

4 August 2021

Submitted to Treasury via email to data@treasury.gov.au

Dear Treasury,

Consultation on Consumer Data Right rules amendments (version 3)

American Express Australia Limited (**American Express Australia**) welcomes the opportunity to share our feedback as Treasury considers amendments to the Consumer Data Right (CDR) Rules (**Rules Amendments**) to increase pathways to participation in the CDR for both participants and consumers.

About American Express

American Express is a global payments network operating in over 130 countries. It provides innovative payment, travel and expense management solutions for individuals and businesses of all sizes. Founded in 1850 as a freight-forwarding company, American Express has reinvented itself many times throughout its history – continuing to transform its business model by leveraging technology in innovative ways to drive increasing value for our diverse customer base. Given the absence of American Express branches, American Express was a pioneer of ‘virtual’ banking and financial services; it has always relied heavily on technology to meet its customers’ needs.

American Express Australia has been operating since 1954 with the first American Express Australia card issued in this market in 1974. Committed to supporting the nation’s growth and economic prosperity, we serve millions of consumer, small business, and corporate customers in Australia.

Feedback on the Rules Amendments

American Express Australia has been closely following development of the CDR since the 2017 Review into Open Banking in Australia. In the years since, we have made several submissions in support of evolving the CDR to allow for easier participation by businesses and consumers, whilst preserving the security and trust necessary for the success of the regime. Broad participation will enable delivery of the richest experiences for consumers and create conditions most likely to drive digital innovation and competition, supported by ubiquitous reach across the various facets of a consumer’s digital life.

The inclusion of new data access models within the Rules Amendments is a welcome development and will provide pathways to greater participation.

Evidently, these new models are designed to respond to the barriers to participation identified in the Explanatory Materials. One further barrier not explicitly addressed is the reluctance of companies to participate given the risk of triggering reciprocity obligations under CDR which would require them to expose their data. This may mean companies are avoiding participation or delaying it until their industry is formally designated.

Our reading of the proposed Rules Amendments is that they would not trigger reciprocity obligations for companies receiving data under the new models, for example as an Affiliate (given that they would not be receiving that data as an Accredited Data Recipient). We support this approach. If reciprocal obligations were conferred, it would constrain some of the benefits these access models

are designed to deliver. As such, we consider it important that care is taken when finalising the Rules Amendments to ensure that reciprocity obligations are not unintentionally conferred. Further, we would recommend consideration be given as to whether express waiver or exemption to the reciprocity obligations be built into the Rules Amendments to provide certainty for potential users of the new data access models.

We would be happy to discuss any part of this submission in more detail or to discuss Open Banking or CDR more generally.