Australian Banking Association

03 March 2020

Mr Bruce Cooper
General Manager, Consumer Data Right Branch
Australian Competition & Consumer Commission
Level 2 | 23 Marcus Clarke Street Canberra 2601

by email: ACCC-CDR@accc.gov.au

Dear Bruce

Proposed timetable for participation of non-major ADIs in the CDR

The Australian Banking Association (**ABA**) makes this submission in respect to the consultation on the proposed timetable for participation of non-major ADIs in the CDR. Several ABA non-major bank members have made individual submissions which relate to that individual bank's readiness for Open Banking, this submission covers the ACCC's proposed go-live timetable.

Key points and recommendations

In discussions between the ACCC, ABA and non-major banks on 13 February 2020, the ABA and members unanimously expressed their concern for the 1 February 2021 launch for phase 1 products. Members reconfirmed the importance for maintaining a 12-month implementation timeline from the major banks' launch date.

During the discussion, the ACCC noted another option, to launch all three phases on 1 July 2021 (a 'big bang' approach). This would have the effect of retaining the February 2021 date for the early entry swim lane.

The ABA is of the view that neither a February 2021 launch for phase 1 products nor the alternate option for a concurrent launch of phase 1, 2, and 3 products on 1 July 2021 is achievable.

The ABA does not believe that February 2021 is a viable launch date for the non-major ADIs, in addition for the need for finalised rules and standards, alongside a robust testing environment, the ABA has several other concerns.

First, there has been no plan issued from the ACCC which would indicate that a concurrent on-boarding of so many ADIs is achievable by the ACCC in February 2021. The ABA notes that there are in excess of 150 deposit-taking institutions currently authorized by APRA, and a significant portion will be deemed data holders under Open Banking.

Second, the major banks will launch phase 2 in November 2020, leaving less than three months of 'clean air' for the non-major ADIs to on-board. The finance sector Christmas system-change freeze and lock-down reduces available testing time further. This timeframe also assumes a smooth implementation and no post go-live critical fixes of phases 1 and 2 functionality for the major banks, which is overly optimistic for such a complex, industry wide technology rollout.

Therefore, this submission focusses on providing options for de-risking a 'big bang' launch option. In summary, the ABA recommends:

1) Staging the launch dates of phase 1, 2 and 3 sequentially at six month intervals commencing 1 July 2021 for phase 1, and February 2022 for phase 2. Phase 3 should commence no earlier

July 2022 provided there is stability in the live environment for phase 1 and 2 and inputs (e.g.: rules, standards etc) for phase 3 products are stabilised (i.e. locked down). This requires the ACCC to:

   a. Implement a structured non-major ADI workstream with appropriately skilled project lead by 31 March 2020.
   b. Release the detailed test plan for non-major ADIs by 1 July 2020 for testing to commence no later than 1 February 2021 (subject to point four below).
   c. Provide a detailed 'Plan B' with timing impacts for the situation where the test conformance suite does not meet expectation by 1 July 2020.

2) Phase 1 and 2 non-primary brands of non-major ADIs would sequence after the phase 2 launch. Non-major ADIs should be able to apply for up to six months extension for non-primary brands.
3) The finalisation of the ACCC's exemption rules and processes so that ADIs with limited resources can pursue exemption requests formally and receive determinations by 1 June 2020 as a matter of priority.
4) Detailed analysis of white label arrangements be undertaken before determining a launch date for products under these arrangements to be undertaken by 31 March 2020.
5) Retention of a voluntary swim lane to support the plans of those non-major ADIs which may be able to enter the regime early.

Further detail is provided in the annexure. I look forward to supporting the work of the ACCC in implementing a safe, secure and efficient Open Banking platform.

About the ABA

The ABA advocates for a strong, competitive and innovative banking industry that delivers excellent and equitable outcomes for customers.

We promote and encourage policies that improve banking services for all Australians, through advocacy, research, policy expertise and thought leadership.

Kind regards

Emma Penzo
Policy Director
Emma.Penzo@ausbanking.org.au

Annexure: Proposed timetable for participation of non-major ADIs in the CDR

The ABA believes that the ACCC has made an error in its assumption regarding the relative operational and product simplicity of non-major ADIs as compared to major banks. Additionally, there are several factors which make a 'big bang' July 2021 launch a high-risk approach. The ABA makes recommendations for de-risking the non-major ADI launch commencing in July 2021.

1. Non-major ADIs have complexity in their operations

The breadth and depth of product offerings of most of the non-major ADIs is relatively as complex as those of the major banks. Non-major ADIs share the same challenges with legacy core banking platforms, and in some cases have multiple brands within the group which operate independently. Non-major ADIs do not have the same level of resourcing available to them and often are required to divert those resources to attend to regulatory projects at the expense of competition.

The complexity, diversity, and resourcing limits of the non-major ADIs means that the ACCC assumption that the non-majors can be nimbler because of smaller operations, less complex products, and no legacy systems does not hold.

Further, the Open Banking build is extremely complex, much more so than other industry builds such as the New Payments Platform (NPP), which took several years to complete. On this basis, the non-major ADIs will require as much time as the major banks, assuming a stable development environment.

2. Factors which make a 'big bang' launch in July 2021 unachievable

There are several factors which lead to the ABA view that the ACCC proposal for a concurrent launch of phase 1, 2, and 3 products on 1 July 2021 is not achievable.

Lack of dedicated ACCC support for non-major ADIs

The most significant factor is the lack of dedicated resource from the ACCC to support the on-boarding of the non-major ADIs. The initial ADIs have had highly consultative processes[1] which have ironed out many issues such as interpretation of rules and standards, the operation of the register and lessons from the testing process. These learnings have not been transferred to the non-major ADIs. This second group of ADIs are reliant on self-reading the rules and the standards. Where they do seek clarification from GitHub it is mostly on technical standards matters.

The ACCC dedicated email account (ACCC-CDR@accc.gov.au), does not support active proliferation of knowledge on a cross-industry basis. The ACCC correspondence is bilateral and the system lacks interactivity which means that an ADI's ability to seek clarity or nuance is limited. Other ADIs cannot benefit from the interaction or add their nuance to the scenario or question being asked. Further, there is no ACCC service level agreement (SLA) for response times. Some questions raised to the email account are time critical for the ADI's build. A delayed response or a response that is ambiguous or one that does not consider the nuance leads to project delays, significant assumptions being made in coding, and/or rework. Non-major ADIs do not have the budgets to accommodate such inefficiencies in

[1] such as Data Standards Body Advisory Committee membership, Test Working Group membership, and Implementation Advisory Committee membership

the development effort. The ABA has raised these matters consistently with the ACCC over many months.

The ABA recommends that a structured workstream with an appropriately skilled and experienced project lead for non-major ADIs is required by 31 March 2020.

Lock-down inputs

The rules, standards, customer experience (CX) guidelines, and reporting requirements are not yet locked down for the non-major ADIs. There are solution components which are difficult to finalise without the stability of a lock down version, and some components may require rework if these elements are continued to be refined and clarified. Additionally, a final solution may require additional technology build which has yet to be scoped within the planned technology release schedules of non-major ADIs over the next 12 months.

To date, the ACCC has not confirmed whether the ADIs will be permitted to build to a locked down version of the rules, standards, CX guidelines and reporting requirements.

The ABA recommends the ACCC should make this confirmation by 31 March 2020 and that the versions of the rules, standards, CX guidelines, reporting requirements which are current as at July 2020 be specified as the locked-down versions.

Confirm testing arrangements

There is a lead time involved from when industry testing processes are confirmed to when industry testing is to commence. Time is needed to prepare, and testing is a significant and critical component of the delivery. It is difficult to prepare and plan for a testing phase that is unspecified for when rules and standards that have not been locked down.

The ABA recommends that the ACCC should release the detailed test plan for non-major ADIs by 1 July 2020 for testing to commence no later than 1 February 2021 (subject to the next point).

Plan B for test conformance suite

The readiness and fit-for-purpose of the test conformance suite is yet to be proved. The ACCC has indicated the test conformance suite will be able to absorb 90 per cent of the testing (effort or cases) for non-major ADIs and that compared to the major-banks' testing process, it will be more efficient. On this basis, the ACCC believes that the testing timeframes will be reduced for non-major ADIs. ABA members who have used test conformance suites in industry developments have expressed significant concern with this assumption.

The ABA recommends that the ACCC needs to provide a detailed 'Plan B' with timing impacts for the situation where the test conformance suite does not meet expectation by 1 July 2020.

3. The ABA recommends a staged approach for the non-major ADI launch

The ABA recommends a staged approach to the non-major ADI timetable as it allows work packages to be better sequenced, and a more efficient management of complexity and constrained capacity.

Phase 1 and 2 time frames

The ABA recommends a staged approach to separate phase 1 and phase 2 delivery. This would involve phase 1 launching on 1 July 2021. Subject to the success of the phase 1 launch, phase 2 would then be launched within six months (1 February 2022). Non-major ADIs which can launch phase 2 before 1 February 2022 should be able to do so.

Australian Banking Association

Phase 1 and 2 non-primary brands[2] of non-major ADIs would sequence after the phase 2 launch. Non-major ADIs also should be able to apply for up to six months extension for non-primary brands.

Phase 3 products

The ABA has previously raised concerns that it is not feasible to launch phase 3 products in 1 July 2021, because:

- This phase includes a more a diverse suite of extremely complex banking products (e.g. margin lending, equipment finance, foreign exchange), which are typically sourced from disparate systems alongside core banking. This phase adds material complexity to the build effort due to the integration of customer, account and transactional data from a range of additional systems.
- The complexity of the account ownership and usage rules of these products makes them exponentially more complex than basic retail customer accounts.

The ABA recommends that phase 3 products be scheduled for launch no earlier than six months after phase 2 is launched provided both phases 1 and 2 are bedded down and the requirements for phase 3 products have been stabilised.

Additionally, the ABA requests the finalisation of the ACCC's exemption rules and processes so that ADIs with limited resources can pursue this course and receive determinations by 1 June 2020 as a matter of priority.

Business accounts

There is misalignment with the understanding of which business accounts are in-scope for phases 1, 2 and 3. The varying guidance from the ACCC on business accounts have created uncertainty in the industry. Members are unable to ascertain the scope of delivery and significant assumptions are being made to anticipate the accounts required for each phase of delivery. This creates significant programme risk.

The rules, standards and CX materials have primarily focused on accounts held in the name of individual consumers, and have not considered, nor defined the requirements for business accounts. Furthermore, data relating to business accounts is typically more complex and the systems used to manage business consumers are typically segregated from those used for individual consumers, including digital channels.

The ABA requests the ACCC provides guidance to all participants in respect to the inclusion of business accounts on phases 1, 2 and 3 by 31 March 2020.

White label arrangements are complex and require time to develop rules

There are two significant issues with white labelled businesses which to date have not been addressed.

First, there is variance in white label arrangements both within ADIs and between ADIs. Detailed analysis is required to determine if 'standard' models can be extrapolated from the arrangements from which to determine open banking rules for white label arrangements.

Second, in most instances the customer understands that their business is with the branded entity (and not the white labelling ADI). Open Banking makes the white labelling ADI responsible for dealing with customers who do not see the ADI as being their 'bank'. Further, the branding entity and the white labelling ADI will have contractual obligations in respect to servicing the customer. Open Banking has the potential to cause significant disruption to the operations of the white label sector and it requires a close examination.

[2] 'Non-primary brand' is a brand which is owned by an ADI, which operates under the ADIs banking licence. The non-primary brand is marketed distinctly from the main brand. This arrangement is different to white label arrangements which are contractual arrangements with third party organisations where the brand is owned by the third party.

The major banks have a provision as part of the rules to only comply to the rules for their branded products. A similar provision has not been extended to non-major ADIs. This disparity places the non-major ADIs at a disadvantage as it creates additional requirement on the non-major ADIs to ensure the solution implemented is able to be scalable across both their branded and white-label products which will be extremely complex to deploy across rules, standards, CX and reporting.

The ABA recommends a detailed joint scoping exercise be undertaken by the ACCC-DSB-ADIs to understand the user and brand experience of these customers in the context of the Open Banking rules. After this analysis has been undertaken, scoping and implementation planning can be made with confidence. This work should conclude by 31 March 2020.

Voluntary swim lane

Once the requirements for phase 1, phase 2, reporting, branded and white label business have been set, non-major ADIs may determine that there is capacity for an early entry on phase 1. Those with capacity to do so, should be facilitated for voluntary entry.

The ABA recommends ACCC retains the voluntary swim lane with the reciprocal arrangement for phase 1 products to support those non-major ADIs which may be able to enter the regime early.