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## Consultation on Non-Bank Lending Draft Rules

Shift Financial Pty Ltd (Shift) appreciates the opportunity to comment on the Non-Banking Lending Draft Rules.

This submission considers the 'de minimus' threshold for non-bank lenders, the proposed timelines, recommendations on further industry consultation and an increase to the coverage of account types to include trade accounts.

## About Shift

Shift offers a range of credit, payments and data solutions to business customers and their partners. Since its inception in 2014, Shift has provided over \$2.5b to Australian businesses who are typically underserved given the complexity of small to medium enterprise (SME) lending – a large amount of which has been underwritten using transaction data provided digitally. Shift is headquartered in Sydney and has over 250 employees.

## Executive Summary

Shift fully endorses the Government's Open Finance program and its desire to extend Consumer Data Right (CDR) to the broader lending sector with the goal of increasing the availability of data, encouraging innovation in financial technology, and helping SME lending customers better manage their finances.

Whilst Shift recognises the potential benefits of the extension of CDR to non-bank lenders, it remains concerned with respect to the significant compliance costs of meeting the regulatory burden within the timelines and thresholds imposed by the proposed CDR Rules on non-bank lenders. Shift is particularly apprehensive that the significant compliance burden will negatively impact SME lending customers as the cost of compliance will impede product innovation, investment and competition in the market.

Considering these concerns, Shift recommends further industry collaboration needs to be undertaken to ensure that compliance costs are well understood and mitigated for non-bank lenders, particularly relatively smaller, fast growing, and newer entrants to the market.

## Recommendations

Shift requests that Treasury provides further consideration to the following recommendations.

### 1. Increasing the de minimus threshold for large providers to \$5bil to exclude smaller institutions and fast-growing companies

Shift welcomes the inclusion of a de minimus threshold for data sharing obligations of non-bank lenders that are designated data holders. Shift agrees that this is an important requirement to ensure that the significant cost of compliance with the CDR regime does not unfairly impact investment into non-bank lenders or drive less competition in the market. Shift considers that the current de minimus threshold will be unfair to many 'large providers' (as currently defined) because the cost of compliance for many non-bank lenders that qualify as a 'large provider' is disproportionately large compared to 'initial providers'.

Shift requests that Treasury further consults on the costs of compliance for non-bank lenders, as well as with service providers, as the cost of compliance is not well understood. Public information would imply that major banks have spent roughly 0.5-1% of total revenue on compliance (see CBA comments during Parliament Inquiry below) to date.

Further, industry evidence suggests compliance is challenging even for large ADI's. This is evidenced by the number of ADIs who have been provided exemptions to meeting CDR compliance obligations, including the Big 4 banks. If significant ADIs are unable to meet the regulatory burden for CDR, it is ambitious to require non-bank lenders that meet the proposed de minimus threshold to meet the same obligations imposed by the CDR rules.

There is limited publicly available data on the costs of compliance for data holders that have commenced contributing CDR data. However, we reference the following publicly available information:

- Former Westpac CEO Brian Hartzler estimated that compliance with CDR would cost approximately \$200 million.<sup>1</sup>
- CBA CEO Matt Comyn mentioned in a 2023 Economics Committee *"The Commonwealth Bank has invested over \$600 million in building core systems to support the Consumer Data Right and real-time payments."*<sup>2</sup>

Shift suggests that the proposed de minimus threshold is too low and that a higher threshold of \$5 billion is included to ensure newer and relatively smaller non-bank lenders are not disadvantaged by the significant compliance costs. As noted above, Shift is concerned that CDR compliance for 'large providers' under the current definition may inadvertently hamper the continued development of product offerings that best meet underserved SME's needs. Shift also believes that limiting the

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<sup>1</sup> "Technology projects, the investment required in these things are enormous. Open Banking in the first instance is probably going to cost us somewhere in the AU\$150 to AU\$200 million to implement because of the complexity of our systems environment," he said.

"There's only so much investment and so many technologists who can work on all these things at once."

<https://www.zdnet.com/finance/westpac-predicts-open-banking-to-cost-au200m-to-implement/>

<sup>2</sup> Matt Comyn, Thursday, 13th July 2023, Standing Committee on Economics, Review of Australia's four major banks

inclusion to non-bank lenders with significant market share will best ensure a level playing field and allow less significant non-bank lenders more time to meet the regulatory requirements of CDR in due course. Moving the threshold to \$5bil gives wider revenue base for support the spend and Shift believes increases the likelihood of success.

In light of the extensive modifications delineated in the proposed API Account payload, Shift would need to allocate substantial resources to accommodate the suggested functionality. Specifically, these alterations necessitate Shift's support for Open Banking Authentication and Consent flow.

To meet these demands, Shift would be compelled to aggregate data from multiple platforms and construct a new Open Finance interface for customer interaction. Given the level of investment and complexity involved, it is estimated to meet the Open Finance requirements, Shift would have to allocate up to half its technology resources over a 12-month period.

## **2. Extend the roll out timeline 24 months to soften the weight of compliance over a long period and to accommodate for companies currently in “growth” stages**

Shift considers the proposed timeline for compliance for ‘large providers’ is too ambitious and overly burdensome. Other more mature markets are yet to extend the open banking regime to non-bank lenders. Accordingly, Australia has limited information to fully understand the potential impacts to this sector. Shift endorses a careful and phased approach to roll-out to non-bank lenders to limit excess regulatory burden and ensure that impacts on competition in the industry and customers is better understood.

In addition, Shift contends that compliance for non-bank lenders is challenging for various reasons, including non-standardised product definition and data across various systems which will need to be consolidated. In addition to the significant costs to do this, the complexity involved requires more time than the current proposed timeline allows. A project of this size will delay other product development, impact investment into non-bank lenders in a challenging macro-economic environment and ultimately negatively impact the ability of non-bank lenders to meet customer’s needs.

Lastly, Shift intends to integrate CDR data into its current product construct to replace screen scraping where appropriate. Attempting to concurrently integrate data from the framework and share information back will limit the ability to fully use CDR information to support consumers.

## **3. Create a forum to facilitate greater industry collaboration with a focus on “large providers” and soon-to-be large providers**

In light of the concerns set out above, Shift requests Treasury to assist in facilitating greater collaboration within the non-bank lending industry to collectively implement a unified solution.

The proposed roll-out of Open Finance’s data sharing framework is globally leading, both in terms of the breadth of data and the coverage of customer products and accounts. However, the framework will only be as good as the data that is provided, and currently, the industry is not incentivised to collaborate and innovate on shared solutions (despite it being a shared problem). In the past, industry has come together on shared technology challenges for smaller players successfully. For example, *Cuscal* is a good local example of outsourced technology benefiting a collective group of contributors. Shift requests Treasury to help assist in the development of a workable data sharing protocol for non-

bank lenders by continuing to run consultation with industry on how it can best work to achieve Open Finance's objectives.

Shift notes that the UK has recently formed the *Strategic Working Group* to consider the expansion of open banking to sectors beyond banking. Specifically, the role of the Strategic Working Group is to collate views and input from industry and broader stakeholders into the vision and strategic roadmap for further development of open banking in the UK. Shift contends that a similar working group, with industry participants tasked with ensuring an effective and phased roll-out to the non-bank lending would have significant benefits in Australia.

In addition, Shift believes that any consultation should also include key service providers in the industry to ensure they can help mitigate the regulatory burden and help solve the issues relating to compliance costs.

#### **4. Increase the scope of accounts covered by the framework to include business to business trade**

B2B trade is a considerable portion of the formal (and informal) lending that occurs in Australia. Shift believes there is potential to expand the scope of Open Finance to encompass additional material segments of the non-regulated lending sector, including:

1. Invoice Financing
2. Invoice Factoring

This will help ensure that CDR encompasses the broader non-bank lending sector which will better facilitate the availability of data in SME lending and trade. Shift notes that the inclusion of these additional products should be subject to the recommendations noted above, relating to a slower phased roll-out and a higher de minimus threshold.

Shift thanks Treasury for the opportunity to consult on the Non-Bank Lending Draft Rules.

Yours sincerely



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