



**ASIC**  
Australian Securities &  
Investments Commission

**Australian Securities  
and Investments Commission**

Office address (inc courier deliveries):  
Level 7, 120 Collins Street,  
Melbourne VIC 3000

Mail address for Melbourne office:  
GPO Box 9827,  
Brisbane QLD 4001

Tel: +61 1300 935 075  
Fax: +61 1300 729 000

[www.asic.gov.au](http://www.asic.gov.au)

The Treasury  
Langton Crescent  
Parkes ACT 2600

By email: [CDRRules@treasury.gov.au](mailto:CDRRules@treasury.gov.au)

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### **Consumer Data Right Rules – non-bank lending and banking data scope**

Thank you for your letter dated 26 November 2024, in which you invited feedback from the Australian Securities and Investments Commission (ASIC) on the draft amendments (Consultation Draft) to the *Competition and Consumer (Consumer Data Right) Rules 2020* (CDR Rules). The Consultation Draft expands the Consumer Data Right (CDR) to the non-bank lending (NBL) sector and narrows the scope of CDR data in the banking and NBL sectors.

I note that your request for ASIC's feedback on the Consultation Draft was made under s56BQ(c) of the *Competition and Consumer Act 2010* (Cth).

ASIC is pleased to provide a submission. ASIC supports the extension of the CDR to the NBL sector, including the 'buy now, pay later' sector.

ASIC provided officer-level feedback to Treasury on 5 April 2023 in response to Treasury's initial draft proposed amendments to the CDR Rules for the NBL sector. ASIC also provided a submission on 6 October 2023 in response to a revised consultation draft.

We offer the following observations on the current Consultation Draft:

- Section 3.1(1)(d) is a new subclause and appears inconsistent with 3.1(1). Section 3.1(1) and 3.1(1)(d) when read together define 'Required product data' in relation to the banking or NBL sectors as 'CDR data for which **there are no CDR consumers** that relates to a covered product that has been supplied to **at least 1,000 CDR consumers** for at least one financial year' (emphasis added).
- Section 3.2(2)(a) refers to subclause 2A. There does not appear to be a subclause 2A. It seems likely that the drafters intended to refer to section 3.2(3) rather than subclause 2A.

- Section 3.2(7)(b) appears inconsistent with 3.2(6)(a). Section 3.2(6)(a) applies to open accounts, and states that only data going back 24 months will be 'required consumer data'. Section 3.2(7)(b) applies to closed accounts, but states that 'required consumer data' will include data from up to just under 36 months earlier (depending on when the account was closed).

Under the CDR Rules, data holders must provide required consumer data to consumers on request. The combined effect of section 3.2(7)(b) and 3.2(6)(a) appears to be that a consumer has greater scope to request historical data if they have closed their account (36 months) in comparison to if they are requesting data relating to an open account (24 months).

Yours sincerely

A handwritten signature in black ink, appearing to be 'Peter Soros', written over a light blue horizontal line.

**Peter Soros**  
**Executive Director, Regulation and Supervision**