

24 July 2023

Consumer Data Right Project Team
Commerce, Consumers and Communications
Ministry of Business, Innovation & Employment
PO Box 1473
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New Zealand

From: Luke Ford

Privacy of natural persons

Ref: 100589552/3439-1088-1829.1

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By Email

Submission on discussion document: Unlocking value from our customer data
(*Discussion Document*)

1 We are making this submission on behalf of the following registered banks, each of which operates in New Zealand as a branch of an overseas incorporated bank:

- Citibank N.A.
- The Hongkong and Shanghai Banking Corporation Limited
- JPMorgan Chase Bank, N.A.
- Kookmin Bank

(together, *Branch Banks*).

2 We welcome the opportunity to make this submission to the Ministry of Business, Innovation & Employment. If you would like to discuss any aspect of this submission, please contact:

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3 The Branch Banks support the NZBA submission on the Discussion Document (*NZBA Submission*) and wish to make the following additional submission on question 22 of the Discussion Document.

Question 22 of the Discussion Document: Do you agree with the territorial application? If not, what would you change and why?

4 In addition to the territoriality submission at paragraph 16(g)(v) of the NZBA Submission, the Branch Banks note that as drafted the Customer and Product Data Bill (the *Bill*) may have application, in respect of designated customer data and/or



designated product data, to the business of New Zealand branches of overseas incorporated banks.

- 5 The Bill should include provision for the scope and design of any designations, standards and regulations to be required to consider and take into account:
 - 5.1 the extent of permitted business in New Zealand of potentially designated data holders; and
 - 5.2 in particular, any practical or legislated limits on the interaction of such data holders with retail customers.
- 6 In this regard, the Reserve Bank of New Zealand (*Reserve Bank*) is conducting a policy review to potentially restrict the scope of business of all New Zealand branches of overseas incorporated banks to wholesale customers only (i.e. no transactions with retail customers). Some branches are also currently restricted to wholesale customers only (or are permitted limited retail interaction only) through their conditions of registration.
- 7 The application of the Bill and any designation/regulation/standards to such branches should take into account the outcome of that Reserve Bank policy review and the potential for interaction with retail customers.
- 8 Where a data holder transacts solely with wholesale customers, there is greater symmetry in the contractual relationship as well as, in general, an ability to negotiate bespoke terms between the parties. The application of customer data right (*CDR*) legislation to a branch whose business in New Zealand is limited to wholesale **customers would result in significant pressure on the overseas bank's resources and time without advancing the Bill's aims or practical effect.**

Yours sincerely

Luke Ford