



29 October 2020

CDR Rules Team
Australian Competition and
Consumer Commission
GPO Box 3131
Canberra ACT 2601

By email: ACCC-CDR@acc.gov.au

SUBMISSION PAPER:

Submission CDR Rules consultation

This Submission Paper was prepared by Prospa Group Limited (ACN 625 648 722). www.prospa.com.au

Prospa Group Limited (“Prospa”) welcomes the opportunity to provide a submission on the proposed changes to the Competition and Consumer (Consumer Data Right) Rules 2020.

1. A little about us – “Prospa”

Prospa is currently Australia’s #1 Online Small Business Lender¹, operating out of our Sydney headquarters. Prospa has supported small businesses with funding of more than \$1.65 billion and employs over 200 people in Australia. Prospa has supported over 29,400 small business customers across Australia and New Zealand (as at 29 October 2020).

Prospa offers Small Business Loans between \$5,000 to \$300,000 and a Line of Credit for up to \$100,000, as our standard product offering. All customers of Prospa are small businesses with all funding decisions achieved by assessing well over 450 data points, including turnover, profit & loss, business tenure, size and industry sector.

¹ Market position for online balance sheet lenders to Australian small businesses, based on Prospa’s volume as a percentage of total market volume in 2017 as reported in KPMG “The 3rd Asia Pacific Region Alternative Finance Industry Report”, November 2018; USDAUD FX rate of 0.767.



Prospa uses a sophisticated risk-based scoring methodology developed over our more than seven years of lending to small businesses. We verify the specifics of every small business applicant using data from sources such as (but not limited to): ASIC's website, Equifax and the Australian Tax Office.

2. Prospa's impact on the Australian economy

A recent independent study conducted by RFi Group and the Centre for International Economics on behalf of Prospa, revealed the positive economic impact of Prospa's lending to small business in Australia. See full report here: https://www.prospa.com/wp-content/uploads/2019/01/prospa_economic-impact-report_2019.pdf.

The research found that every \$1 million Prospa lends to small business results in \$4 million to Australian GDP and support 57 FTE jobs. These findings demonstrate that by providing small business owners with fast, simple access to finance, Prospa is not just directly contributing to its customers' revenue and jobs, but to the wider Australian economy.

3. Background: CDR and small businesses

Fintech small business lenders facilitate the financial inclusion of small businesses

Small businesses have niche and varied needs with respect to commercial credit. The business models of fintech small business lenders are tailored to meeting these needs. By meeting the varied needs of small businesses with respect to credit, fintech small business lenders ensure the financial inclusion of small businesses.

We believe a CDR regime that creates more opportunities for fintechs to provide innovative products and services that meet the needs of small businesses, promotes the financial inclusion of small businesses.

The use cases for CDR data that are specific to fintech small business lending

We highlight that the use cases for CDR data that are specific to fintech small business lending typically include (amongst others) the following:



- Third parties such as brokers may collect CDR data and other data with the purpose of introducing a prospective applicant to a fintech small business lender who ultimately provides the service to the customer;
- CDR data may be collected for applicants who are approved as well as applicants who are declined;
- Fintech small business lenders may collect data under both the auspices of the CDR regime and outside the regime (for instance, through screen scraping), from multiple entry points;
- CDR data may be combined with other data to derive a picture of the financial circumstances of the applicant;
- CDR data may be collected on a continuous basis, over a period of time exceeding 12 months.

4. Our general comments on the tiered accreditation framework

We are generally supportive of an expansion of the CDR regime to include tiers of accreditation additional to the “unrestricted” level. We agree with the use of a risk-based approach to defining the restricted tiers.

5. Provisions for consumers that are not individuals

We are supportive of the provision made, in the exposure draft, for consumers that are not individuals to exercise the consumer data right. We believe all small business entities, and not just sole traders, should be able to exercise the consumer data right, in order to maximise the benefits of the CDR for small businesses and the wider economy. We also support the requirement for these entities to exercise the consumer data right through one or more nominated representatives.

We recommend the introduction of rules to the effect that where an individual identifies themselves as a nominated representative of an entity, third parties may rely on this representation for the purposes of the CDR Rules (including consents, authorisation and activities undertaken through the customer dashboard) without having to verify its accuracy.



We believe this is important to ensuring greater certainty for participants in the CDR, including small businesses. Further, this type of provision would help preserve obligations under contracts with CDR consumers (including small business credit contracts). In the case of small business lending by fintech lenders, this in turn facilitates the continued access to credit products and services to small business customers.

6. Disclosures to non-accredited persons

We are supportive of a regime that enables individual consumers and small businesses to disclose CDR data to prescribed, non-accredited persons. We recommend including individuals that provide assistance in relation to commercial credit (i.e. brokers that are not mortgage brokers) in the prescribed list of trusted advisors. This would ensure that advisors assisting small businesses in relation to small business credit products that are not secured by mortgages, are included within the regime. It would, in turn, promote the financial inclusion of small businesses and their greater participation in the CDR regime.

7. Disclosures of insights

On our interpretation, the rules permit (but do not require) an accredited data recipient to disclose CDR Data insights in accordance with a valid consent. On this basis, we are supportive of the rules pertaining to the disclosure of insights.

We recommend further clarification be provided on the relationship between “materially enhanced information” and “insight” for the banking sector, particularly whether “materially enhanced information” is excluded from the definition of “insight” for the sector.

8. Subdivision 4.3.5: Notification requirements

On our interpretation, the notification obligations in rules 4.18B and 4.18C apply to accredited persons in their capacity as providers under outsourced service arrangements. On this basis, we are supportive of the inclusion of these notification obligations.



Accredited persons should have the option of notifying customers through the dashboard

We recommend that accredited persons should be able to satisfy the notification obligation by providing written notification either through the consumer dashboard or outside the dashboard. We recommend this be supported by an obligation on the accredited person to inform consumers of the method of notification used in the accredited person's CDR policy. We believe this would give data recipients the opportunity to select the most simple and effective notification method for their customers. Those customers may include small businesses that are time poor (and may therefore want to access notifications through a single platform).

The notifications required by rule 4.18C(2) should include details of the amendment, and not just the fact that consent has been amended

We recommend the notifications required by rule 4.18C(2) include details of the amended consent and not only the fact that consent has been amended. We believe this is important to ensuring that accredited data recipients have the most current, reliable consent information for their customers.

9. Rule 5.34: Temporary direction to refrain from processing consumer data requests

We refer to rule 5.34. We recommend these provisions be replaced by more proportionate rules for the protection of the security and integrity of the Register.

An exercise of the power to direct a data recipient to cease making consumer data requests, could have a material commercial impact on fintech lenders, particularly if no minimum notice period is mandated. It would effectively halt the provision of goods and services that are provided by the data recipient in reliance on consumer data requests. The CDR Rules (through rule 4.11(1)(b)(ii)) contemplate products and services that may collect, use or disclose over a period of time as well as on a single occasion. Accordingly, the exercise of this power could halt the provision of goods and services to existing customers of the data recipient as well as to prospective customers. Where those data recipients are fintech small business lenders, the overall impact of the directions power would be to restrict access to credit to small businesses.



10. Rule 7.9(3): Disclosure of accredited data recipients under CAP arrangements

We recommend a minor amendment to the rule to the effect that the accredited person may, but is not required to, disclose the accredited data recipient in the consumer dashboard. This would enable accredited data recipients to be disclosed in the dashboard where appropriate under the commercial terms of the CAP arrangement.

11. Rule 9.4: Reporting requirements

We refer to the additional reporting requirements in rule 9.4(2)(f). We recommend these additional requirements should not be included or, at minimum, there should be no obligation to publish the related reports.

The additional information that would need to be reported under the additional requirements is highly sensitive for publicly listed fintech lenders, particularly in the context of the Commission's and Information Commissioner's powers to require the publication of the report. The information required under proposed rule 9.4(2)(f)(v) (the number of total CDR consumers) would be particularly sensitive.

Kind regards,




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Anna Fitzgerald

Group Head of Corporate Affairs, Prospa

If you would like more information regarding our submission, please contact:

Anna Fitzgerald / Group Head of Corporate Affairs  Or

Deevya Desai / Regulatory Affairs Manager 