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Financial Services
Newsletter

2021 . Vol 20 No 6

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General Editor's note

Karen Lee *LEGAL KNOW-HOW*

From 5 October 2021, issuers and distributors need to have a more consumer-centric approach to the design and distribution of products — by complying with the design and distribution obligations (DDOs) in Pt 7.8A of the Corporations Act 2001 (Cth). The DDOs are intended to help consumers obtain appropriate financial products. Both financial services licensees and credit licensees need to monitor their compliance, and certain breaches must be reported to Australian Securities and Investments Commission (ASIC). Did you know that issuers are not able to merely rely on distributors complying with their DDO and contractual obligations? So what obligations do product issuers have in respect of distributors? **Toby Blyth** and **John Georgas** (Colin Biggers & Paisley) explain how the new regime operates and share their tips on practical compliance.

Regulatory frameworks and directives from around the world can be an important source of guidance for Australian regulators and the government. This certainly can be the case for developments in the credit regulation space. With this in mind, will Australia be heading in the European Union's direction for consumer credit? Will tougher rules apply here? Editorial board member **Andrea Beatty**, **Chelsea Payne** and **Shannon Hatheier** (Piper Alderman) answer these very interesting questions for us.

The Consumer Data Right (CDR) regime as it applies in the banking and finance sector (known as "open banking") is intended to give CDR "consumers" (broadly, any individual or company having a specified type of account with a bank) greater access to and control over their data. It intends to improve consumers' ability to compare and switch between products and services, and to encourage competition between service providers, leading not only to better prices for customers, but also more innovative products and services. The date, 1 July 2021, marks the first anniversary of the CDR. In their article "CDR revisited", **Anthony Borgese** and **Amanda Khoo** (MinterEllison) explore the updates and learnings from the rollout of CDR, and discuss recent and upcoming changes to the regime and the bright future of CDR, with a particular focus on open banking.

I hope you enjoy reading the articles in this issue of the *Financial Services Newsletter*!

Karen Lee
Principal
Legal Know-How
karen.lee@LegalKnowHow.com.au

Karen Lee is the General Editor of the Australian Banking & Finance Law Bulletin and the Financial Services Newsletter. She also partners with LexisNexis in other capacities, including as Specialist Editor for precedents in banking and finance, mortgages and options, and as contributing author of a number of other publications, including Australian Corporation Finance Law, Halsbury's Laws of Australia and Practical Guidance General Counsel. Karen established her legal consulting practice, Legal Know-How, in 2012. She provides expert advice to firms and businesses on risk management, legal and business process improvement, legal documentation, regulatory compliance and knowledge management. Prior to this, Karen worked extensively in-house, including as Head of Legal for a leading Australasian non-bank lender, as well as in top-tier private practice, including as Counsel at Allen & Overy and Clayton Utz.

The Design and Distribution Obligations — what obligations do product issuers have in respect of distributors?

Toby Blyth *and* ***John Georgas*** *COLIN BIGGERS & PAISLEY*

The new Design and Distribution Obligations (DDO) will have far reaching effects on the design and more importantly the distribution of consumer financial products.

No longer set, forget and wait for profitability, issuers need to determine the need and utility of the product, and the target market for which it is designed. They must also regularly monitor suitability and incorporate real time data into their decisions to continue issuing.

Importantly, issuers are not able to merely rely on distributors complying with their DDO and contractual obligations.

Issuers must implement monitoring and reporting procedures that enable the issuer to ascertain whether:

- the distributor is complying with its obligations, and
- importantly whether the lived experience of the product matches the issuer's initial and updated assessments

The legislative framework

The new obligations are imposed by the Treasury Laws Amendment (Design and Distribution Obligations and Product Intervention Powers) Act 2019 (Cth) which has the effect of amending s 994 of the Corporations Act 2001 (Cth).

From 5 October 2021, s 994 will include:

- s 994B — requires a target market determination (TMD) to be made
- s 994C — requires TMDs to be reviewed
- s 994D — prevents distribution unless a TMD is made
- s 994E — reasonable steps provision, and
- s 994F — imposes record keeping and notification obligations

The intention of the new legislation, as set out by the Australian Securities and Investments Commission (ASIC), is to help consumers obtain appropriate financial products by requiring issuers and distributors to adopt a consumer-centric approach to the design and distribution of products.

Importantly, there is no requirement to ensure that individual consumers meet the TMD criteria. Instead, products need to meet the likely objectives, financial situation and needs of the target class of consumers, across the life cycle of a financial product. Given that the needs of a class of consumers are likely to change over time, the obligation of both issuers and distributors is to develop and maintain effective product governance arrangements, which is reflected by the regime's new review and reporting requirements.

What is required is that the issuer set up sufficient reporting requirements with the distributor such that the issuer can comply with its ongoing suitability monitoring requirements with real world data.

ASIC published *Regulatory Guide RG 274: Product design and distribution obligations* in December 2020 which provides specific guidance to both issuers and distributors.

Issuer

In summary, the obligations of both an issuer and distributor are almost 100% coterminous.

With respect to issuers, RG 274.9 specifies distribution conditions:

> To ensure that distribution of the financial product is directed towards its target market, an issuer must specify distribution conditions and restrictions (distribution conditions) that make it likely that the consumers who acquire the product are in the target market. An issuer must, at the outset, plan how the product and its distribution will be monitored and reviewed, including by setting out the circumstances in which a review will be required.

ASIC further states that both issuers and distributors are required to take reasonable steps to ensure that distribution occur consistent with the relevant TMD.[1]

With respect to monitoring and reviewing, the

Regulatory Guide provides:

> Further, an issuer *must monitor and review the outcomes produced by the design and distribution of its financial products* and consider whether changes are required to the product, to the way it is sold or to whom it is being sold. In particular, an issuer will need to consider:
> (a) whether the product reached the consumers in its target market or was sold to consumers outside the target market;
> (b) how the product performed in the hands of the consumers in the target market;
> (c) whether the product delivered what was promised; and
> (d) whether the product resulted in poor outcomes for consumers in the target market [emphasis added].[2]

On a strict reading of these sections, the issuer would be responsible for demonstrating that reasonable steps have been taken.

However, these sections are not to be read in isolation and when read in the context of the document as a whole, it becomes apparent that distributors also carry a similar responsibility.

For instance, paras 48 and 49 relevantly provide as follows:

> RG 274.48 In order for *issuers and distributors to meet their obligation to take reasonable steps*, product governance arrangements must include appropriate processes and controls at the product distribution stage.
> . . .
> RG 274.49 Product governance arrangements must also include a process for *effective communication between those responsible for designing the financial product and those responsible for marketing and distributing the product*, particularly in relation to the intended consumer outcomes associated with the product. This will help issuers and distributors meet their obligations to:
> (a) take reasonable steps in relation to distribution;
> . . . [emphasis added]

Any differences in obligations need to be expressed in terms which are objectively clear:

> The issuer's distribution conditions are one component of the controls that it will need to implement to comply with its obligation to take reasonable steps in the distribution of its product. Distribution conditions should be specified in the TMD with tangible parameters so that these conditions are objectively clear (e.g. restricted to branch sales or through a dedicated customer contact centre). This clarity will assist distributors in complying with those conditions as part of distributors' reasonable steps obligation.[3]

Distributor

Turning to the specific requirements of a distributor, ASIC notes the following: "In addition, a distributor must take reasonable steps that will, or are reasonably likely to, result in distribution of a product being consistent with the TMD[.]"[4]

Having regard to this, the issuer does not need to advise the distributor on what its duties are or what it should turn its mind to. This is a task the distributor is required to undertake independently and with due care.

Practically, the distributor achieves this through its product governance arrangements: "A distributor must have robust product governance arrangements in place to help ensure that it complies with its obligations, including the reasonable steps obligation[.]"[5]

The obligations are comparable to that of an issuer:

> Like an issuer, a distributor must take into account all relevant factors in assessing what reasonable steps need to be taken in the circumstances. These factors include:
> (a) *risk* — the likelihood of the distribution being inconsistent with the TMD;
> (b) *harm* — the nature and degree of harm that might result from the financial product being issued otherwise than in accordance with the TMD; and
> (c) *mitigation steps* — steps that can be taken to eliminate or minimise the likelihood of the distribution being inconsistent with the TMD and the harm that might result[.][6]

The Regulatory Guide goes on to note at para 172 that merely complying with distribution conditions will not satisfy a distributor's reasonable steps obligation. They are still required to consider what steps are reasonable in the circumstances.

Again, this is an autonomous task and not something the issuer is responsible for guiding. The distributor must undertake it independently.

In these circumstances, the distributor is responsible for demonstrating the reasonableness of its steps.

An issuer is responsible, noting paras 9 and 13 of the Regulatory Guide, for monitoring the outcomes of the distribution and informing itself whether any changes are needed to be made (ie, to the way it is sold or to whom it is sold).

Naturally if compliance obligations are not met, it is the issuer's role to make changes affecting the distributor.

Outcome

Looking at the Regulatory Guide, the obligation to demonstrate reasonable steps falls on both the issuer and distributor.

It is the issuer's responsibility to monitor compliance with conditions and then impose changes where necessary to ensure distribution is made in line with TMD. The distributor must then comply with those changes, both under the Regulatory Guide and also contractually vis-a-vis the issuer (issuers will need to review

distribution contracts but presumably they have boilerplate obligations to comply with the law — this should be operationalised via relevant steering/executive committee agendas).

While it is legally correct to say that the distributor must take reasonable steps to comply with the TMD and distribution conditions, the issuer must also engage in effective communication, monitoring and review.

Given that, functionally an issuer must monitor what the distributor is doing.

Issuers must establish guidelines to prevent obvious misselling (which was always the law) and distributors must do likewise.

Both issuers and distributors share the same duty to take reasonable steps in carrying out their obligations and to demonstrate that those steps have been taken. The monitoring that issuers are required to do is a post-duty step which takes place after distributors (and issuers) have discharged their obligations at first instance.

Toby Blyth
Partner
Colin Biggers & Paisley
toby.blyth@cbp.com.au
www.cbp.com.au

John Georgas
Lawyer
Colin Biggers & Paisley
john.georgas@cbp.com.au
www.cbp.com.au

Footnotes

1. ASIC *Regulatory Guide RG 274: Product design and distribution obligations* (December 2020) at [RG 274.11]
2. Above, at [RG 274.13].
3. Above n 1, at [RG 274.97].
4. Above n 1, at [RG 274.169].
5. Above n 1, at [RG 274.170].
6. Above n 1, at [RG 274.141].

Will Australia be heading in the EU's direction for consumer credit?

Andrea Beatty, Chelsea Payne and Shannon Hatheier PIPER ALDERMAN

The European Commission's draft provisions[1] to enhance consumer protections under the existing Consumer Credit Directive may cause waves in the Australian lending space.

Though the draft provisions released on 30 June 2021 are limited in their effect to EU Member States, Australian regulators such as the Australian Securities and Investments Commission (ASIC) often look to developments in the EU and other similar jurisdictions for guidance.

The European Commission, in deciding to pursue an extensive amendment of the Directive, rejected conservative proposals to implement non-regulatory intervention and a more narrow reform policy focussed on simply making the current provisions clearer and more effective.

The existing Directive

Established in 2008, the Directive 2008/48/EC on credit agreements for consumers[2] (Directive) created a harmonised EU framework for the regulation and provision of consumer credit. However, since entering into force, access to credit and the internal decision-making process of credit providers has profoundly changed, thereby providing the occasion to update the overall strategic framework of the EU's consumer credit policy. Specifically, the Commission points to the impact of digitalisation on the habits of consumers and the inception of new products, such as peer-to-peer lending platforms, as a fundamental cause for revision.

The Directive functions as a legislative Act, setting out objectives that all EU Member States must achieve. Once established, it is up to each individual country to devise its own domestic laws so as to attain those objectives specified in the Directive. The proposed amendments to the Directive seek to ensure higher standards of consumer protections and foster the development of a cohesive regulatory landscape which the European Commission described at present as "fragmented across the EU".[3] Among other things, the proposal seeks to amend the definition of several key terms, reduce the amount of information provided to consumers in advertising, impose obligations to promote financial education and enhance enforcement activities.

Creditworthiness assessments

The proposed Art 18, "Obligation to assess the creditworthiness of the consumer", seeks to clarify the information and methods that should be employed when conducting an assessment of creditworthiness. Specifically, Art 18 states that "the assessment of creditworthiness shall be carried out on the basis of relevant and accurate information on the consumer's income and expenses and other financial and economic circumstances . . .".[4] The Explanatory Memorandum to the proposal further elaborates on what constitutes relevant information by explicitly identifying personal data, such as information found on social media platforms or health data, as information that should not be used when conducting a creditworthiness assessment. Article 18 further clarifies that credit should only be made available where the results of the creditworthiness assessment indicate that the obligations resulting from the credit agreement "are likely to be met in the manner required under that agreement".[5] The proposal however omits to define the meaning of "likely to be met" which will be left to individual EU Member States or industry bodies to impart a definition.

An ancillary issue addressed by Art 18 is the use of artificial intelligence and automated processing in the assessment of creditworthiness. Where an assessment involves the use of profiling or the automated processing of personal data, consumers will have the right to request a review of the decision as conducted by a human, obtain a clear explanation of the assessment of creditworthiness including the risks involved in the use of automated processing of personal data and contest the assessment of creditworthiness. The proposal's emphasis on the transparency of automated systems is further reflected in the proposed Art 13 which requires creditors to inform consumers when they are presented with a personalised offer based on profiling or other types of automated processing of personal data.

Unsolicited credit sales

Article 17 proposes to ban the sale of credit to consumers without their prior request and explicit agreement. The ban would cover circumstances such as the provision of non-requested pre-approved credit cards sent to consumers and the unilateral increase of consumers' overdraft or credit card limits by the creditor. Such practices were identified by the European Commission as having the potential to be harmful to consumers and should accordingly be prohibited. The proposed prohibition under Art 17 is not unfamiliar to Australian Credit Licensees who are subject to similar obligations under s 12DL of the Australian Securities and Investments Commission Act 2001 (Cth).[6] Similarly, subs 67(4) of the National Credit Code prohibits credit providers from increasing the credit limit under a continuing credit contract such as credit cards unless at the request or with the written consent of the debtor. Unsolicited contact by credit providers is further regulated in Australia under the Spam Act 2003 (Cth) as well as the various legal obligations surrounding the advertising and marketing of credit.[7]

Financial literacy

Central to the proposal's intent is its emphasis on ensuring both staff and consumers have access to, and possess an acceptable level of knowledge regarding consumer credit. The proposed Art 33 requires the Member States to ensure creditors require their staff to possess an appropriate and up-to-date level of knowledge and competence in relation to the manufacturing, offering and granting of credit services. Article 33 expects Members States to establish minimum knowledge and competence requirements for the staff of creditors and ensure compliance with these standards is supervised by competent authorities. Regulatory Guide 206 *Credit licensing: Competence and training*[8] (RG 206), imposes similar obligations on Australian credit licensees, mandating a minimum of 20 hours of Continuing Professional Development each year for Responsible Managers, with the competence and training requirements of other individuals engaging in credit activities varying dependent upon their role and industry sector.

More notably, the proposal places significant weight on the obligation of credit providers to facilitate and offer pathways to support the education of consumers in relation to responsible borrowing and debt management. The proposed Art 34 mandates that:

> . . . Clear and general information on the credit granting process shall be provided to consumers in order to guide them, in particular those who take out a consumer credit for the first time, and especially on digital tools.[9]

The European Commission's singling out of digital tools reflects its concern over the aptness of credit obligations to new products and digital tools. The proposed Art 36 further requires Member States to ensure that debt advisory services are made available to consumers. The Explanatory Memorandum expands upon the obligation describing the importance of providing professional operators independent of creditors and credit intermediaries to consumers facing financial difficulties. The European Commission estimates that every €1 spent on debt advice will provide between €1.4 to €5.3 in equivalent benefits by way of reducing the social costs of over-indebtedness.

In a similar respect, Australia recently introduced the requirement for debt management services to hold an Australian Credit Licence and comply with the obligations under the National Consumer Credit Protection Act 2009 (Cth) (NCCP Act). Due to the financial strain caused by the pandemic, it is estimated that approximately 10% of consumers who enter hardship will seek assistance from debt management services. Accordingly, the legislature has responded by classifying such services as credit activity regulated by the NCCP Act in an attempt to ensure consumers are protected throughout the entirety of the credit lifecycle.

Pre-ticked boxes

Article 15 proposes to prohibit credit providers from inferring consumer agreement through default options such as pre-ticked boxes. The prohibition is however limited to the provision of ancillary services such as add-on insurance. Nevertheless, the proposal requires that ancillary services be presented in a clear and transparent manner and should not be offered together with the credit agreement unless it cannot be offered separately as it is a fully integrated part of the agreement. Australian credit providers are not prohibited from the use of pre-ticked boxes in the provision of ancillary services however has been recognised by bodies such as the Financial Rights Legal Centre as a practice that "dupes consumers into making the purchase".[10] Credit providers are however prohibited from the use of pre-ticked boxes as a means of obtaining consent to marketing materials.[11]

Extending the scope of the Directive

The proposal also seeks to extend the Directive to areas not previously covered by its scope as a means of enhancing levels of consumer protection. Notably, it proposes to capture short-term, high-cost loans that fall below the previously imposed minimum threshold of €200 which the Commission recognised as a potentially detrimental product to consumers. The proposal further

seeks to expand the scope of the Directive to cover interest-free credit, all overdraft facilities and leasing agreements as well as credit agreements concluded through peer-to-peer lending platforms. Though the NCCP Act exempts a number of similar forms of credit from regulation, these provisions have recently been the subject of increased scrutiny by ASIC, including through its use of its product intervention order power.

Key takeaways

The proposal, though clearly focussed on the EU, represents an important source of guidance for Australian regulators and the government when considering developments to the regulation of credit. Of potential attraction to Australian regulators is the approximate reduction in consumer detriment of around €2 billion (AUD $3.1 billion) in the period 2021 to 2030. Though the Coalition Government's agenda appears firmly grounded in the object of encouraging the flow of credit, the recent uncertainty of the proposed Responsible Lending laws may prompt further reviews of credit legislation. It is however more likely that the future of credit reforms will depend on the results of the Federal Election scheduled to occur before May 2022, given the parties' differing views on consumer protections.

Andrea Beatty
Partner
Piper Alderman
abeatty@piperalderman.com.au
www.piperalderman.com.au

Chelsea Payne
Associate
Piper Alderman
cpayne@piperalderman.com.au
www.piperalderman.com.au

Shannon Hatheier
Law Clerk
Piper Alderman
shatheier@piperalderman.com.au
www.piperalderman.com.au

Footnotes

1. European Commission *Proposal for a Directive of the European Parliament And Of The Council on consumer credits* (2021).
2. *Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC* L 133.
3. Above n 1, p 1.
4. Above n 1, p 49.
5. Above.
6. Section 12DL of the Australian Securities and Investments Commission Act 2001 (Cth) prohibits a person from sending another person a credit card or debit card except in response to a request or in renewal of a card of the same kind previously sent to the same person.
7. See for example Pt 9 of the National Credit Code.
8. ASIC *Credit licensing: Competence and training* Regulatory Guide 206 (April 2020).
9. Above n 1, p 61.
10. See the Financial Rights Legal Centre's *Submission to the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry* Interim Report (26 October 2018) https://financialservices.royalcommission.gov.au/Submissions/Documents/interim-report-submissions/POL.9100.0001.1047.pdf
11. Privacy (Credit Reporting) Code 2014 (Cth), para 19.4(c).

CDR revisited

Anthony Borgese *and* ***Amanda Khoo*** *MINTERELLISON*

The first of July 2021 marked the first birthday of Australia's Consumer Data Right (CDR) regime, which began its journey in 2019, and made its first pit stop at open banking. Since then, there have been a number of amendments rolled out to the Competition and Consumer (Consumer Data Right) Rules 2020 (Cth) (CDR Rules), a change in leadership, and a number of question marks as to the future of CDR within Australia.

This article explores the updates and learnings from the rollout of CDR in the banking space, and discusses recent and upcoming changes to the regime and the bright future of CDR, with a particular focus on open banking.

First, a quick refresh on CDR and open banking — what does it all mean? The CDR is a general right for consumers to control their consumer data related to a specific sector, allowing them to access data about themselves held by businesses, and safely share their data with trusted recipients of their choice, entirely free of charge. Open banking is the implementation of CDR in the banking sector, and CDR will eventually be rolled out to much of financial services, retail energy, and the telecommunication sectors. Importantly, all Australian authorised deposit-taking institutions (ADIs) must comply with open banking, and the group was divided into the Big Four Banks, and non-major ADIs, with the Big Four Banks being required to begin complying much sooner than the latter group in accordance with the CDR Timeline.

Change is constant

Since its launch, open banking has seen a change in its rule-making function and leadership, which passed from the Australian Competition and Consumer Commission (ACCC) to the Treasury on 28 February 2021 (in accordance with the Treasury Laws Amendment (2020 Measures No 6) Act 2020 (Cth), which amended the Competition and Consumer Act 2010 (Cth)). However, the ACCC continues to be responsible for the accreditation of data recipients, registration and on-boarding of data-holders and data recipients, compliance, and enforcement (with the Office of the Australian Information Commissioner (OAIC)). Additionally, the Data Standards Body (DSB) has been established to deliver open technical standards to support CDR in creating the Consumer Data Standards, with the help of the Consumer Experience (CX) Working Group and CX Standards and CX Guidelines, which focus mainly around consumer consent.

There have also been three rounds of amendments to the CDR Rules, and another round of exposure draft amendments to these rules was just released on 1 July 2021 (aptly timed and released on CDR's birthday!), with submissions closing on 30 July 2021. The latest round of exposure draft amendments include changes to the CDR Rules by reducing barriers to entry in open banking and allowing more consumers to leverage their data in common banking scenarios. This involves introducing a sponsored tier of accreditation and a CDR representative model, allowing consumers to share their data with trusted professional advisers, allowing participants to share CDR insights with consumer consent for specific purposes, and creating a single consent data sharing model for joint accounts.

Previous amendments to the CDR Rules involved (among others):

- permitting accredited intermediaries to collect data on behalf of third-party data recipients with consumer consent (Amendment No 2)
- introducing additional functionality in relation to consents, with consumers being able to amend existing consents by adding or removing uses, data types, accounts or data holders, or amending the duration of their consent (Amendment No 3)
- the expansion of the types of consumers who can use CDR to include more business customers — particularly around three particular classes of consumers, being non-individuals (such as limited companies), business partnerships with a partnership account, and account holders with accounts with the data holder in respect of which another person has account privileges (Amendment No 3)
- providing consumers with the ability to access their data directly, with both the Big Four Banks and non-major ADIs needed to comply with their direct to consumer request obligations by November 2021 (Amendment No 3)

Interestingly, CDR's first birthday is also a big milestone and deadline of the phased Open Banking

regime, with all banks and non-major ADIs now required to be registered as Data Holders. They must now share CDR data unless exempted. Notably, at the time of writing, the list of exemptions granted by the ACCC to the banks (being a total of 44) is longer than the list of Data Holders (being a total of 16) and Accredited Data Recipients (being a total of 13, of which six are active) available on the CDR Current Providers Register.

That being said, the rollout of Open Banking is now picking up its pace — from 1 July 2021, bank customers are able to request for their data to be shared from term deposits, transaction and savings accounts, and debit and credit cards. The next step is for home and personal loans to be added to the list from 1 November 2021, and for a whole new range of banking products (such as overdrafts, lines of credit, foreign currency accounts and business finance) to be included from 1 February 2022. As we expect the CDR Rules to continue to evolve, we recommend that existing and future participants of the open banking regime remain up to date with any amendments to the legislation. This is particularly important as most changes apply with little lead time, and often impact the process and technology aspects of any CDR programs.

To the future and beyond

All of the above has also led to an *Inquiry into Future Directions for the Consumer Data Right* (with the Final Report published in October 2020) (Inquiry).

The Inquiry considered the various ways in which CDR could be improved and leveraged to promote innovation and competition within Australia's digital economy. In particular, the Final Report made 100 recommendations that highlighted and revolved around four broad future directions for CDR:

1) towards data-empowered consumers
2) towards economy-wide foundation
3) towards an integrated data ecosystem, and
4) towards international digital opportunities

Of particular interest is the recommendation for "Action Initiation" (also known as "write access"), which will see that CDR is expanded to allow accredited entities to initiate actions beyond data sharing with a consumer's consent. It will enable consumers to apply for, accept, or manage new products and services, and allow any accredited persons to do the same on a consumer's behalf. Another worthy mention is "Simplified Switching" (or smart switching), which is aimed to allow CDR to assist consumers easily and more efficiently switch between products and providers, without the need to engage in manual processes.

If implemented, these new capabilities present exciting possibilities for innovation, which will also result in changes to consumer behaviour and expectations. It is likely that we will see the introduction of "Life Admin Centres" that will incorporate the "Action Initiation" and "Simplified Switching" recommendations. These are essentially apps that allow consumers to monitor, manage and update all of their products and services, ranging from banking and insurance to energy, telecommunication and healthcare. We consider that first mover advantage will be of extreme importance when it comes to leveraging this opportunity before the market becomes too saturated and such services become the norm. Banks, comparison websites and financial technologies (fintechs) all stand to benefit from exploring this potential model.

The future is bright for CDR, but there are still a number of hurdles that it must overcome before it is able to reach its full potential. Unfortunately, despite it having been a year since its launch, consumers are still largely in the dark about CDR and the advantages it brings. Most have not even heard of the term "open banking" before. One of the biggest challenges the regime faces is the lack of understanding and education of consumers, slowing down uptake. That being said, fintechs such as business-to-business (B2B) CDR platform provider Frollo, who have taken it onto themselves to educate both businesses and consumers as part of their CDR journey, are greatly propelling the cause onward.

Another inherent issue is that data holders are very much the backbone of data sharing. As mentioned earlier, there has been a lack of data holders also becoming accredited data recipients since CDR's launch. Until participation from these data holders as data recipients increases (beyond the number of exemptions granted), much of CDR's value remains dormant. Similarly, delays in accreditation and the lengthy accreditation process makes it difficult for those wanting to be a part of CDR as data recipients to participate. Thankfully, this is an issue that the powers that be acknowledge and are seeking to address, and the regime will see the addition of new levels of restricted accreditation to support the participation of entities who may find it difficult to meet the stringent requirements for unrestricted accreditation.

As the rollout of CDR's phased plan continues, it will be interesting to see how the regime continues to be shaped by both the industry and regulators. CDR is a core building block upon which Australia's digital economy will be able to grow and thrive, and most importantly, allow consumers to be the main focus. Every day, Australians are relying more and more on digital interactions and sharing more of their data. The key here is for regulators to balance the guiding principles initially set out for CDR (being consumer centric, encouraging

competition, creating opportunities, being efficient and fair), along with the practicalities of its launch and implementation.

Anthony Borgese
Partner
MinterEllison
anthony.borgese@minterellison.com
www.minterellison.com

Amanda Khoo
Associate
MinterEllison
amanda.khoo@minterellison.com
www.minterellison.com

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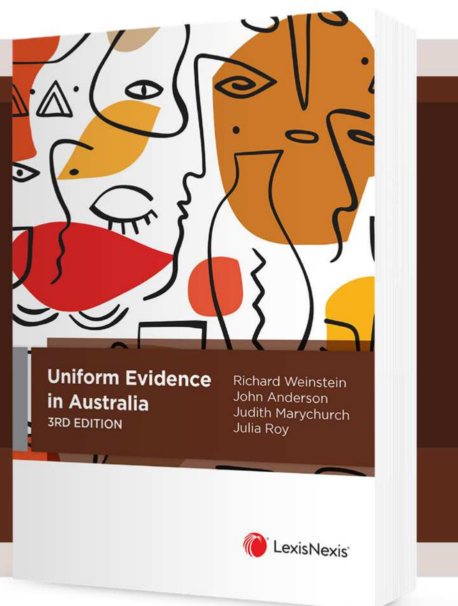

ISBN: 9780409350968 (softcover)

ISBN: 9780409350975 (eBook)

Publication Date: June 2020

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JH05202OCM

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Cite this issue as (2021) 20(6) *FSN*
SUBSCRIPTION INCLUDES: 10 issues per volume plus binder www.lexisnexis.com.au
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ISSN: 1035-2155 Print Post Approved PP 25500300764
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