

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.

Status quo and problem definition	
1.	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?
2.	Do you have any comments on the problem definition? How significant are the risks of suboptimal development and uptake under the status quo?
3.	What specific objectives should the government be trying to achieve through a banking designation? What needs to happen to achieve these objectives?
4.	Do you have any comments on the criteria that should be used to assess designation options?
The Scope of an open banking designation	
5.	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?
6.	Do you have any views on the costs and benefits of designating a wider range of deposit takers, beyond the five largest banks?

	<p>The Open Banking regime should be focussed on the most efficient and cost effective way of providing the competition and product choice benefits of the proposed regime. This has been a key learning from Australia’s experience in implementing Open Banking. It is therefore imperative to consider the nature of the customer relationships held by each bank when considering whether they should be covered by the regime.</p> <p>Overseas-incorporated banks operating through a branch, like HSBC in New Zealand should be permanently excluded from mandatory compliance with the regime, on the basis that we will not be able to provide banking services to retail customers under the terms of the Deposit Takers Act 2023 when it comes into effect. HSBC in New Zealand no longer provides any banking services to retail customers.</p> <p>Business customers, and in particular larger business customers (including subsidiaries of large overseas corporations) will not receive any significant benefit from Open Banking, These customers will be able to negotiate effectively with a range of banks and other providers of financial services and will have access to tailored products and services that meet their often quite complex needs,</p> <p>Accordingly, HSBC considers that overseas branches focussed solely on banking business customers, should be excluded from the ambit of the proposed Open Banking regime.</p>
7.	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?
8.	Do you have any comments on the customer data to be designated?
9.	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?
10.	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	
11.	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?
12.	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.
13.	Do you agree that the designation will promote the implementation of secure, standardised, and efficient regulated data services?
14.	Do you have any comments on the benefits and risks to security, privacy, confidentiality, or other sensitivity of customer data and product data?
15.	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?

16.	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?
17.	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?
18.	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?
19.	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?
20.	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?
21.	Do you agree that a principles-based approach similar to the Australian CDR rules is an appropriate insurance measure?

22.	Do you agree that accredited requestors in open banking should be required to be a member of a financial services disputes resolution scheme?
23.	Do you consider that information security requirements should form part of accreditation?
24.	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?
25.	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?
26.	Do you consider any additional accreditation criteria are necessary?

Fees – what restrictions should there be on fees for providing customer data or initiating payments?

27.

What would be the impact of requests under the Bill being free, for banking?

28.

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

29.

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?

30.

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?

31.

Should customers have the ability to set an expiry on ongoing consents? Do you have any comments on the advantages and disadvantages of this?

32.	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?
33.	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?
34.	Do you agree with the proposals in this paper for customer dashboards for viewing or withdrawing consent?
Joint customers	
35.	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?
36.	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	
37.	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	
38.	How should payment limits be set?
Remediation of unauthorised payment	
39.	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	
40.	What functionality should the register have? Is certain functionality critical on commencement of the designation, or could functionality be added later?

41.	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?
42.	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	
43.	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	
44.	Do you agree with the proposed standards? Should any additional standards be prescribed?

45.	When should version 3.0 of the API Centre standards become mandatory?
46.	If product data were included in the designation, what standards should be adopted or developed for product data?
47.	Do you have any comments on performance standards that should apply?
48.	How can MBIE most effectively monitor performance?
49.	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:

HSBC is supportive of the submissions made by the NZBA in relation to the proposed Open Banking Regime. We do wish to make the additional point raised in question 6 of this paper.

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.