

Louise Staker
Treasury
Langton Crescent
Parkes ACT 2600

9 September 2024

By email: CDRRules@treasury.gov.au

Dear Louise,

CONSUMER DATA RIGHT RULES: CONSENT AND OPERATIONAL ENHANCEMENT AMENDMENTS CONSULTATION

The Mortgage and Finance Association of Australia (**MFAA**) welcomes the opportunity to make a submission relating to the Consumer Data Right Rules: Consent and Operational Amendments consultation (**the Consultation**).

The MFAA is Australia's peak industry body for the mortgage and finance broking industry with over 15,000 members. Brokers play a critical role in intermediated lending, providing access to credit and promoting choice in both consumer and business finance. Over time, consumers have increasingly sought the services of a mortgage and finance broker with the latest MFAA quarterly market share showing mortgage brokers are writing 73.7% of all new residential home loans¹ and approximately four out of ten small business loans² in Australia.

Further information about the MFAA can be found in **Attachment A**.

OUR SUBMISSION

The MFAA continues to endorse the expansion of the Consumer Data Right (**CDR**) in Australia, recognising its potential to significantly enhance the availability and accuracy of consumer data, thereby improving credit decisioning and consumer outcomes. However, for the CDR to be effective, it must be easy to implement, frictionless for consumers, and supportive of industry participants' needs.

In our previous submission dated 6 October 2023, we supported Treasury's efforts to simplify the consent process within the CDR framework. We emphasised the importance of a streamlined, user-friendly consent mechanism to avoid 'consent fatigue' and to promote genuine consumer engagement with the CDR.

The trusted adviser model is rapidly emerging as one of the most promising use cases under the CDR framework, particularly within the mortgage broking industry, enabling mortgage brokers to

¹ MFAA media release, [Mortgage broker market share remains strong in June quarter](#), 9 September 2024.

² Productivity Commission research paper [Small business access to finance: The evolving lending market](#) pg 44.

access consumer data through Open Banking without requiring additional accreditation. This initiative has demonstrated the potential to significantly enhance productivity and efficiency in the mortgage application process by providing brokers with comprehensive, bank-verified financial data about their clients.

We continue to emphasise the critical role that comprehensive and accurate consumer data plays in enabling brokers to meet their responsible lending and best interest duty obligations. As Treasury continues its work on examining the impact of narrowing the data included in the CDR, it is crucial to recognise that mortgage brokers require a complete view of a borrower's financial situation, including income, expenses, assets, and liabilities, for both new applications and refinancing. Reducing the scope of available data could force brokers to gather information from multiple sources, disrupting the consumer experience and potentially undermining the objectives of the CDR. As highlighted by one MFAA member, it is confusing for consumers to see an account in their banking app but be unable to share it with their trusted adviser through the CDR.

We are pleased to facilitate further conversations with our members that can provide the information to progress the CDR opportunities for broker use-cases and the important work Treasury continue to do to support the progress of the CDR.

We provide our responses to the proposed changes in **Appendix B**.

CLOSING REMARKS

If you wish to discuss this submission or require further information, please contact either me at naveen.ahluwalia@mfaa.com.au or Stefania Riotto at stefania.riotto@mfaa.com.au.

Yours sincerely



Naveen Ahluwalia
Executive, Policy and Legal
Mortgage and Finance Association of Australia

Attachment A - About the MFAA

The MFAA's membership includes mortgage and finance brokers, aggregators, lenders, mortgage managers, mortgage insurers and other suppliers to the mortgage and finance broking industry.

The MFAA's role, as an industry association, is to provide leadership and to represent its members' views. We do this through engagement with governments, financial regulators and other key stakeholders on issues that are important to our members and their customers. This includes advocating for balanced legislation, policy and regulation and encouraging policies that foster competition and improve access to credit products and credit assistance for all Australians.

Attachment B – MFAA Response to Proposed Changes

Consent Review

| # | Description | Question | MFAA Response |
|-----|--|---|---|
| 1.1 | Allowing a data recipient to bundle CDR consents, so that consumers can give multiple consents with a single action | Do you support the proposed rule change? Why/Why not? | We support this rule change. Allowing data recipients to bundle multiple consents necessary for the provision of a single service addresses a key concern we raised in our previous submission regarding consumer fatigue, cognitive load and the complexity of the consent process. |
| | | What benefits (if any) would the rule change have for your organisation, other organisations, and/or consumers? | By reducing the number of actions a consumer must take, this amendment will likely increase participation in the CDR and enhance the overall consumer experience. This is particularly important in the mortgage broking industry, where a streamlined data collection process can significantly improve service delivery and compliance with regulatory obligations. |
| | | What implementation challenges (if any) would your organisation, other organisations, and/or consumers face as a result of the rule change? | It is our view that data recipients have anticipated and are prepared to implement this rule change. |
| | | What would be the impact of not proceeding with the proposed change? | As noted above, it will continue to make the process of requiring multiple consents (to be collected for each data holder) cumbersome for the consumer and increase consumer fatigue leading to disengagement in the process. |
| | | Are there any other matters that should be considered when assessing the proposed rule change? | We would suggest further guidance should be provided on the interaction between the data minimisation principles and bundled consents. |
| 1.2 | Allowing a data recipient to pre-select the elements of an individual consent that would be reasonably necessary for the data recipient to | Do you support the proposed rule change? Why/Why not? | The MFAA supports the proposal to allow data recipients to pre-select consent elements that are essential for service delivery. |
| | | What benefits (if any) would the rule change have for your organisation, other organisations, and/or consumers? | This change will help reduce the cognitive burden on consumers while ensuring that critical data is captured accurately and efficiently. |
| | | What implementation challenges (if any) would your organisation, other organisations, and/or consumers face as a result of the rule change? | It is our view that data recipients have anticipated and are prepared to implement this rule change. |

| # | Description | Question | MFAA Response |
|-----|---|---|--|
| | provide the good or service | What would be the impact of not proceeding with the proposed change? | If the rule change allowing data recipients to pre-select necessary consent elements is not implemented, it would increase the complexity of the consent process for consumers, leading to higher consumer fatigue and potential disengagement from CDR services. |
| | | Are there any other matters that should be considered when assessing the proposed rule change? | |
| 1.3 | Simplifying the information a data recipient is required to provide to the consumer at the time of consent | Do you support the proposed rule change? Why/Why not? | We support this rule change. We agree with Treasury's proposal to streamline the information provided to consumers at the point of consent, particularly by focusing on the key message that consent can be withdrawn at any time, with detailed withdrawal instructions available in the CDR receipt. |
| | | What benefits (if any) would the rule change have for your organisation, other organisations, and/or consumers? | This approach aligns with consumer feedback and behavioural insights, ensuring that consumers are not overwhelmed with information at the initial stage but still have access to important details when needed. |
| | | What implementation challenges (if any) would your organisation, other organisations, and/or consumers face as a result of the rule change? | It is our view that data recipients have anticipated and are prepared to implement this rule change. |
| | | What would be the impact of not proceeding with the proposed change? | If the rule change to simplify the information that data recipients must provide to consumers at the time of consent is not implemented, it could overwhelm consumers with excessive and complex information, leading to confusion and potential disengagement from CDR services. |
| | | Are there any other matters that should be considered when assessing the proposed rule change? | |
| 1.4 | Allowing a data recipient to consolidate the delivery of 90-day notifications to reduce consumer notification fatigue | Do you support the proposed rule change? Why/Why not? | We support this rule change. The proposed rule change to allow data recipients to consolidate the delivery of 90-day notifications aims to reduce consumer notification fatigue, which has become a significant concern in the CDR ecosystem. Frequent notifications, although intended to keep consumers informed, can overwhelm users, leading to frustration and disengagement. By consolidating these notifications, the process becomes less intrusive and more user-friendly, helping maintain consumer engagement and trust in CDR services. |

| # | Description | Question | MFAA Response |
|-----|---|---|--|
| | | What benefits (if any) would the rule change have for your organisation, other organisations, and/or consumers? | See above. |
| | | What implementation challenges (if any) would your organisation, other organisations, and/or consumers face as a result of the rule change? | It is our view that data recipients have anticipated and are prepared to implement this rule change. |
| | | What would be the impact of not proceeding with the proposed change? | Without this change, the risk of notification fatigue could result in lower participation and reduced effectiveness of the CDR framework. |
| | | Are there any other matters that should be considered when assessing the proposed rule change? | |
| 1.5 | Simplifying the obligations in relation to CDR receipts | Do you support the proposed rule change? Why/Why not? | We understand the proposed rule change will require CDR receipts to be given in accordance with the Standards. We support this rule change as it is sensible. |
| | | What benefits (if any) would the rule change have for your organisation, other organisations, and/or consumers? | While providing more flexibility the practical results of the rule change are currently unknown until the Data Standards Body (DSB) has provided standards. |
| | | What implementation challenges (if any) would your organisation, other organisations, and/or consumers face as a result of the rule change? | It is our view that data recipients have anticipated and are prepared to implement this rule change. |
| | | What would be the impact of not proceeding with the proposed change? | Without this change, the risk of notification fatigue could result in lower participation and reduced effectiveness of the CDR framework. |
| | | Are there any other matters that should be considered when assessing the proposed rule change? | |

| # | Description | Question | MFAA Response |
|-----|--|---|--|
| 1.6 | Requiring a data recipient to provide consumers information about all supporting parties who may access the consumer's data at the time a consumer gives a consent | Do you support the proposed rule change? Why/Why not? | We support this rule change as it provides transparency and clarity. |
| | | What benefits (if any) would the rule change have for your organisation, other organisations, and/or consumers? | See above. |
| | | What implementation challenges (if any) would your organisation, other organisations, and/or consumers face as a result of the rule change? | Since outsourced service providers are already required to be nominated, changing the text to include the purpose would be very simple. |
| | | What would be the impact of not proceeding with the proposed change? | Some inconsistencies across Accredited Data Recipients (ADRs) would remain. |
| | | Are there any other matters that should be considered when assessing the proposed rule change? | |
| 1.7 | Requiring data recipients to delete redundant CDR data unless a consumer has given a de-identification consent | Do you support the proposed rule change? Why/Why not? | We support this rule change. We understand some data recipients already do this by default and for some would be simple to implement. |
| | | What benefits (if any) would the rule change have for your organisation, other organisations, and/or consumers? | See above. |
| | | What implementation challenges (if any) would your organisation, other organisations, and/or consumers face as a result of the rule change? | See above. |
| | | What would be the impact of not proceeding with the proposed change? | Not implementing this rule change would allow current inconsistencies to continue across ADRs. |

| # | Description | Question | MFAA Response |
|-----|--|---|---|
| | | Are there any other matters that should be considered when assessing the proposed rule change? | |
| 1.8 | Requiring a data recipient to advise consumers of the marketing activities they will undertake because of a direct marketing consent | Do you support the proposed rule change? Why/Why not? | We have no comment on this rule change. |
| | | What benefits (if any) would the rule change have for your organisation, other organisations, and/or consumers? | See above. |
| | | What implementation challenges (if any) would your organisation, other organisations, and/or consumers face as a result of the rule change? | See above. |
| | | What would be the impact of not proceeding with the proposed change? | See above. |
| | | Are there any other matters that should be considered when assessing the proposed rule change? | |

Operational Enhancements

| # | Description | Question | MFAA Response |
|-----|---|--|---|
| 2.1 | Nominated representatives | No question posed in consultation paper. | The MFAA welcomes the proposed changes to simplify the process of appointing nominated representatives, particularly for business consumers. The requirement for data holders to offer an online, user-friendly mechanism for appointing nominated representatives is a positive step that will reduce barriers to participation in the CDR. We suggest a 12-month implementation is too long and suggest 6 months is more appropriate. |
| 2.2 | Expanding the circumstances in which accredited ADIs can hold | Is the requirement for the ADI to provide information about the manner in which they propose to treat the data adequate to ensure the consumer has the information | This requirement has significant benefits to ADIs to use CDR as it means they have far less need for separate systems, processes etc to make use of CDR data and supply CDR services. We also note that this enables ADIs to drive CDR use and consumer education. |

| | | | |
|-----|--|---|---|
| | CDR data as a data holder | they need to make a decision to allow data to be held as a data holder rather than an ADR? | |
| | | Should the ADI be required to advise the consumer that the data will be subject to the Australian Privacy Principles? | We would suggest this is inferred. |
| | | Are the new circumstances sufficiently broad to support key use cases for accredited ADIs receiving CDR data? | We have no view. |
| | | Should these broadened circumstances be replicated for energy retailers (see existing clause 9.2, Schedule 4) and for non-bank lenders? | We have no view. |
| 2.3 | CDR representative arrangements | Do CDR representative principals consider a deferral of these obligations by 6 months is sufficient to make adjustments to their current practices, where necessary? | We have no view. |
| 2.4 | Simplifying data holder requirements – secondary users | The Operational Enhancements design paper included a proposal to require data holders to make an online service available to account holders for giving secondary user instructions. In light of stakeholder submissions, this proposal has not been included in the draft Rules, however, Treasury welcomes further feedback on whether this change is desirable. In particular, would such a change support certain use cases, for example, for business consumers? | We support this proposal. The MFAA acknowledges the challenges associated with the current requirements for secondary user data sharing and supports the proposed simplifications. Further guidance will be necessary on the definition of the online service and what constitutes 'simple and straightforward.' |

Rules changes specific to the energy sector

| # | Description | MFAA Response |
|-----|--|---------------|
| 2.5 | Exempting energy trial products from the CDR | No comment. |
| 3.0 | Other proposed changes | No comment. |