**Submission Form**

**The Ministry of Business, Innovation and Employment invites feedback on its Discussion Paper *‘Open banking regulations and standards under the Customer and Product Data Bill’***

**We welcome your feedback**

This is the Submission Form for responding to the Discussion Paper released by the Consumer Policy team at Ministry of Business, Innovation and Employment (MBIE) ‘[*Open banking regulations and standards under the Customer and Product Data Bil*](https://www.mbie.govt.nz/have-your-say/exploring-a-consumer-data-right-for-the-banking-sector)*l*. The Ministry of Business, Innovation and Employment welcomes your comments by **5pm on Thursday 10 October 2024.**

Please make your submission as follows:

1. Please see the full Discussion Paper to help you have your say. There is also a summary version. [Open banking regulations and standards under the Customer and Product Data Bill – relevant documents](https://www.mbie.govt.nz/have-your-say/exploring-a-consumer-data-right-for-the-banking-sector#relevant-documents)
2. Please read the privacy statement and fill out your details under the ‘Submission information’ section.
3. Please fill out your responses to the questions in the tables provided. Your submission may respond to any or all of the questions. Questions which we require you to answer are indicated with an asterisk (\*). Where possible, please include evidence to support your views, for example references to independent research, facts and figures, or relevant examples. If you would like to make other comments not covered by the questions, please provide these in the ‘General Comments’ section at the end of the form.
4. If your submission contains any confidential information, please:
5. State this in the cover page and/or in the e-mail accompanying your submission.
6. Indicate this on the front of your submission (e.g., the first page header may state “In Confidence”).
7. Clearly mark all confidential information within the text of your submission.
8. Set out clearly which parts you consider should be withheld and the grounds under the Official Information Act 1982 (OIA) that you believe apply.
9. Provide an alternative version of your submission with confidential information removed in both Word and as a PDF, suitable for publication by MBIE.
10. Before sending your submission please delete this first page of instructions.
11. Submit your submission by:
12. Emailing this form as both a Microsoft Word and PDF document to the Consumer Policy team at consumerdataright@mbie.govt.nz; or
13. Posting your submission to:

Consumer Policy team

Ministry of Business, Innovation and Employment

15 Stout Street

PO Box 1473

Wellington 6140

Please direct any questions that you have in relation to the submissions process to consumerdataright@mbie.govt.nz.

**Release of Information**

Please note that submissions are subject to the OIA and the Privacy Act 2020. In line with this, MBIE intends to upload copies of submissions received to MBIE’s website at www.mbie.govt.nz. MBIE will consider you to have consented to uploading by making a submission unless you clearly specify otherwise in your submission. MBIE will take your views into account when responding to requests under the OIA and publishing submissions. Any decision to withhold information requested under the OIA can be reviewed by the Ombudsman.

**Privacy statement**

The information provided in your submission will be used to inform MBIE’s final recommendations to government on a consumer data right for the banking sector and related policy development, and will inform government agencies’ advice to Ministers. Your submission will also become official information, which means it may be requested under the Official Information Act 1982 (OIA). The OIA specifies that information is to be made available upon request unless there are sufficient grounds for withholding it.

**Use and release of information**

To support transparency in our decision-making, MBIE proactively releases a wide range of information. MBIE will upload copies of all submissions to its website at [www.mbie.govt.nz](http://www.mbie.govt.nz). Your name, and/or that of your organisation, will be published with your submission on the MBIE website unless you clearly specify you would like your submission to be published anonymously. Please tick the box provided if you would like your submission to be published anonymously i.e., without your name attached to it.

If you consider that we should not publish any part of your submission, please indicate which part should not be published, explain why you consider we should not publish that part, and provide a version of your submission that we can publish (if we agree not to publish your full submission). If you indicate that part of your submission should not be published, we will discuss with you before deciding whether to not publish that part of your submission.

We encourage you not to provide personally identifiable or sensitive information about yourself or others except if you feel it is required for the purposes of this consultation.

**Personal information**

All information you provide will be visible to the MBIE officials who are analysing the submissions and/or working on related policy matters, in line with the Privacy Act 2020. The Privacy Act 2020 includes principles that guide how personal information can be collected, used, stored and disclosed by agencies in New Zealand. Please refrain from including personal information about other people in your submission.

**Contacting you about your submission**

MBIE officials may use the information you provide to contact you regarding your submission. By making a submission, MBIE will consider you to have consented to being contacted, unless you clearly specify otherwise in your submission.

**Viewing or correcting your information**

We may share this information with other government agencies, in line with the Privacy Act 2020 or as otherwise required or permitted by law. This information will be securely held by MBIE. Generally, MBIE keeps public submission information for ten years. After that, it will be destroyed in line with MBIE’s records retention and disposal policy. You have the right to ask for a copy of any personal information you provided in this submission, and to ask for it to be corrected if you think it is wrong. If you’d like to ask for a copy of your information, or to have it corrected, please contact MBIE by emailing consumerdataright@mbie.govt.nz.

**Submission information**

*(Please note we require responses to all questions marked with an \*)*

**Release of information**

Please let us know if you would like any part of your submission to be kept confidential.

[ ]  I would like my submission (or identified parts of my submission) to be kept confidential, and **have stated below** my reasons and grounds under the Official Information Act that I believe apply, for consideration by MBIE.

I would like my submission (or identified parts of my submission) to be kept confidential because [Insert text]

[To check the boxes above: Double click on box, then select ‘checked’]

|  |
| --- |
| Personal details and privacy |
|  | I have read and understand the Privacy Statement above. Please tick Yes if you wish to continue\*[To check the boxes below Double click on box, then select ‘checked’] |
|  | [ ]  Yes [ ]  No |
|  | What is your name?\* |
|  |  |
|  | Do you consent to your name being published with your submission?\* |
|  | [ ]  Yes[ ]  No |
|  | What is your email address? Please note this will not be published with your submission.\* |
|  |  |
|  | What is your contact number? Please note this will not be published with your submission.\* |
|  |  |
|  | Are you submitting as an individual or on behalf of an organisation?\* |
|  | [ ]  Individual (skip to 8)[ ]  Organisation  |
|  | If on behalf of an organisation, we require confirmation you are authorised to make a submission on behalf of this organisation. |
|  | [ ]  Yes, I am authorised to make a submission on behalf of my organisation  |
|  | If you are submitting on behalf of an organisation, what is your organisation’s name? Please note this will be published with your submission. |
|  |  |
|  | If you are submitting on behalf of an organisation, which of these best describes your organisation? Please tick one. |
|  | [ ]  Banking institution[ ]  Financial technology company[ ]  Payment service provider[ ]  Consumer organization[ ]  Registered charity [ ]  Non-governmental organisation [ ]  Local government [ ]  Central government [ ]  Iwi, hapū or Māori organisation[ ]  Academic/Research[ ]  Other. Please describe: |

# Responses to questions

*The Consumer Policy team welcomes your feedback on as many sections as you wish to respond to, please note you do not need to answer every question.*

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| Status quo and problem definition  |
|  | How do you expect the implementation and use of open banking to evolve in the absence of designation under the Bill? What degree of uptake do you expect? |
|  |   |
|  | Do you have any comments on the problem definition? How significant are the risks of suboptimal development and uptake under the status quo? |
|  |  |
|  | What specific objectives should the government be trying to achieve through a banking designation? What needs to happen to achieve these objectives? |
|  |  |
|  | Do you have any comments on the criteria that should be used to assess designation options? |
|  |  |
| **The Scope of an open banking designation** |
|  | Do you agree that the banks covered and timeframes should be based on the API Centre Minimum Open Banking Implementation Plan? Do you have any concerns about the specific implementation dates suggested? |
|  |  |
|  | Do you have any views on the costs and benefits of designating a wider range of deposit takers, beyond the five largest banks? |
|  |  |
|  | Do you agree that, in the first instance, only requests by accredited requestors be designated? Do you have any comments on when and how direct requests by banking customers could be designated under the Bill? |
|  |  |
|  | Do you have any comments on the customer data to be designated? |
|  |  |
|  | Do you have any comments on whether product data should be designated? What product data should be included? When should the product data designation come into force? |
|  |  |
|  | Do you have any comments on designating payments under the Bill? Should other actions be designated? If so, when? |
|  |  |
| **The benefits, costs and risks of an open banking designation** |
|  | Do you agree with our assessment of how the designation will affect the interests of customers (other than in relation to security, privacy and confidentiality of customer data)? Is anything missing? For businesses: What specific applications and benefits are you aware of that are likely to be enabled by the designation? What is the likely scale of these benefits, and over what timeframe will they occur? |
|  |  |
|  | Do you agree with our assessment of the costs and benefits to banks from designation under the Bill (other than those relating to security, privacy or confidentiality)? Is anything missing? For banks: Would you be able to quantify the potential additional costs to your organisation associated with designation under the Bill? i.e. that would not be borne under the Minimum Open Banking Implementation Plan. |
|  |  |
|  | Do you agree that the designation will promote the implementation of secure, standardised, and efficient regulated data services? |
|  |  |
|  | Do you have any comments on the benefits and risks to security, privacy, confidentiality, or other sensitivity of customer data and product data? |
|  |  |
|  | Are there any risks from the designation to intellectual property rights in relation to customer data or product data? |
|  |  |
| **Accreditation criteria – what specific criteria should business need to meet before they can become accredited to make requests on behalf of consumers?** |
|  | Do you have any insights into how many businesses would wish to seek accreditation, as opposed to using an accredited intermediary to request banking data? For businesses: How likely are you to seek accreditation? What would make you more or less likely to apply? |
|  |  |
|  | Do you agree that directors and senior managers of accredited requestors should be subject to a fit and proper person test? Do you have any comments on the advantages or disadvantages of this test, or other options? |
|  |  |
|  | Do you agree that requestors whose directors and senior managers have already met the ‘fit and proper’ licensing or certification test by the Reserve Bank, Financial Markets Authority or Commerce Commission should be deemed to meet this requirement without further assessment? |
|  |  |
|  | Do you consider that, in the absence of insurance or guarantee requirements, there is a significant risk of banks or customers not being fully compensated for any loss that might reasonably be expected to arise from an accredited requestor breaching its obligations? |
|  |  |
|  | Do you have any comments on the availability and cost of professional indemnity insurance and/or cyber insurance, and how this may impact on the ability of prospective requestors to participate in this regime? |
|  |  |
|  | Do you agree that a principles-based approach similar to the Australian CDR rules is an appropriate insurance measure? |
|  |  |
|  | Do you agree that accredited requestors in open banking should be required to be a member of a financial services disputes resolution scheme? |
|  |  |
|  | Do you consider that information security requirements should form part of accreditation? |
|  |  |
|  | Do you have any comments on the level of prescription or specific requirements that should apply to information security? For businesses: What information security standards and certifications are available to firms in New Zealand, and what is the approximate cost of obtaining them? |
|  |  |
|  | Do you agree that additional criteria of accreditation be the applicant demonstrate compliance with its policies around customer data, product data and action initiation and with the Act? |
|  |  |
|  | Do you consider any additional accreditation criteria are necessary? |
|  |  |
| Fees – what restrictions should there be on fees for providing customer data or initiating payments? |
|  | What would be the impact of requests under the Bill being free, for banking? |
|  |  |
|  | If requests under the Bill were not free, what limits or restrictions should be placed on charging fees? Do you have any comments on the costs and benefits of the various options? |
|  |  |
| **The detailed rules for open banking** |
|  | Do you agree with the proposals to ensure that consents given to accredited requestors are sufficiently informed? Are there any other obligations that should apply to ensure that consents are express and informed? |
|  |  |
|  | Should customers be able to opt out of specific uses of their data that are not necessary to provide the service? Do you have any comments on the advantages and disadvantages of this? |
|  |  |
|  | Should customers have the ability to set an expiry on ongoing consents? Do you have any comments on the advantages and disadvantages of this? |
|  |  |
|  | Do you agree with the proposals in this paper to help ensure that consents given to accredited requestors acting as intermediaries are sufficiently informed? Are there any other obligations that should apply to ensure that consents given to intermediaries are express and informed? |
|  |  |
|  | Do you agree with the proposals to ensure that payment authorisations given to accredited requestors are sufficiently informed? Are there any other obligations that should apply to ensure that payment consents are express and informed? Should there be any other limitations on merchants or other unaccredited persons collecting authorisations, or instructing payments? |
|  |  |
|  | Do you agree with the proposals in this paper for customer dashboards for viewing or withdrawing consent? |
|  |  |
| **Joint customers** |
|  | Should there be any exceptions to joint customers being able to access account information, other than those provided by clause 16 of the Bill? What would the practical impact of additional exceptions be on the operation of open banking? |
|  |  |
|  | Are regulations needed to deal with joint customers making payments, or are the default provisions of the Bill sufficient? What would the practical impact of the default provisions of the Bill on the operation of open banking? |
|  |  |
| **Secondary users** |
|  | Are there any issues with designating authorised signatories on a customer’s account as secondary users? What else should regulations provide for secondary users? |
|  |  |
| **Payment limits** |
|  | How should payment limits be set? |
|  |  |
| **Remediation of unauthorised payment** |
|  | Do you agree that accredited requestors should remediate banks for unauthorised payments that they request? Are there any other steps that should be required to be taken where unauthorised payments occur? |
|  |  |
| **Content of the register and on-boarding of accredited requestors** |
|  | What functionality should the register have? Is certain functionality critical on commencement of the designation, or could functionality be added later? |
|  |  |
|  | What additional information needs to be held by the register to support this functionality? Should this information be publicly available, or only available to participants? |
|  |  |
|  | Is it necessary for regulations to include express obligations relating to on-boarding of accredited requestors? If so, what should these obligations be? |
|  |  |
| **Content of policies relating to customer data and action initiation** |
|  | Do you agree with the proposed content of accredited requestor customer data policies? Is there anything else that should be required to be included? |
|  |  |
| **Standards for open banking** |
|  | Do you agree with the proposed standards? Should any additional standards be prescribed? |
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|  | When should version 3.0 of the API Centre standards become mandatory? |
|  |  |
|  | If product data were included in the designation, what standards should be adopted or developed for product data? |
|  |  |
|  | Do you have any comments on performance standards that should apply? |
|  |  |
|  | How can MBIE most effectively monitor performance? |
|  |  |
|  | Are existing institutional arrangements with the API Centre fit for purpose, to achieve desired outcomes? If not, what changes should be considered? How should the approach change over time as other sectors are designated? |
|  |  |
| **General Comments:** |
|  |

**Thank you**

We appreciate you sharing your thoughts with us. Please find all instructions for how to return this form to us on the first page.