



SUBMISSION PAPER:

Productivity Commission Inquiry into Data Availability and Use **Open Financial Data**

AUGUST 2016

This Submission Paper was prepared by FinTech Australia working with and on behalf of its Members; over 90 FinTech Startups, VCs, Accelerators and Incubators across Australia.



#1 Introduction: About this Submission

FinTech Australia is the peak industry body for the Australian FinTech Industry, representing over 90 FinTech Startups, Hubs, Accelerators and Venture Capital Funds. Its vision is to make Australia one of the world's leading markets for FinTech innovation and investment.

In July 2016, FinTech Australia held several national member forums to explore the subject of the Productivity Commission's inquiry, specifically **Open Financial Data**. This submission summarises FinTech Australia's findings and recommendations as a result of these forums. It also identifies economic and competitive impacts, supported by inputs and examples from FinTech Australia's network of international peers in leading FinTech jurisdictions such as Europe and the United Kingdom.

The following FinTech Australia Members contributed to and endorse this submission:

- Acorns Australia
- Alchemy Ventures
- ApexCapital
- Banjo Loans
- Bigstone
- CapitalU
- Data Republic
- Ebroker
- Flash FX
- FundX
- Harmony Australia
- Moneyplace
- MoneySoft
- OnMarketBookBuilds
- Payreq
- Planwise
- Plenty
- Pocketbook
- Ratesetter
- Reinventure
- Spotcap
- ShareSight
- Swipe
- Veriluma
- Yodlee



#2 Executive Summary

This submission proposes that the Australian Government **mandate the development and implementation of a standardised model**, such as an “Open Banking API” being proposed in other jurisdictions, **to enable user-consented sharing of personal and small business financial data within a two-year timeframe**. FinTech Australia believes this will:

- Increase choice and competition in financial services to drive better financial outcomes and experiences for Australian customers and businesses;
- Facilitate the development of new financial innovations in Australia; and
- Ensure the Australian financial services industry remains competitive against other global jurisdictions.

This submission also explores some of the economic benefits to business and consumers of a more open Financial Data policy, including current examples from Australia and other markets.

#3 Submission Scope

This submission addresses the following points highlighted within the Issues Paper as they pertain to personal and small business financial data:

- Improving individuals’ access to private-sector data about themselves;
- Standardising the collection, sharing and release of private-sector data; and
- Enhancing and maintaining individuals’ and businesses’ confidence and trust in the way their data is used.

We have deliberately restricted the scope of data addressed in this submission, as it is FinTech Australia’s belief that improving the availability and portability of personal and small business financial data, will have the greatest consumer and industry impact.

Data in scope

We define the data in scope of this submission as *personal financial data* and *small business financial data*. This includes data normally available to a customer via their bank statement or online banking portal, including data that describes the financial products they have purchased for themselves or for their business, and the data generated as a result of using those financial products.

At a more granular level, this includes bank account data (account holder name, account number, account type, BSB, available and current balances, interest rates, and interest earned), transaction detail (transaction date, amount and description), credit card data, superannuation and investment data, share registry data, insurance data and loan and mortgage data. This also includes comprehensive consumer credit data relating to a customer’s credit history, personal tax information available through the ATO and small business financial data. A detailed list of in scope personal financial data in particular has been provided in **Appendix 1: Data in Scope**.



As defined in the Issues Paper, this data is both high volume and high velocity. It is structured and personal and requires specific considerations around the privacy and security standards for storing and transmitting it. These points have been addressed in the submission.

Data not in scope

Data not considered in scope of this submission includes data not normally available to an individual such as internal proprietary company data and value-added data such as financial advice.

Data control and availability

This submission focuses on enabling Australians to have greater access to their personal and small business financial data and the right to share this data, in a safe and secure manner, with service providers of their choosing.

#4 Market Context

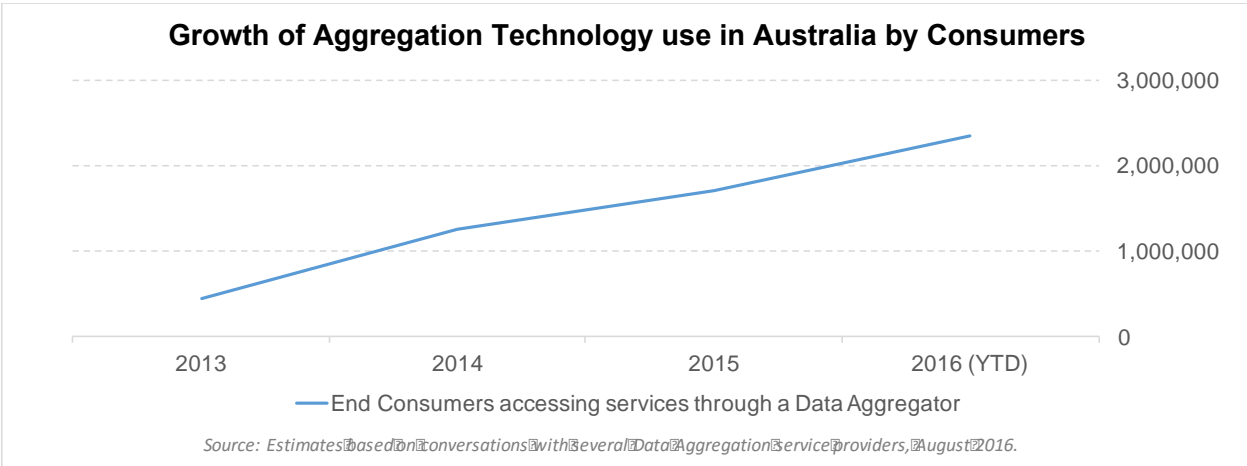
Australia has a fledgling FinTech industry with many innovations focusing on providing better financial outcomes for consumers.

These innovations come in the form of more flexible and faster consumer and SME financing solutions such as RateSetter, Moneyplace and Banjo Loans, consumer-friendly savings and investment tools such as Acorns, and personal finance management software such as MoneySoft and Pocketbook among many others.

All of the financial innovations above require an individual consumer to proactively share rich personal and small business financial data to deliver their solutions. This is currently achieved through in-house data aggregation, or through financial data aggregators such as Yodlee or eWise. Users share their online banking credentials with the aggregator, so the aggregator can programmatically login and “screen scrape” the user’s data on their behalf. This data is then collected, packaged and delivered to the FinTech by the aggregator.

Many Australians who already use FinTech products - and even some new incumbent Bank products - currently benefit from these types of aggregation technologies. Data Aggregators have accessed data on behalf of over 2 million Australians this year (see below chart).

However, a better way to exchange Customer data can be designed using Application Programming Interfaces (APIs), which is an approach currently being leveraged in more progressive FinTech markets such as the United Kingdom, Germany and the United States, where competition in financial services is more intense. The use of APIs to exchange data, either directly or via intermediaries, is more robust and more seamless from a customer experience perspective, and in some cases (depending on whether best practice has been followed to secure the storage of customer login credentials) more secure from a Data privacy and protection standpoint.



Many of these FinTech businesses also depend on the quality of credit data available through credit bureaus. Unfortunately, to date, banks have been slow to adopt comprehensive credit reporting (CCR). As a result, new lenders struggle to compete effectively with incumbents because they are at a substantial data disadvantage.

New Zealand moved to allow the collection of comprehensive credit reporting from April 2012 and the economic impact has been vast.

International Perspective: New Zealand’s move to comprehensive credit reporting

As of March 2016, 50 per cent of all retail credit accounts in New Zealand (loans, cards and overdrafts) are being reported with CCR. There are eight lenders contributing data, including three banks and a large telco provider.

Analysis shows evidence of significant economic lift:

- 10-15% lift in system approval rates for new-to-bank customer applicants;
- 5-10% increase in lending in aggregate for those Credit Providers using CCR;
- 35% reduction in credit referrals and consequent improved customer experience, reduced operation expenses and increase in settlement rate;
- No observed change in risk profiles; and
- Use of CCR for new application processing has helped to expose that around 20-25% of applicants have some form of undisclosed debt.



#5 Economic & Competitive Impacts

Open Banking APIs

If Australia does not mandate an Open Financial Data model that is in line with global standards, or leaves banks to implement Open Banking APIs at their own pace, we will deny consumers the benefits of greater competition and improved financial services, and risk our banks becoming less agile and less competitive than their international peers. We would also propagate an environment that is less supportive of FinTechs seeking to innovate and grow than in other markets such as Singapore and the UK, which would result in our most high-growth potential FinTech startups relocating to establish themselves in more favourable environments. In other words, Australia's Financial Services sector will be less competitive overall than its regional and international peers.

Furthermore, Superannuation funds, Life Insurers, Fund Managers and share registries hold detailed data in relation to their member's and investors' superannuation, insurance and investments. It is currently difficult for members, investors and their financial advisers to extract this information. As a result, consumers find it difficult to make optimal decisions relating to their retirement savings, or do not keep it front of mind. With the right information and advice, people could make better decisions in relation to investment, understanding the adequacy of their super, structuring, insurance arrangements and tax. They would become more engaged with their finances, and in the long term less reliant on social security.

An Open Financial Data model that mandates Open Banking APIs, with industry-standard structure and data availability, can provide a significant benefit to a range of stakeholders over and above existing aggregation technologies and practices:

Macro-economic benefits

- Increase the productivity of the financial services industry
- Assist economic growth by increasing financial services competition
- Ensure Australia remains at the forefront of the global financial services industry
- Increase financial inclusion, especially those with a limited credit track record such as young persons, recent immigrants and the recently divorced
- Reduce the need for consumers to rely on social security

Consumer benefits

- Empower consumers to use their data to be able to make better financial decisions
- Provide consumers with access to better value products and services, saving them money and increasing their disposable income



- Provide consumers with access to a wider set of products and services that are more tailored to their needs
- Reduce the cost, time and effort required to change financial service provider
- Reduce the incidence of consumer over indebtedness

Industry (banks and other financial institutions) benefits

- Allow new entrants to create more competitively priced products and services
- Increase agility by allowing new innovations built in-house, or by FinTechs and other partners to be tested and integrated into existing incumbent product lines more quickly
- Assist banks in meeting their 'Know Your Customer' obligations at a reduced cost
- Assist lenders in meeting their responsible lending obligations at a reduced cost
- Broaden the potential range of revenue streams for financial services businesses into areas such as Customer Identification services
- Accelerate the adoption of new financial innovations by increasing the number of consumers accessing new services
- Level the playing field between large incumbents and new industry entrants
- Reduce security risks posed by the sharing of online banking credentials (while risk can be mitigated through a standards body, an Open Banking API can also mitigate risk by reducing the need to rely on potentially less secure screen scraping technologies)
- Achieve real-time capabilities and empower consumers to make better and more relevant financial decisions (aggregators currently only capture banking data at best once per day)
- Improve efficiency in consumer and business accounting and administration

Adjacent industry benefits

- Improve the availability of creditworthiness data on consumers and businesses, enabling more rapid and efficient commerce
- Increase the capacity for latent demand to be met – i.e. increase demand and productivity across the economy
- Improve access to customer preference and capacity information, enabling better customer experiences
- Improve company, industry and macro-economic data to enable companies to make better strategic decisions

Some private-sector holders of this data are cautious about enabling freer access to and sharing of personal and small business financial data. However, it should be noted that consumers will be the primary beneficiaries of improved data sharing. It should also be noted that some banks currently use Data aggregation technologies in their own operations to bypass legacy system design that would otherwise make innovation difficult and costly.



Many major banks in both Australia¹ and overseas², such as NAB, ANZ, CBA, BBVA, DBS, OCBC, Barclays and Citibank are already investing billions to proactively implement APIs in some form to improve their own operational agility, allowing them to develop better consumer solutions, and allowing their customers to upgrade to these improved offerings more easily.

The majority of FinTech companies complement banks' existing offerings, and banks often partner with FinTechs to produce better outcomes for customers (examples include Acorns, MoneySoft and Pocketbook). This process could be expedited using Open Banking APIs, which decreases time-to-market and cost for both the FinTech and the Bank.

Open Banking APIs directly benefit Consumers who will be able to switch between financial services more easily, whether from incumbents or new technology-led financial services companies. This can only lead to a better, more competitive, customer-focused Financial Services industry through increased competition and subsequent creation of newer innovations.

Open Government Data

ASIC provides a range of information relating to ownership, directorships and contact details of companies. This information is of value to organisations looking to verify company data for Anti-Money-Laundering (AML) purposes, and other general research purposes.

The ATO stores large amounts of data about individuals, companies, trusts, and superannuation funds. It is currently difficult for those entities to extract information about themselves, for example to assist consumers who may not recall which superannuation funds they belong to.

As a result, individuals are unable make optimal decisions relating to retirement savings, tax, and overall financial position. With the right information and advice, individuals and other legal entities could make better decisions in relation to investment, understanding the adequacy of their super, structuring, insurance arrangements, profitability and tax.

Comprehensive Credit Reporting

CCR is currently optional, with no clear timeframe set for industry adoption. Low uptake has meant consumers can't fully benefit from the framework. Additionally, empirical studies have shown that expanding the number of CCR data fields will result in better credit decisions and improved credit conditions for borrowers (see earlier New Zealand example).

¹ <http://www.cio.com.au/article/602871/anz-cio-we-want-more-open-bank/> and <http://www.afr.com/technology/data-wars-the-banks-awaken-20160319-gnmfac>

² <http://www.businessinsider.com/bbva-embraces-fintech-with-new-api-2016-2/?r=AU&IR=T>, <http://www.channelnewsasia.com/news/business/singapore/digital-push-allows-dbs/2952728.html> and <http://www.straitstimes.com/tech/ocbc-is-first-bank-in-singapore-to-offer-banking-data-in-open-format-to-spur-app-development>



Participation from non-ACL (Australian Credit License) bureau subscribers would also provide a means for consumers to demonstrate good credit behaviour and overcome ‘thin’ bureau files, even where there is no previous credit history.

Enhancing the quality of credit information available to lenders through these reforms will enable better decision outcomes. It offers a fairer approach to lending for consumers, especially young people and credit-impaired individuals seeking to re-establish themselves, and supports a culture of responsible lending by all credit providers.

#6 Proposed Solution

The Government has made a commitment to making customer data more accessible in its response to The Harper Review: “...allow consumers to access information in an efficient format, especially as new technologies increase the generation of data that can improve consumer decisions...”

FinTech Australia proposes that the Government mandate that financial institutions make their customers’ personal and small business financial data, as defined, available to customers in a standardised format to share with third parties as and when they wish. This includes Superannuation funds, Life Insurers, Fund Managers and share registries.

We request mandated open API architecture where members, investors, policyholders and their nominated aggregators, could access at a minimum the following information from public offer superannuation funds (including retail funds, corporate funds, government funds and industry funds), life insurance companies, fund managers and share registries. We note this might be difficult for wholesale fund managers, and a reasonable compromise would be to exclude them from this requirement. Retail fund managers should still be included.

The proposed model for this follows global standards around an “Open Banking API”:

- A standardised API format for all Australian financial institutions to make customer personal and small business financial data available
- API data availability in real-time or as and when the data becomes available to the data holder
- User-permissioned / user-consented for consumers to share their data with whomever they wish
- Historical data that includes Year to Date plus the preceding financial year

A Government mandate is important to mitigate any adverse incentives from the banks to implement Open Banking APIs, such as competing priorities or shareholder resistance. A clearly defined timeline with penalties for non-completion is also needed to ensure Australia remains competitive against other leading jurisdictions who are undertaking similar mandates.



There should also be no move to limit existing aggregator activities which underpin a great deal of the current wave of FinTech innovation occurring in Australia, and which are used by a number of large incumbent financial service providers. Any constraints on the use of existing aggregator activities will significantly reduce financial services competition.

In addition to the mandate to move financial institutions toward completion of Open Banking APIs, FinTech Australia also proposes that the Government similarly move toward providing more Open Data from the Australian Tax Office and ASIC. This would provide opportunities for the wider industry to innovate and improve Government services for consumers.

Legal entities, and their aggregators, should be able to extract information from the ATO's databases. This would be an extension of the ATO's existing SBR system. It is important that access to this information is not restricted to tax agents but should be available to any party authorised by the taxpayer, via an API.

Information from ASIC can currently be purchased for a fee, which was put in place at a time when ASIC could only provide this information manually. The fee was intended to recover costs. FinTech Australia proposes that this information be made available to the public via APIs, and also on the ASIC website, at no cost.

FinTech Australia also proposes that the Government mandate Comprehensive Credit Reporting due to the apparent slow progress, particularly amongst major banks, in committing to making comprehensive credit data available.

FinTech Australia propose that implementation of Open Banking APIs, Open Government Data and CCR be mandated through a multi-phased approach similar to other leading jurisdictions. The key objective here is to make the most useful information available in as a secure a way as possible in as short a time as possible. One possible approach could be as outlined below:

Phase 1: Mandate Comprehensive Credit Reporting (CCR), validate existing aggregation solutions and set up a Governance & Standards Body (Timeframe: immediately)

- Mandate development of APIs by a specified date
- Legislate the inclusion of additional comprehensive credit data fields in customer credit files (see *Appendix 1: Data in Scope*) for banks with over \$200B in assets – i.e. the big four. It is also recommended that a comprehensive level of participation be opened up to bureau subscribers other than those holding Australian Credit Licenses, e.g. utilities and telecommunications companies.
- Fund the establishment of an independent, non-Government financial open data standards and governance body/authority to assess and approve aggregation technologies, and ensure third parties that access and/or store personal and small business financial data (such as FinTechs) meet security standards and best practice
- Validate current aggregation technologies by amending ASIC's ePayments code as recommended in the Financial Services Inquiry, specifically allowing consumers to share



their credentials with approved aggregators, while maintaining existing liability arrangements with banks

- Mandate that banks cannot block aggregators if a customer has consented to the aggregator accessing their data and the aggregator is approved by the standards & governance body

As previously outlined, over 2 million Australian consumers and various FIs (including 3 of the 4 major banks) use aggregation technology either directly or through subsidiaries. Supporting the current ecosystem in this manner ensures that existing innovations remain available and continue to benefit Australians, and the market in general does not fall behind global standards while a better solution is developed and realised over time.

Phase 2: API first release (Timeframe: by end Q2, 2017)

- Mandate “minimum viable product” data availability through API format (data types that can be downloaded or exported already by a customer, such as bank statement data)
- Government open data sets also made available
- Meet aggregator daily data availability timings
- Expand standards body’s scope to cover potential API intermediaries
- Mandate full CCR for banks with over \$200Bn in assets

Phase 3: Expand API to match existing aggregator capabilities (Timeframe: by end 2017)

- Expand scope of data available through APIs to match current aggregator data capability in market, i.e. full Consumer and Small business transaction and Product holding Data as per *Appendix 1: Data in Scope*
- Mandate full CCR for all institutions

Phase 4: Expand API beyond aggregator capabilities (Timeframe: by Q3 2018)

- Improve availability of data to real-time (or as available to data holder)
- Expand data scope beyond that of aggregator capability

The following table provides a summary of proposed solutions and delivery timelines in several key overseas markets in comparison to the approach proposed above by FinTech Australia:

Comparison of proposed delivery timeline of Open Banking APIs to other jurisdictions		
Market	Proposed Solution	Timing
Australia (proposed by FinTech Australia)	<p>Phase 1: Mandate CCR</p> <p>Phase 2: “Minimum Viable Product” Data APIs (Customer Bank Statement Data)</p>	<p>Immediately</p> <p>End Q2 2017</p>



	Phase 3: Match Aggregator Capabilities (Read-only Personal and Business Current Account transaction Data)	End 2017
	Phase 4: Full scope (TBD) - Real-time, beyond Aggregator capability	Q3 2018
Europe (European Commission)	PSD2 directive mandates banks to “open up” payment account access to third parties to enable real-time payments ³ . It also permits the aggregation of a consumer’s account information in one place by an aggregator. No specific approach e.g. APIs has been mandated.	End 2017
Germany (Open Bank Project, German Bankers Association)	There is no government mandate for Open Banking APIs. An Open Source API operated by the Open Bank Project ⁴ (an update from a previous collaboration initiative from the German Bankers Association) currently enables Open Banking API functionality for over 2000 Banks.	N/A
Singapore (Monetary Authority of Singapore)	There is no government mandate for Open Banking APIs. However, the MAS has urged banks to adopt APIs and is implementing Open APIs to provide access to its own data ⁵ . Encouraged by the central bank’s own behavior, several banks such as OCBC and DBS have started to follow suit.	N/A
United Kingdom (CMA and Open Banking Working Group)	Phase 1: “Minimum Viable Product” (value, data and direction of transaction only) ⁶ Phase 2: Read-only personal customer transaction data (‘Midata’ data sets, i.e. bank statement with 12 months history) ⁷ Phase 3: Full scope (Personal and Business Current Account Transaction Data and Lending Products Data, but excludes Insurance, Merchant Acquiring, Hedging and Foreign exchange.)	End 2016 End Q1 2017 Early 2018 at the latest
United States (Open Data Bill and IFX Forum)	An Open Data Bill is being debated in the Senate to legislate existing Open Government Data initiatives introduced by President Obama ⁸ . The bill does not relate directly to Open Banking APIs. However the Interactive Finance eXchange Forum (IFX Forum) - an international not-for-profit Industry Association - is proposing to lead the direction of standards for Open Banking APIs in collaboration with the ISO (ISO 20022) ⁹ .	N/A

In relation to comprehensive credit reporting, the quality and comprehensiveness of Australian credit data has lagged behind OECD peers, including the US, UK and New Zealand. CCR has been made mandatory across these regimes over the past decade, along with the inclusion many hundreds of additional data fields, providing a richness of information that results in better credit decisions and an improvement in responsible lending practices. Some comparisons are outlined in the table below:

³ <http://www.euromoney.com/Article/3499774/PSD2-opens-up-payments-competition.html>

⁴ <http://kontomatik.com/post/why-germany-s-banks-are-the-most-open-in-the-world> and <https://openbankproject.com/faq/>

⁵ <http://www.channelnewsasia.com/news/business/mas-takes-step-towards/2649372.html>

⁶ <http://www.bankingtech.com/534152/open-banking-apis-will-require-a-rulebook-to-ensure-good-outcome/>

⁷ <https://www.gov.uk/government/news/cma-wants-banks-to-work-harder-for-their-customers>

⁸ <http://fedscoop.com/open-government-data-act-open-data-barack-obama>

⁹ <http://www.businesswire.com/news/home/20160718005557/en/IFX-Forum-Lays-Groundwork-Standardizing-Open-Banking>



Comparison of Comprehensive Credit Reporting Availability	
Jurisdiction	Introduction of Comprehensive Credit Reporting
UK	Established in 1983 to provide comprehensive and timely credit information, Credit Account Information Sharing (CAIS) was the first system of its kind and is now by far the largest source of information about UK consumers' credit histories.
US	Fair Credit Reporting Act introduced in 1970
Hong Kong	CCR introduced by Hong Kong Monetary Authority in 2003
New Zealand	CCR reform introduced in April 2012
Australia	Privacy (Credit Reporting) Code introduced in March 2014

It should be noted that a number of international credit providers are already (or close to) providing comprehensive information in Australia, given they are accustomed to doing so in other markets. For example, American Express, Toyota and RateSetter currently provide comprehensive information and GE, Citibank and HSBC are close to contributing.

#7 Commercial Model/ Pricing

It is FinTech Australia's view that users should not be charged for accessing and sharing their personal and small business financial data from its primary source (i.e. the institution that created the data) whether through third party services recuperating their costs incurred from accessing their data or through direct payment to their financial institution.

Additionally, there is already a 'free' precedent set in personal and small business financial data extraction through consumers' ability to download their bank's statements in Portable Document Format (PDF) and Comma Separated Value (CSV) file formats. The development of an API as proposed is a technological enhancement and should not incur additional customer cost.

There is also pricing precedent in the market set by aggregators. If a price point is set above current market rates for delivering essentially the same data through API's that Fintechs can access through scraping, FinTechs will continue to rely on inefficient scraping technologies. Greater data availability should reduce operational costs and enable banks to develop sufficient value adding services that to go some way toward offsetting the cost of banks implementing Open Banking APIs.

Should the Commission decide that banks and other FI's should be able to charge for data, it is FinTech Australia's view that the next best approach is to regulate pricing of data access in the same way that payment interchange fees are regulated by the RBA.

However, if the Commission must choose between the priorities of (i) scope and quality of data made available and the quality of the API's through which that data is made available (ii) the deadlines by which various APIs will be released and (iii) the pricing of data provided under those API's, FinTech Australia believes that (i) scope and (ii) timing of API's are the most critical



elements that the government should mandate, as pricing will to some extent be moderated by the availability of aggregation services as a fallback for customers.

It is FinTech Australia's understanding that the UK and Europe are still deciding on whether banks will be able to charge for access to APIs. Australia needs to ensure that whatever position it adopts does not make it less competitive than other key global markets.

#8 Key Issues

FinTech Australia proposes that a cross-industry governance group be established to address the below issues.

Ownership

Existing private-sector holders of consumers' personal and small business financial data view this data as their own proprietary data to control and extract profit from. It is FinTech Australia's view that ownership is not a particularly helpful concept in relation to personal and small business data. That is in large part because applying a concept of legal ownership to data does not fit easily within existing intellectual property and privacy regimes. It is therefore the view of FinTech Australia that focus should be on access and portability: i.e. that *consumers should have the right to access and move their data, including to exercise discretion to permit other third parties to access and use their data.*

Privacy

There are currently varying approaches to privacy to enhance consumer utility. At one extreme, comprehensive credit reporting data can be shared without the customer's explicit consent. This has been enabled because experience in other markets has indicated that the sharing of such data ultimately enhances outcomes for consumers by making credit more readily available. However, experience in Australia to date indicates that even with this exemption, banks are dragging their feet on sharing comprehensive credit data.

Accordingly, it is FinTech Australia's view that the provision of comprehensive credit data to credit bureaus should not simply be exempt from privacy principles but should be mandated in order to realise the economic benefits promised by more comprehensive credit files.

Similarly, it is FinTech Australia's view that consumers should be able to instruct financial institutions to share their personal and small business financial data with specific third parties of their choice, for free. In doing so, consumers should be given full control of which third party they are choosing to share their data with, for what purpose, and for how long it should be shared for.



This includes:

- 1) Sharing of restricted granular financial data (such as their mortgage interest rate) right through to their full personal and small business financial data (such as their full transaction history and bank statements)
- 2) Sharing their personal and small business financial data with whomever they wish
- 3) Understand and give consent to a third party to use their personal and small business financial data for a clearly defined purpose (such as making a lending decision or offering personal finance management services) which consent a primary data holder would be obliged to act on
- 4) Provide a third party with consent to access their personal financial data for a specific and limited time period (e.g. once off, one month, ongoing until told to stop)
- 5) Easily stop sharing and delete their data immediately from a third party

The table below summarises the key privacy issues relating to how an individual can control the use and disclosure of their data currently, and what might be required under Australian law in order to facilitate an Open Banking API.

	Current privacy law framework	Potential changes required in an open API Context
Consent	<p>Under the current Australian privacy law regime, an emphasis is placed on obtaining consent in order for an APP entity to collect and share financial data. Consent means express or implied consent. The four key elements of consent are:</p> <ul style="list-style-type: none"> (i) the individual is adequately informed before giving consent; (ii) the individual gives consent voluntarily; (iii) the consent is current and specific; (iv) the individual has the capacity to understand and communicate their consent. <p>The Australian Privacy Principles:</p> <ul style="list-style-type: none"> (i) emphasise that collection, use and disclosure of personal information should be done in an open and transparent way (APP 1); and (ii) require that the consumer be made aware when their information is being collected (APP 5). 	<p>Open API fits well within the gambit of the APPs and will ensure that both start-ups and incumbents put the customer at the forefront of data sharing.</p> <p>Current laws allow for an individual to understand and give consent to a third party to use their personal financial data for a clearly defined purpose (such as making a lending decision or offering personal finance management services).</p> <p>Whilst an individual can give their consent for a third party to access their personal financial data, the current law is limited around:</p> <ul style="list-style-type: none"> (i) the consumer's ability to limit the time period (e.g. once off, one month, ongoing until told to stop); and (ii) placing obligations on an entity currently holding the desired financial data to share this with a third party (e.g. in what time periods must they process this requests, what KYC checks should be done and by whom?)
Control	The current law gives an individual some	While consent is critical to the operation of



	<p>control over their data. For example:</p> <ul style="list-style-type: none"> (i) the right to ‘anonymity and pseudonymity’ (APP 2); (ii) the right to be notified if your data has been collected (APP 5); (iii) the assurance that information will not be collected by unsolicited methods (APP 3 and 4); and (iv) the right to access and correct personal information (APP 12). 	<p>a number of key privacy principles, our current framework does not easily enable the individual to control the use of their data once it has been shared.</p> <p>In an Open Banking API context, an individual must have a right (far beyond those provided under the current Privacy Act) to not only share their data with third parties, but also to easily cease sharing, correct and delete their data from third parties, directly.</p> <p>It is acknowledged that in an open API context, there are different ways of structuring the relationship between the customer, a bank and a third party service provider. For example, one approach is that the consumer directs the bank to share its data with a third party. A second approach is that the third party obtains the consumer’s consent, and directly (or indirectly through an intermediary such as an aggregator) approaches the bank for the consumer’s financial information. Under this second model, there would need to be changes in the law to clearly spell out the legal obligations and assist in the smooth flow of data.</p>
<p>Quality</p>	<p>Both the quality and security of personal information are fundamental assurances provided by the privacy framework in Australia.</p> <p>As it currently stands:</p> <ul style="list-style-type: none"> (i) If personal information is disclosed, the information should be accurate, up to date, complete and relevant for the purpose of the disclosure (APP 10). (ii) an organisation must take reasonable steps, having regard to the purpose for which it is to be held, to correct personal information and also ensure it is accurate, up to date, complete, relevant and not misleading (APP 13). (iii) The organisation must also notify any third party of such amendments or corrections to personal data (APP 13). (iv) Personal information must also be secured and protected from misuse, interference, loss 	<p>The current privacy framework requires a bank to take reasonable steps to ensure that a customer’s data is accurate, up to date, complete and relevant (bearing in mind the purpose of the disclosure to the third party), before providing the information to a third party. This may prove to be an onerous obligation which inhibits the sharing of accurate information.</p> <p>Further, in a situation where the third party is providing a service that is in competition with that of the bank, the third party may be reluctant to disclose its true purpose with the Bank.</p> <p>There is a further concern that organisations must be responsible for security and protection of data. In this instance, the law may need to be clarified to explain who is responsible for the security and protection of data in an Open Banking API context.</p>



	and unauthorised access, modification and disclosure; or otherwise it should be destroyed or de-identified. (APP 11).	
Use	<p>The current privacy framework deals with use solely within the context of consent.</p> <p>Under APP 6, organisations can only use or disclose personal information for a purpose for which it was collected (known as the ‘primary purpose’), or for a secondary purpose if an exception applies. The exceptions that apply most commonly are where:</p> <p>(i) the individual has consented to a secondary use or disclosure; or</p> <p>(ii) the individual would reasonably expect the organisation to use or disclose their personal information for the secondary purpose, and that purpose is related to the primary purpose of collection, or, in the case of sensitive information, directly related to the primary purpose.</p> <p>In practice, any use or disclosure for which appropriate consent has been obtained, is generally acceptable.</p>	The current privacy framework already imposes clear controls on the way in which personal information may be used or disclosed.

Liability

A precedent for liability already exists in market stemming from consumers’ existing ability to extract their personal and small business financial data in the form of PDFs and CSVs. If this data has errors, the liability rests with the financial institution. If the data is compromised at a third party location, that third party carries the liability.

It is FinTech Australia’s position that liability should be maintained to these existing standards. It is also proposed that third parties be subject to specific standards in storing personal and small business financial data, and that these standards should be developed and governed by an open financial data standards body. The strict enforcement of such standards will help reduce the risk of customer data being compromised, while establishing greater trust between consumers and their financial service providers.

Cost

Existing private-sector holders of this data raise concerns that the cost to develop and implement an Open Banking API is prohibitive.



However, this cost has not stopped banks in other markets, such as DBS and BBVA, undertaking projects to implement Open Banking APIs before a Government mandate had been imposed. This appears to indicate that the long-term benefits of undertaking such an initiative will benefit incumbents economically from reduced cost of operations, increased agility, and the enabling of new, adjacent revenue opportunities as described earlier in this submission.

It is FinTech Australia's position that the Government should mandate a considered and prioritised roadmap, as proposed earlier in this submission, to develop the full solution and spread costs over multiple financial years.

#9 Conclusion

This inquiry comes at a tipping point for the Australian FinTech and broader financial services industry. To provide Australian consumers and businesses with better value and more convenient products and services, and to remain globally competitive with overseas markets, we must ensure the right policies are in place to enable new financial innovations to launch and grow in Australia based on more seamless use of financial data.

This submission has focused on the macro-economic, consumer, financial services industry and adjacent industry benefits of increasing the *availability* and *portability* of personal financial data and small business financial data. Until individuals can easily share their data with providers of their choice, Australia will be less competitive and Australians financially worse off.

The current closed, private-sector holders of personal and small business financial data aren't structurally able or incentivised to unlock this data's full potential. It is for this reason that FinTech Australia believes a strong Government mandate, with clearly defined timelines and scope, is needed to ensure successful implementation by Australia's banks. If left to define their own timeframes and scope, the Australian FinTech and broader financial services industry risks falling behind its international peers in an increasingly competitive global market.

As a FinTech community, we encourage the Productivity Commission and all sides of Government to act quickly and with clarity to enable the Australian financial services industry to compete globally and thrive locally, and deliver more competitive and efficient means of providing financial services that benefit all Australians.



Appendix 1: Data in Scope

FinTech Australia considers the data available through Yodlee's data model to be *personal financial data* and in scope of this submission. Yodlee's data model is available at https://developer.yodlee.com/Aggregation_API/Aggregation_Services_Guide/Data_Model

FinTech Australia also includes Superannuation funds, Life Insurers, Fund Managers, share registries and even Government Data related to personal and small business financial data, such as information collected by the Australian Tax Office or ASIC, to be in scope.

Where relevant, the currency denomination of the transaction or holding should also be declared.

Further Data also in scope

Superannuation

For accumulation accounts:

- Member name
- Member number
- Account number
- DOB
- Sex
- Member balance
- Investment options, with amount invested in each option
- Tax Components, broken into tax free, taxable taxed, taxable untaxed
- Preservation components, broken into Preserved, restricted non-preserved and unrestricted non-preserved
- Contributions Financial Year to date, split by concessional and non-concessional
- Contributions for each of the past 5 financial years, split by concessional and non-concessional
- If the Government's proposal to limit concessional contributions is passed, with a start date of 2007, then total non-concessional contributions since 1/7/07
- Life Insurance Sum Insured and annual premium
- Total and Permanent Disability sum insured and annual premium
- Income Protection sum insured, annual premium, waiting period and benefit period
- Member balance at the start of the current financial year
- Lump sum withdrawals financial year to date
- Rollovers/transfers in during the financial year to date
- Rollovers/transfers out during the financial year to date

For Pension accounts:

- Member name



- DOB
- Sex
- Pension type (eg Transition to Retirement, Account Based Pension, Market Linked Pension, Allocated Pension)
- Member balance
- Investment options, with amount invested in each option
- Tax Components, broken into tax free, taxable taxed, taxable untaxed
- Preservation components, broken into Preserved, restricted non-preserved and unrestricted non-preserved
- Life Insurance Sum Insured and annual premium
- Total and Permanent Disability sum insured and annual premium
- Income Protection sum insured, annual premium, waiting period and benefit period, indemnity v Agreed value
- Pre existing exclusion time period (if applicable)
- Member balance at the start of the current financial year
- Lump sum withdrawals financial year to date
- Pension payments (withdrawals) year to date
- Rollovers in during the financial year to date
- Rollovers out during the financial year to date

The scope should include active accounts, inactive accounts and closed accounts

Life Insurance

- Insured name
- Policy number
- Policyholder name(s)
- DOB of insured
- Sex
- Smoker status
- Occupation
- Inside/outside super
- Insurance type eg Life Cover, TPD, Income Protection, Critical Illness
- Product name
- Product series
- Sum Insured
- Waiting Period
- Benefit period
- Indemnity v Agreed Value
- Pre-existing exclusion time period (if applicable)
- Annual premium
- Premium frequency
- Loadings
- Exclusions
- Special conditions



Managed Funds

- Investor name
- Account number
- DOB of investor
- Fund name
- Series of units
- Number of units
- Unit Price – mid
- Unit Price – sell
- Cost base of units, split into parcels and dates
- Liquidity timing

Share registries

- Investor name
- SRN/HIN
- Security name
- Security ASX ticker
- Number of shares held
- All historical purchases and sales, including date, quantity and transaction type
- Prior corporate actions such as rights issues, share splits, etc
- All prior dividends including number of eligible shares, dividend per share, cash transferred, destination bank account, payment method, whether banked, franking credits

ATO

- All fields in tax returns for the past 5 years
- ATO's pre-populated information for tax returns that are yet to be lodged (based on information collected from employers, banks, fund managers, share registries etc)
- Superannuation in which individuals are members
- Superannuation balances of each fund in which individuals are members
- Member numbers of superannuation funds in which individuals are members
- Non-Concessional Contributions made since July 2007 (subject to the government's superannuation proposals being legislated)

In addition, we request that the ATO publishes more aggregated (de-identified) data. Members of the public should be able to interrogate public databases to conduct their own research. All fields in tax returns (except from identification information such as name, date of birth and address) should be available.



ASIC

- Company name
- A.C.N
- A.B.N
- Registration date
- Former name(s)
- Status
- Address (physical and postal)
- Shareholders
- Directors
- History of this above information

Comprehensive Consumer Credit Data

With respect to comprehensive consumer credit data, the following additional data fields should be legislated for inclusion immediately:

- the current outstanding balance of a credit contract, providing credit providers with visibility over levels of actual indebtedness to aid credit decisions and responsible lending obligations;
- the minimum amount payable each month under a credit contract; and
- the amount actually repaid, providing evidence of a borrower's capacity to service additional debt.

The monthly account status field should also be expanded to include:

- a hardship indicator, to identify customers experiencing genuine hardship, better enabling a credit provider to understand a consumer's circumstances within the 24-month repayment history information; and an arrangement indicator to identify customers who have agreed an alternate payment plan with their credit provider.