft non-bank lending Rules and will inform Treasury's advice to the Minister. It will also inform the DSB's development of sector-specific Data Standards. Stakeholders will have a further opportunity to provide feedback on draft non-bank lending Rules and Data Standards at a later stage.

Wireframes have been included to provide a visual aid to this consultation. These artefacts outline where certain issues listed in this paper may arise. This may include, for example, sectoral differences and authentication processes. These wireframes can be found online, see this [Miro link](#) or [PDF](#), along with an [interactive prototype](#).

When receiving feedback, Treasury and the DSB are always interested in hearing about the use cases, particularly new and emerging use cases, that will arise from the inclusion of the non-bank lending sector in the CDR.

The role of the Rules in the CDR

As noted above, each designated sector is subject to the core provisions in the Rules, as well as to the relevant sector-specific obligations (for example, the banking sector-specific obligations are set out in Schedule 3 to the Rules). The core Rules are separated into nine parts.

Part 1 of the Rules sets out foundational material including the following:

- key concepts including the data minimisation principle; criteria for assessing fitness and propriety to receive data as an accredited person; eligibility for CDR consumers; voluntary and required product and consumer data; types of consent that may be given by CDR consumers; criteria for trusted advisors; and characteristics of outsourcing, affiliate-sponsor and representative arrangements;
- general provisions relating to data holders and accredited persons, including requirements relating to the de-identification and deletion of data, and key services that data holders must provide (such as a consumer dashboard).

Part 2 sets out requirements for the disclosure of product data by a data holder in response to a valid request. Product data relates to the characteristics of products offered by data holders, and does not relate to CDR consumers.

Part 3 sets out requirements for the disclosure of consumer data in response to a request made directly by that consumer. This Part is not currently operational.

Part 4 sets out requirements for the disclosure of data about a CDR consumer in response to a request made on behalf of the consumer by an accredited person. This Part contains a range of requirements in relation to the processes for seeking consents and authorisations

¹ Feedback posted on GitHub is public by nature at the time of submission. Content posted on GitHub should be made according to the community engagement rules published by the Data Standards Body.

from CDR consumers. Part 4A sets out modifications of these requirements in the context of CDR data relating to joint accounts.

Part 5 specifies the criteria that need to be met for an entity to become an accredited person; ongoing obligations of accredited persons, including in relation to internal and external dispute resolution processes; rules relating to the Register of Accredited Persons; and the powers and responsibilities of the ACCC as the Data Recipient Accreditor.

Part 6 sets out the requirements on data holders for internal and external dispute resolution processes.

Part 7 sets out rules relating to the CDR's privacy safeguards, which are contained in the Competition and Consumer Act 2010 (the Act). This Part sets out a range of obligations and permissions in respect of the management of CDR data and the processes that must be used by entities participating in the CDR in order to ensure the integrity and security of CDR data.

Part 8 sets out rules relating to Data Standards. These cover matters including the functions and procedures of the Data Standards Advisory Committee, processes for making Data Standards, and types of standards that must be made.

Part 9 includes the record keeping and reporting obligations placed on data holders and accredited persons, and the powers of the OAIC and ACCC to request documents and conduct audits.

The role of Data Standards in the CDR

The Data Standards are developed and maintained by the DSB in the Treasury and made by the Data Standards Chair in accordance with the Rules. The Data Standards for Consumer Experience, Security Profile and Application Programming Interface (API) definitions are published on the [Consumer Data Standards website](#). The Data Standards are publicly consulted on using [GitHub](#), and change requests to the Data Standards can also be raised on the [standards maintenance site](#). The CDR stakeholder community is strongly encouraged to contribute to Data Standards development in relation to the non-bank lending sector.

The [Consumer Experience Guidelines](#) (CX Guidelines) provide optional implementation examples for key Rules, Data Standards, and best practice recommendations. They include annotated wireframes, open-source assets, prototypes, and a checklist outlining key requirements. The CX Guidelines are used to assist CDR implementation in the banking, energy, and telecommunications sectors.

Issues for Feedback

Scope of data sharing in the non-bank lending sector

What data holders should be required to share CDR data?

The Designation Instrument designates “relevant non-bank lenders”. Essentially, these are defined as non-bank lenders that are “registrable corporations” under section 7 of the *Financial Sector (Collection of Data) Act 2021* (the Collection of Data Act). The Collection of Data Act defines registrable corporations essentially as corporations that are not banks but provide finance in Australia as part of their business activities. However, entities with assets below \$50 million are excluded from the definition of “registrable corporation”.

- The \$50 million threshold is not replicated in the Designation Instrument. This ensures the definition of “relevant non-bank lender” is sufficiently broad to capture all entities (excluding banks) that provide regulated and unregulated lending products to individual and business consumers.
- Certain entities are exempted from the obligation to register under the Collection of Data Act by subsection 7(2) of that Act. Any exemptions under this subsection flow through to the Designation Instrument.

Treasury expects this approach will result in approximately 1500 non-bank lenders being “relevant non-bank lenders”, including a large number of small entities. During consultation on the Non-bank Lending Sectoral Assessment Final Report (the Report), concerns were raised about the potential cost of compliance on smaller non-bank lenders and the adverse flow-on effects for innovation and competition in the sector. As a result, the Report recommended the Rules exclude small non-bank lenders below a certain threshold (also known as a *de minimis* threshold) from mandatory data sharing obligations.

Treasury considers the *de minimis* threshold for data holders should capture the largest non-bank lenders without reducing competition or innovation by discouraging or hindering small providers through disproportionately high compliance costs.

Non-bank lenders who fall below the ‘*de minimis*’ threshold will still be able to elect to share data through the CDR on a voluntary basis.²

Proposed approach

Treasury is proposing to limit required data sharing obligations for designated data holders to non-bank lenders that have total resident loans and finance lease balances of over \$400 million. The threshold aims to exclude the long tail of smaller entities, while requiring the larger entities that make up a substantial market share of the lending sector to participate³.

² It is possible for an entity below the *de minimis* threshold to voluntarily elect to share product data without also needing to share consumer data. Sharing product data allows entities to have their products considered as part of product comparison services and can be provided at a lower cost than consumer data which requires authentication.

³ Entities with total assets over \$400 million are subject to more frequent financial data reporting obligations to APRA under obligations made under the Collection of Data Act.

Consultation questions

1. What are stakeholder views on the threshold proposed by this paper, i.e. \$400 million in total resident loans and finance lease balances? Are there other measures that could be considered for a threshold?
2. Is the proposed \$400 million threshold likely to capture entities with sufficient regulatory maturity and capability to comply with mandatory data holder obligations?

White labelled products

White labelled products are typically created and operated by one entity (a white labeller) and branded and retailed to consumers by another entity (a brand owner). In non-bank lending, white labelling is particularly common in relation to credit cards and home loans. Non-bank lender white labellers and/or brand owners that meet the definition of a “relevant non-bank lender” will be subject to data holder obligations under the Rules.

The existing approach to sharing product data for white labelled products under the Rules is broadly as follows.

- Where there is a single data holder involved in providing a white labelled product (whether that is the white labeller or the brand owner), the data holder must respond to product data requests in relation to the product.
- Where there are two data holders involved in providing a white labelled product, the data holder that has the contractual relationship with the consumer must respond to product data requests. The other data holder may also respond to product data requests. However, in the interests of avoiding unnecessary duplication, this is not mandatory.
 - The data holder that has the contractual relationship with the consumer may agree with the other data holder that the other data holder will perform that obligation on their behalf.

This is similar to the [ACCC's Guidance](#) on managing sharing of consumer data for white labelled brands in the CDR.

- Where there is a single data holder involved in providing a white labelled product (whether that is the white labeller or the brand owner), that data holder must comply with consumer data request obligations under the Rules.
- To avoid unnecessary duplication, where there are two data holders involved in providing a white labelled product, it is the data holder that has the contractual relationship with the consumer who will be considered responsible.
 - The data holder that has the contractual relationship with the consumer may agree with the other data holder that the brand owner will perform that obligation on their behalf. In this example, the data holder that has the contractual relationship with the consumer remains accountable for the performance of the obligation.

Securitisation

Some lenders may fund loans by using special purpose securitisation entities that technically are the lender of record. CDR data holder obligations only need to be met by one entity. The non-bank lender that originates the loan is typically the primary entity

that receives and holds their customer’s information, regardless of whether a loan is to be securitised.

Proposed approach

Treasury proposes to adopt the same approach to non-bank white labelled products as that taken to banking white labelled products, which would allow for data holder obligations to be managed between the white labeller and brand owner to ensure the entity most suitable for meeting data holder obligations can provide the required data.

Consultation questions

3. Are there any sector-specific considerations for white labelling that need to be taken into account when making guidance and/or rules for the non-bank lending sector? Is it common practice for the brand owner to hold the contractual relationship with the consumer?
4. Are changes required to facilitate white labelling arrangements in non-bank lending? For example, should there be changes to the [CDR Register Standards](#) describing data holders to support more complicated white labelling arrangements such as product panels?
5. Can securitisation arrangements be appropriately managed under the existing mechanisms, or are there specific considerations that need to be accounted for?

What products are in scope?

The definition of “product” in the Designation Instrument captures goods and services that have been supplied in connection with taking money on deposit, making advances of money, letting goods on hire (including on hire-purchase), or other financial activities prescribed by regulations for the purposes of the definition of ‘banking business’ in the *Banking Act 1959*. The definition of “product” also captures a purchased payment facility.

It is intended that a non-bank lending product will be in scope for the CDR if it:

- falls within the definition of “product” in the Designation Instrument; and
- is generally known as being a type of product listed in a prescribed list of products outlined in the sector-specific Rules⁴; and
- is publicly offered.

Banks and non-bank lenders largely supply the same products to consumers, apart from deposit related accounts, which only banks are licensed to provide. Accordingly, Treasury expects the prescribed list of products in the non-bank lending rules to be similar to the prescribed list of banking products in Schedule 3 to the Rules.

The Report recommended the inclusion of buy now, pay later products for both the non-bank lending sector and banking sector. Including buy now, pay later products in the CDR will provide greater visibility of a consumer’s financial situation and support use cases such as budgeting and comprehensive credit assessments.

⁴ This limb seeks to future-proof the list of products to allow for new product development or for changes in the specific product offering, such as the name, while still allowing the product to fall within one of the general types listed.

Proposed approach

Treasury proposes the following list of products as in scope for the CDR (the prescribed list of non-bank lending products):

- a personal credit or charge card account
- a business credit or charge card account
- a residential home loan
- a home loan for an investment property
- a mortgage offset account
- a personal loan
- business finance
- a loan for an investment
- a line of credit (personal)
- a line of credit (business)
- an overdraft (personal)
- an overdraft (business)
- asset finance (including leases)
- a consumer lease
- buy now, pay later

Treasury also proposes including buy now, pay later in the prescribed list of products for banking (through an amendment to the banking sector-specific Schedule). Treasury seeks feedback from the banking sector on the timeframe for making available information, both product and consumer data, relating to these products after the finalisation of the rules.

Consultation questions

6. Is the proposed list of products in scope for the CDR appropriate for the non-bank lending sector?
7. For the avoidance of doubt, should reverse mortgages be specifically referenced in the product list?
8. When can banks make information relating to buy now, pay later products available?

Dating sharing obligations in relation to trial products

The Report recommended the non-bank lending schedule introduce a trial period to allow non-bank lenders time to trial a new product prior to mandatory data sharing obligations applying to that product on the basis that this is likely to encourage innovation and the development of new products.

Exposure draft amendments to the Rules which make operational enhancements were released for consultation on the Treasury website on 15 September 2022. These draft amendments propose changes to introduce the concept of trial products in the banking sector. This change, if made, would allow eligible data holders to test their offerings without being subject to CDR data sharing obligations. The explanatory material published

with the exposure draft amendments sought stakeholder feedback in relation to extending the proposal to the energy and telecommunications sectors.

A short-term trial enables an organisation to understand how a large-scale offering might work in practice. Trials or pilot programs are regularly used in the banking and non-banking industries to test the viability and scalability of a new product, particularly a product offered on a new platform.

The proposed change to the Rules would exempt eligible data holders from data sharing obligations where the trial:

- covers the development of a new in-scope CDR product; and
- involves no more than 1,000 customers; and
- ends no more than 6 months after the initial offering.

Proposed approach

Subject to the finalisation of the concept of the trial product as part of the operational enhancements amendments, Treasury proposes to apply this exemption to non-bank lending.

Consultation question

9. Is the proposed trial period appropriate for the non-bank lending sector?
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What is required data sharing?

The Designation Instrument designated three broad classes of information:

- generic and publicly available information about non-bank lending products
- information about a CDR consumer
- information about the use of a non-bank lending product.

The Rules specify which data sets are “required” and which data sets are “voluntary”. Data holders (entities that are specified in a designation instrument as holding data included in the designation instrument) must share “required” data in response to a valid product or consumer data request. Data holders may choose to make available voluntary datasets; however, consumer data can only be shared in response to a valid data request.

In banking, there are three general types of CDR data:

- “required consumer data” - CDR data relating to a particular consumer
- “required product data” - CDR data that does not relate to any identifiable consumer
- “voluntary” consumer or product data - CDR data that is not required product or consumer data.

Treasury intends the required data in the non-bank lending sector to be the same as required data in the banking sector, given the similarities of the two sectors. This is also broadly consistent with the required data in the energy and telecommunications sectors.

Proposed approach

In line with banking, Treasury proposes the following four categories of CDR data will be “required product data” and “required consumer data”.

- ‘Customer data’ in relation to a particular person

Information that identifies or is about the person, including their name, contact details, information provided at the time of acquiring the product or relating to their eligibility to acquire that product (although not extending to information relating to the actual decision on eligibility, such as the outcome of an income, expense or asset verification assessment), and certain information if the person operates a business (such as their ABN, and type of business). Customer data does not include the person’s date of birth.

- ‘Account data’ in relation to a particular account

Information that identifies or is about the operation of the account, including the type of information that a customer would commonly see about their account, including the account number and name, account balances, future commitments, and authorisations on the account.

- ‘Transaction data’ in relation to a particular transaction

Information that identifies or describes the characteristics of the transaction, including information about the date on which the transaction occurred, a description of the transaction, and the amount debited or credited.

- ‘Product specific data’

Information that identifies or describes the characteristics of the product, including its type, its price (including fees, charges, and interest rates however these are described), terms and conditions and eligibility criteria that a customer needs to meet. This also includes information about associated features and benefits, such as a credit card’s loyalty scheme. This would also include products that are no longer publicly available (often referred to as legacy products).

The DSB proposes that Data Standards for the non-bank lending sector be incorporated into the [“banking” industry path](#) and the [banking language standards](#). This is because most products have crossover between the banking and non-bank lending sectors. This will support use cases that intend to facilitate switching on lending products, including future action initiation use cases, allowing consumers to select non-bank lenders as their data holders alongside banks, which would improve customer experience.

The introduction of buy now, pay later products is likely to require changes to the existing standards for account information relating to ‘loan’ accounts. Consideration is being given to whether there are other new product types that will require changes to the standards, such as types of lease products.

Consultation questions

10. Does the [banking account detail schema](#) meet the requirement of the non-bank lending sector?
11. Are there additional datasets describing the assets under lease or hire or buy now, pay later products that should be included as required data?
12. Is this data clustered appropriately and in a way that reflects existing non-bank lending data structures?

Historical data and closed accounts

The Act defines the ‘earliest holding day’ as the earliest date applicable to a designated sector for holding designated information. This is the earliest possible starting point for classes of information set out in a designation instrument to become subject to mandatory data sharing obligations. For non-bank lending, the ‘earliest holding day’ is 1 January 2020.

The rules for each sector determine the limitations that apply to ‘required consumer data’, including on historical data sharing and the treatment of data associated with closed accounts.

The scope of consumer data sharing for historical data and closed accounts should help to facilitate price comparisons, product switching and other use cases without imposing undue regulatory burden.

The intended outcome is for consumers to have a sufficiently broad range of historical data to help them make informed decisions about products. Historical transaction data is of particular utility to consumers as it can provide consumers with an understanding of their spending habits and patterns over a period of time.

We note that non-bank lenders are obligated by the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* to keep transaction records that relate to providing a service to a customer for seven years.

Proposed approach

Treasury proposes that the non-bank lending rules impose the same limitations on ‘required consumer data’ as those contained in the banking rules. Specifically, it is proposed that CDR data is not required consumer data:

- where an account is open: transaction data that is more than 7 years old, and data on direct debits more than 13 months old
- where an account has been closed for more than 24 months: account data, transaction data, and product specific data
- where an account has been closed for any period of time: all data on direct debits
- where an account has been closed for less than 24 months: transaction data for a transaction that occurred more than 12 months before the account was closed.

Although there is no requirement to share data held before the ‘earliest holding day’ specified in the Designation Instrument, this data could be provided by a data holder as voluntary data.

Consultation question

13. Is the proposed approach to historical data and closed accounts appropriate for the non-bank lending sector?

What data is excluded from data sharing requirements?

The Report recommended that hardship information be excluded by the non-bank lending rules on the basis that the privacy risks of sharing this information are likely to outweigh the benefits.

This is consistent with the treatment of hardship information under the energy Rules, which explicitly exclude information about whether a customer’s account is associated with a hardship program. A similar approach is expected to be taken in the telecommunications sector.

Proposed approach

Treasury proposes to explicitly exclude from the meaning of “account data” in the non-bank lending rules:

- financial hardship information as defined by the comprehensive credit reporting regime (which became available on 1 July 2022).

For consistency, Treasury also proposes similar changes to the banking Rules. This is newly created information that has come into existence since developing the banking Rules. It is appropriate for this process to consider the suitability of sharing this information by banks.

Consultation questions

14. Should ‘financial hardship information’, as defined by the credit reporting regime, be explicitly excluded from data sharing requirements? If so, are there implications for doing so given the interaction with the credit reporting regime?
15. Are there other data sets that should be explicitly excluded from the scope of ‘required consumer data’ on privacy grounds?
16. Are there any other interactions between the CDR and the credit reporting regime that present compliance issues or where entities have conflicting obligations?

Eligible CDR consumers in the non-bank lending sector

Definition of eligible consumer

The concept of an ‘eligible’ CDR consumer refers to consumers who can make consumer data requests to access or transfer their data. The CDR rules contain a sector-neutral definition of ‘eligible’ CDR consumer; however, this can be augmented as required within the sector-specific schedule.

The sector-agnostic definition of ‘eligible CDR consumer’ in rule 1.10B states that, subject to any additional criteria set by sector-specific rules, a CDR consumer is eligible in relation to a particular data holder at a particular time if, at that time:

- a. The CDR consumer is either an individual who is 18 years or older or a person who is not an individual; and
- b. the CDR consumer is an account holder or a secondary user for an account with the data holder that is open.

For the banking sector, in addition to these criteria, the Rules also require that the account with the data holder is set up in such a way that it can be accessed online by the CDR consumer (for example, by using an internet browser or an application accessed on a tablet or smart phone).

Secondary users, joint accounts and nominated representatives

The ‘secondary user’ Rules permit a person who is not an account holder to share CDR data from an account. An individual is a secondary user for an account if the person is at least 18 years of age, has account privileges and the account holder has given the relevant data holder an instruction to treat the person as a secondary user for the purposes of the Rules. A person has account privileges in the banking sector if they are able to make transactions on the account.

Secondary users are not joint account holders. Existing sector-agnostic Rules deal with the sharing of CDR data from a joint account and prescribe how sharing arrangements can be authorised and approved by joint account holders. Under the Rules, a joint account is an account for which there are two or more joint account holders who are individuals acting on their own capacity and eligible CDR consumers in relation to the data holder.

For non-individuals (businesses and partnerships), ‘nominated representative’ rules require data holders to provide a service that enables non-individuals to nominate one or more individuals, 18 years or older, to give, amend, and manage authorisations to disclose CDR data on behalf of the business.

Proposed approach

Given the complementary nature of the banking and non-bank lending sectors, Treasury proposes to use the same definition for ‘eligible’ CDR consumer as banking, including the sector-specific requirement that the account can be accessed online.

Treasury understands that both joint accounts and secondary users are existing features in the non-bank lending sector. Treasury proposes to use the same definition of ‘secondary user’ as that used in the banking sector and adopt the sector-agnostic joint account and nominated representative rules.

Consultation questions

17. For non-bank lenders, what proportion of your customers would be excluded if a requirement for ‘online’ account access was included in the definition of eligible consumer?
18. Are there specific features of the non-bank lending sector, or products, that mean sector-specific variations to the concepts of secondary users, joint accounts or nominated representatives will need to be considered?
19. Is there a hierarchy of users, for example, where different users have different authorisations or levels of access? Should all users in a hierarchy benefit from CDR data sharing or should access be limited in some way?
20. In relation to secondary users, joint accounts, or nominated representatives, do you have any concerns about access to consumer dashboards or concerns about authentication of such users?

Large corporate accounts

Feedback during the designation process noted that there is a high concentration of negotiated, bespoke and ‘invitation only’ products in the non-bank lending sector. These products, their pricing and their terms and conditions are not publicly available. Feedback also noted the prevalence of unique product offerings that service large corporate customers with specialist lending needs.

The banking Rules require information about a product to be shared where it is publicly offered.⁵ The energy sector Rules require information about accounts to be shared when its associated products consume less than 5 GWh per annum. The proposed telecommunications rules require data to be shared where an account has a spend of less than \$40,000 per annum or where the account holder was able to negotiate its terms.

Treasury seeks feedback from stakeholders on the specific type of product offerings in the non-bank lending sector and the complexity of incorporating those product offerings.

Consultation question

21. Are there sector-specific matters relevant to inform Treasury's consideration of whether a large corporate account exclusion is appropriate in the non-bank lending sector? How could an exclusion operate? For example, could it relate to accounts with loans over a certain threshold?⁶

Other design issues for the non-bank lending sector

Staged implementation

Consistent with banking and energy, and as proposed in telecommunications, Treasury considers there should be a phased approach to the application of CDR obligations to the non-bank lending sector. Implementation of the CDR in a new sector is a significant undertaking, and stakeholder feedback received during consultation on the sectoral assessment noted that the requirements imposed on data holders cannot be met simultaneously. Resource constraints associated with introducing all datasets into the CDR system at once can raise costs and the risk of non-compliance by data holders with the implementation schedule.

A phased approach aims to minimise costs, provide for a smooth implementation process, and allow data holders to meet requirements amid shortages of relevant skills. A phased approach to implementation was adopted in the rollout of the CDR to the banking and energy sectors.

Similar to the rollout in all other sectors, Treasury proposes that mandatory obligations are phased both to manage the impost across the sector, but also the impost on each entity.

Treasury proposes splitting non-bank lenders subject to mandatory obligations (those above the *de minimis* threshold) into two categories - large providers and medium providers.

While the banking rollout was phased by product type, feedback to date has suggested that entities will build API functionality for all products at the same time. For that reason, phasing may be more beneficial where it provides more time to bring in more complex requests (for example, consumer data requests made on behalf of a large customer, secondary user, or relating to joint or partnership accounts).

As such, in the first instance, large and medium providers could both be required to provide product data information relating to in-scope products. This ensures all entities engage early with understanding their CDR obligations and allows them to benefit from sharing product data, which supports comparison of products across the sector.

⁵ The ACCC has released [guidance](#) for data holders on how to interpret 'publicly offered'.

⁶ Should a large corporate account exclusion be considered for the non-bank lending rules, further consideration will also be given to its interaction with the *de minimis* threshold.

Consumer data obligations could then be phased, with large providers required to supply information first, starting with less complex requests.

The intention is for the commencement dates to provide data holders with at least 12 months to comply with their CDR obligations from the time the final Rules are made and the Data Standards Chair develops the technical and consumer experience Data Standards.

Consultation question

22. Are there views on the option to phasing set out above? Are there other approaches that could be taken to phase the commencement of obligations in the non-bank lending sector?

Internal dispute resolution

Under the Rules, data holders and accredited data recipients must have internal dispute resolution processes that meet the internal dispute resolution (IDR) requirements in relation to that sector.

Where possible, the CDR seeks to leverage sector-specific IDR regimes for the purposes of CDR rather than establishing new requirements. For example, for the banking sector, a CDR participant (both data holders and ADRs) meets the internal dispute resolution requirements if its internal dispute resolution processes comply with provisions of the Australian Securities & Investments Commission's [Regulatory Guide 271](#).

Proposed approach

There is no IDR standard that applies to the whole of the non-bank lending sector. However, the majority of non-bank lenders must also comply with Regulatory Guide 271 as a condition of their Consumer Credit License. It is proposed that the non-bank lending Rules require that data holders and ADRs have internal dispute resolution processes that comply with the same provisions of Regulatory Guide 271.

Consultation questions

23. Are the internal dispute requirements outlined in Regulatory Guide 271 an appropriate standard for the non-bank lending sector?

24. Are there other IDR regimes that entities within the sector must comply with?

External dispute resolution

Data holders and accredited data recipients must be members of an external dispute resolution (EDR) scheme in relation to CDR consumer complaints. The Australian Financial Complaints Authority (AFCA) is the EDR provider for the banking sector in the CDR.

Proposed approach

It is proposed that AFCA would act as the EDR provider for both data holders and accredited data recipients in the non-bank lending sector. AFCA is the dispute resolution scheme for financial services, including for banks and other credit providers, insurance and superannuation firms. It handles complaints for credit, finance and loan products from

financial firms, including credit cards and loans (home, personal and investment/small business)

Before recognising AFCA as the EDR provider the Minister is required to consider the appropriateness of the scheme by reference to a range of statutory factors (including the scheme's independence, fairness and effectiveness) and consult with the Information Commissioner.

Consultation question

25. Is AFCA the most suitable EDR provider for CDR consumer complaints in the non-bank lending sector?

Additional consumer protection measures

Concerns were raised in consultation during the sectoral assessment process about predatory or discriminatory behaviour by non-bank lenders. The Sectoral Assessment Report recommended further consideration be given at the rule-making stage to whether additional consumer protection measures are necessary to address these concerns, such as additional consent requirements.

Consultation questions

26. What are the specific behaviours by non-bank lenders that are of concern where consideration should be given to additional rules for consumer protection purposes?

27. Are there any non-bank lending products that should be excluded from the CDR?

28. Should the rules prohibit Accredited Data Recipients from seeking certain types of consents, such as a direct marketing consent, from a consumer in relation to certain high-cost products, such as short-term consumer credit contracts (also known as payday loans) and consumer leases?

29. Are there other measures that could be considered in the rules for the purposes of meeting consumer protection outcomes?

Technical Data Standards considerations

When developing technical standards for data sharing of designated data clusters, there are several specific concerns that can influence the complexity of the standards development process and subsequent implementation by participants.

While the banking Data Standards will be used as a starting point for the non-bank lending sector, to ensure there is comparability between datasets in the two sectors, feedback is sought on the specific issues identified below:

- *Data latency* - for data clusters identified, the amount of time it takes to provide accurate data, the volume of data available or the temporal extent of historical data held in readily accessible systems can all create issues.
- *Data quality* - the variability of data quality held, both with regard to accuracy but also structural consistency. The standards prioritise strongly typed structures as this maximises the value of the data transferred.
- *System fragmentation* - the level of existing architectural fragmentation of systems that hold and present the data clusters being considered. This has a direct impact on

the technical difficulty in defining consistent standards but can also influence phasing of standards implementation.

- *Standards extensibility* - the applicability of the existing sector-agnostic standards to the non-bank lending sector, such as the [security profile](#) for authentication

Consumer experience considerations

The consumer experience (CX) Data Standards cover various aspects of the consent model, including the consent process, authentication, authorisation, language standards, and consent and authorisation management. They include data holder requirements for:

- [Data language standards](#), which specify mandatory descriptions of datasets to be used by CDR participants. These standards facilitate comprehensible and meaningful descriptions and groupings of datasets as well as informed consumer consent
- [Accessibility standards](#), which require that CDR participants seek to comply with various Web Content Accessibility Guidelines (WCAG)
- [Authentication standards](#), which work in conjunction with the [security profile](#) to specify requirements for the supported approach to CDR authentication
- [Authorisation standards](#), including for the [amending authorisation flow](#), which specify requirements to include where a consumer is authorising the sharing of data
- [Notification standards](#), which focus on measures for joint accounts
- [Withdrawal standards](#), including messaging requirements for data holders to present when a consumer is revoking an authorisation

The [existing data language standards](#) currently cover the language to be used when requesting banking and energy data. The [language standards for banking](#) will need to be revisited and potentially expanded to accommodate non-bank lending.

Data language will be consulted on and refined further alongside the technical standards and rules development.

The authentication and authorisation standards have evolved from the banking sector to accommodate the energy sector. The [CX Guidelines](#) provide optional examples that demonstrate how authentication and authorisation requirements may be implemented. Sectoral differences may need to be considered as the CDR expands. Considerations may include lower digital adoption in a new sector, varying authentication practices and credential use, and the structuring of accounts, plans, or services that may present alternate conceptions of data segmentation and data subjects.

Consultation questions

30. Are the existing sector-agnostic Data Standards appropriate for the non-bank lending sector? Do any sector-specific accommodations need to be considered?
31. How does the non-bank lending sector currently describe the recommended required data to consumers? Are there synergies with the existing banking data language standards, or do revisions and expansions need to be considered?

32. Is the current approach to authentication and authorisation appropriate for the non-bank lending sector? Are there sector-specific considerations that need to be made, such as lower levels of digital adoption or alternative approaches to authentication?
33. What unique user identifiers are available for non-bank lending customers? E.g. customer IDs used for online access.
34. What delivery channels exist for non-bank lending customers to receive a one-time password (OTP)? Are there differences for online versus offline customers?