



Australian Government



Australian  
**Small Business and  
Family Enterprise**  
Ombudsman

30 January 2023

Consumer Data Right Division

Treasury

Langton Cres

Parkes ACT 2600

via email: [data@treasury.gov.au](mailto:data@treasury.gov.au)

Dear Sir/Madam,

### **CDR rules and data standards design paper for the non-bank lending sector**

We welcome the opportunity to comment on the design paper for CDR in the non-bank lending sector. The non-bank lending sector fills a niche in the small business lending market, by providing access to finance to less asset abundant small and family businesses. Although the sector accounts for less than 10% of SME lending, it is essential for the future growth of Australian entrepreneurship that this sector remains competitive, dynamic and is regulated with 'right sized regulation'.<sup>1</sup> In the interest of CDR facilitating these objectives, we make the following comments:

- 1. Adequate stakeholder consultation should be exercised when appropriating the banking sector's rules and standards to the non-bank lending sector.** Despite overlap, there are several sectoral incongruences which cannot be captured by minor rules and data standards adjustments. The non-bank lending sector has a different regulatory environment, market needs and diversity of products relative to the banking sector. For example, in the banking sector there is a lack of use cases for product reference data, despite open access. This is partly due to the free text format of the data and inconsistencies in product configuration reporting across sector. The same data standards if applied to the non-bank lending sector, where there is a higher need for specification data to reflect product heterogeneity, will likely result in higher compliance costs and a reduced likelihood of use cases.
- 2. The current proposal of leaving the management of data holder responsibilities between the white labeller and the brand owner requires more transparency for the buyer.** Our stakeholders have noted that the existing approach to the banking white labelled products does not provide clarity to the buyer regarding which party holds data holder (DH) obligations. The rules should provide means for the DH to reveal their role and obligations to the buyer to avoid confusion. This is particularly relevant in the cessation of the relationship between the white labeller and retailer.
- 3. We recommend for pilots to be enabled in the CDR framework to incentivise participation in the system.** For long run benefits, a pilot function in the system that extends to all sectors would encourage CDR innovation, entry, and collaborative participation. An option to trial business models, products, and services in a flexible regulatory environment through a pilot

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<sup>1</sup> Productivity Commission (PC), Small business access to finance: The evolving lending market, PC, Australian Government, 2021, accessed 18 January 2023.



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function would not only enable testing of business viability and scalability, but also provide insights for regulators on policy that best fits market needs. The introduction of a pilot function will likely encourage small business participation in the CDR, assisting to realise the full benefits of the system. In alignment with the recommendation, we support the application of the trial concept from the September 2022 operational enhancements to the non-bank lending sector.

- 4. Coordination between all relevant regulatory bodies is necessary to ensure CDR disputes are resolved efficiently and effectively.** The ACCC and OAIC have developed in-built capabilities to provide guidance and enforce compliance on CDR related matters. Coordination between these regulators and sector specific regulators to collaboratively address CDR related disputes will be key to ensuring participants' trust in the system. Further, a transparent path of dispute transfer should be provided to CDR participants in the sector for clarity of regulator remit.

Through our regular engagement with the small business community and ongoing interest in improving small business access to finance, we can introduce you to a lender looking to expand its small business offering via a model where the CDR is a critical enabler. In the absence of numerous use cases, this might be a helpful discussion between Etika and your team.

Thank you for the opportunity to comment. If you would like to discuss this matter further, please contact Dianrong (Sophie) Li on 02 5114 6124 or at [Sophie.Li@asbfeo.gov.au](mailto:Sophie.Li@asbfeo.gov.au).

Yours sincerely

**The Hon. Bruce Billson**

Australian Small Business and Family Enterprise Ombudsman