



COVERSHEET

Minister	Hon Scott Simpson	Portfolio	Minister of Commerce and Consumer Affairs
Title of Cabinet paper	Designating banking under the Customer and Product Data Bill	Date to be published	1 May 2025

List of documents that have been proactively released

Date	Title	Author
April 2025	Cabinet paper: Designating banking under the Customer and Product Data Bill	Office of the Minister of Commerce and Consumer Affairs
2 April 2025	Cabinet minute ECO-25-MIN-0039: Designating banking under the Customer and Product Data Bill	Cabinet Office
20 March 2025	Regulatory Impact Statement and Stage 1 Cost Recovery Impact Statement: Designating the banking sector under the Customer and Product Data Bill	MBIE

Information redacted

YES (please select)

Any information redacted in this document is redacted in accordance with MBIE's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Some information has been withheld because it is commercial information.

Regulatory Impact Statement: Designating the banking sector under the Customer and Product Data Bill

Coversheet

Purpose of Document	
Decision sought:	Analysis produced for the purpose of informing Cabinet decisions on regulations under the Customer and Product Data Bill
Advising agencies:	Ministry of Business, Innovation and Employment
Proposing Ministers:	Commerce and Consumer Affairs
Date finalised:	20 March 2025
Problem Definition	
<p>There is an opportunity to improve New Zealanders' ability to digitally share their banking data with other businesses, such as financial technology providers (fintechs) to enable new and innovative low-cost services, such as payments and accounting software. The five largest banks in New Zealand have begun implementing a voluntary standardised system for sharing banking data (open banking) that has been designed collaboratively between banks and fintechs; but its effectiveness is being undermined by a market imbalance favouring the largest banks, commercial disincentives against banks investing in growing open banking, and inefficiencies in the mechanisms for banks partnering with fintechs. These three limitations mean the voluntary system is likely to develop more slowly, anti-competitively, and unreliably than is desirable.</p>	
Executive Summary	
<p>Parliament is currently considering the Customer and Product Data Bill (the Bill), which establishes a framework for Government to designate individual sectors to enable customers to share their data (a consumer data right). Cabinet has agreed that banks will be the first data holders to be designated under the Bill, followed by the retail electricity sector [LEG-24-MIN-0085].</p> <p>A regulatory approach under the Bill that complements the voluntary system that banks are developing could help ensure the longevity and efficiency of the nascent open banking system and increase fintechs' and customers' uptake. Regulation of open banking should also aim to increase banking competition, increase the value of data to customers, support fintech sector growth, and improve information security. Many other jurisdictions, such as Australia and the UK, have also made regulations to enable open banking.</p> <p>This RIS presents the following options for designating the banking sector by making regulations under the Bill:</p> <ul style="list-style-type: none"> • Option One (counterfactual): No regulations. Open banking develops according to the voluntary system committed to by the five largest banks. • Option Two: Regulations that mirror the settings agreed in the voluntary system in order to ensure its longevity and efficiency. • Option Three: Regulations that generally mirror the settings agreed in the voluntary system in order to ensure its longevity and efficiency, with a few minor adjustments to encourage increased competition between banks and higher uptake from fintechs. 	

- **Option Four:** Regulations that go substantially further than the voluntary system by mandating participation from all banks and non-bank deposit takers operating in New Zealand (as opposed to just the five largest banks) and prohibit banks from charging fees to fintechs for accessing customer data, to significantly increase the range and reach of open banking.

Option Three is proposed in the Minister for Commerce and Consumer Affairs' forthcoming Cabinet paper. We think that Option Three is most likely to enable wide uptake from fintechs and customers, provide for efficient investments from banks and not impose high compliance costs. We expect that Options One and Two would result in lower uptake, while Option Four would impose substantial costs on banks, particularly smaller banks, and could inhibit banking competition.

A Stage One Cost Recovery Impact Statement (**CRIS**) is included in Section 4. Implementation of the proposed regulations would be fiscally neutral. The costs incurred (accrediting fintechs to access data, enforcing compliance, and maintaining a register of participants) would be fully recovered through application fees imposed on fintechs, and levies imposed on both banks and fintechs. These are enabled by the Bill. The quantum of these costs and the distribution of cost recovery between banks and fintechs will be assessed in a forthcoming Stage Two CRIS, which will be informed by further consultation with banks and fintechs.

The benefits of the proposed regulations (primarily experienced by customers and fintechs) will be high. The initial costs (primarily experienced by banks) will be low, as the settings are not substantially different from those which they have already voluntarily committed to implementing; however, the banks will incur additional costs as a result of caps on the fees that they can charge for responding to requests. We have a moderate degree of confidence in our estimation of these costs and benefits. Our estimates are qualitatively supported by banks, fintechs, and evidence from overseas, but minimal quantitative evidence is available.

MBIE consulted on the matters discussed in this RIS in a 2024 discussion paper.¹ Banks, fintechs, regulators and other stakeholders all supported the general intention to introduce regulations designating the banking sector. Most submitters supported the settings outlined in Option Three. A small number of fintechs and other stakeholders preferred components under Option Four, such as designating second-tier banks and non-bank deposit takers and prohibiting banks from charging fees to fintechs. Some banks expressed a preference for components of Option Two, such as not restricting the fees that banks can charge fintechs for accessing data.

Limitations and Constraints on Analysis

In 2021 MBIE developed a RIS to assess options for establishing a general consumer data right,² and in 2022 MBIE developed a combined RIS and Stage One CRIS on technical details which informed the Bill's policy design.³ Therefore, this RIS and the attached Stage One CRIS does not address questions relating to the overarching legislative framework for enabling a consumer data right, or the need for cost recovery.

¹ MBIE (2024) *Exploring a consumer data right for the banking sector*, <https://www.mbie.govt.nz/have-your-say/exploring-a-consumer-data-right-for-the-banking-sector>. Submissions will be published soon at <https://www.mbie.govt.nz/document-library>.

² MBIE (2021), *Regulatory Impact Statement: Establishing a Consumer Data Right*, www.mbie.govt.nz/dmsdocument/15545-regulatory-impact-statement-establishing-a-consumer-data-right-proactiverelase-pdf

³ MBIE (2022), *Regulatory Impact Statement: Further decisions on establishing a consumer data right*, www.mbie.govt.nz/dmsdocument/25845-supplementary-regulatory-impact-statement-further-decisions-on-establishing-a-consumer-data-right-proactiverelase-pdf.

We have a high level of confidence in the qualitative evidence base for the opportunity and problem definition. We have a moderate level of confidence in the likely outcomes of the proposed options, such as predicted uptake and future development of the fintech sector. MBIE and other regulators have undertaken extensive public consultation on open banking^{4,5,6}, and directly engaged with banks, fintechs, regulators and other stakeholders. MBIE has also incorporated research into the state of open banking in New Zealand, Australia and the United Kingdom (UK). The problem definition has also been informed by the Commerce Commission's market study into personal banking services.⁷

Quantitative evidence to inform the RIS has been limited. The Organisation for Economic Co-Operation and Development (OECD) and academics have commented on the limited quantitative evidence available globally on the value of banking data flows,⁸ the impacts of various approaches for achieving open banking,⁹ and the extent to which open banking facilitates banking competition.¹⁰

Responsible Manager

Glen Hildreth

Manager

Consumer Policy

Ministry of Business, Innovation, and Employment



25 March 2025

Quality Assurance (completed by QA panel)

Reviewing Agency:	Ministry of Business, Innovation and Employment
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- ⁴ MBIE (5 August 2020), *Options for establishing a consumer data right in New Zealand*, <https://www.mbie.govt.nz/have-your-say/options-for-establishing-a-consumer-data-right-in-new-zealand>. Submissions were published at <https://www.mbie.govt.nz/document-library> on 26 February 2021. To find relevant submissions, apply a filter for "consumerdatarightsubmissions."
- ⁵ New Zealand Parliament (25 July 2024) *Have your say on the Customer and Product Data Bill*, <https://www.parliament.nz/en/pb/sc/committees-press-releases/have-your-say-on-the-customer-and-product-data-bill/>. Submissions are published at <https://www.parliament.nz/en/pb/sc/submissions-and-advice/>. To find relevant submissions, apply a filter for the keywords 'Customer and Product Data Bill' and the Select Committee 'Economic Development, Science, and Innovation'.
- ⁶ MBIE (2024) *Exploring a consumer data right for the banking sector*, <https://www.mbie.govt.nz/have-your-say/exploring-a-consumer-data-right-for-the-banking-sector>. Submissions were published at <https://www.mbie.govt.nz/document-library> on 20 February 2025. To find relevant submissions, apply a filter for "exploringconsumerdatarightbankingsector".
- ⁷ Commerce Commission (2024) *Market study into personal banking services*, <https://comcom.govt.nz/about-us/our-role/competition-studies/market-study-into-personal-banking-services>
- ⁸ OECD (2022) *Going digital to advance data governance for growth and wellbeing*, https://www.oecd.org/en/publications/going-digital-to-advance-data-governance-for-growth-and-well-being_e3d783b0-en.html
- ⁹ OECD, Working Party on Data Governance and Privacy in the Digital Economy (2021). *Data Portability: Analytical Report, Mapping data portability initiatives and their opportunities and challenges*. DSTI/CDEP/DGP(2021)1. https://www.oecd.org/en/publications/mapping-data-portability-initiatives-opportunities-and-challenges_a6edfab2-en.html
- ¹⁰ Daly, A., Esayas, S.Y., 2018. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3236020. European Competition and Regulatory Law Review 3, 1-15.

Panel Assessment &
Comment:

The panel considers that the RIS and Stage 1 CRIS meet the Quality Assurance criteria.

Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the status quo expected to develop?

New Zealand's five largest banks hold large volumes of New Zealanders' banking data, and some have significant market power

1. Banks are custodians of large volumes of customers' banking data,¹¹ and enable their customers to pay each other through digital systems.
2. New Zealand has a highly concentrated banking sector, with the five largest banks (ANZ, ASB, BNZ, Westpac and Kiwibank) together holding around 90-95% of assets of all registered banks in New Zealand consistently since 2007.¹² A further 22 second-tier banks (such as TSB and SBS, as well as overseas bank branches that mostly do wholesale transactions) hold the remainder of banks' assets.¹³ The 15 non-bank deposit takers (such as credit unions) operating in New Zealand provide financial services to a small proportion of New Zealanders.¹⁴

A nascent fintech industry is providing services to New Zealanders and banks by accessing customers' banking data

3. Increasingly, disruptive competition to the banking sector is being delivered by fintechs.¹⁵ New Zealand's fintech sector uses digital technology to provide financial services to its customers, which include businesses and individuals. Some fintechs provide these services by accessing customers' banking data. These fintechs take one of two approaches.
 - **Impersonated access techniques** require the customer to provide the fintech their online banking username and password so that the fintech can log into the customers' bank account.
 - **Data-sharing arrangements** require fintechs to seek each banks' agreement to share data digitally through application programming interfaces (**APIs**)¹⁶ or bilateral data exchange, usually for a fee.
4. As it can be expensive for fintechs to develop the software required to access different banks' data through either method, some fintechs access customers' banking data via intermediary software companies that use impersonated access techniques.
5. Services that are enabled by fintechs accessing customers' banking data include:

¹¹ For a detailed analysis of the types of data held by banks, and the context and consequences of this, see OECD (2020). *Financial Consumer Protection Policy Approaches in the Digital Age*. https://www.oecd.org/en/publications/financial-consumer-protection-policy-approaches-in-the-digital-age_3f205e60-en.html

¹² Commerce Commission (2024) *Personal banking services: Final competition report*, [Final-report-Personal-banking-services-market-study-20-August-2024-Amended-27-August-2024.pdf](#)

¹³ A full list of banks registered in New Zealand is available at Reserve Bank of New Zealand (updated 22 November 2024) *Registered banks in New Zealand*, <https://www.rbnz.govt.nz/regulation-and-supervision/cross-sector-oversight/registers-of-entities-we-regulate/registered-banks-in-new-zealand>

¹⁴ Commerce Commission (2024) *Personal banking services: Final competition report*, [Final-report-Personal-banking-services-market-study-20-August-2024-Amended-27-August-2024.pdf](#)

¹⁵ Commerce Commission (2024) *Personal banking services: Final competition report*, [Final-report-Personal-banking-services-market-study-20-August-2024-Amended-27-August-2024.pdf](#) page 39

¹⁶ An API is a set of rules or protocols that enables one software application (such as the software holding customers' banking data) to digitally exchange data in a machine-readable format to another software application (such as the mobile application provided by a fintech).

- **Payments:** Fintechs provide software that enables customers to make financial transactions more conveniently than through banks' own systems. Four payment fintechs (Worldline [which owns Online EFTPOS], BlinkPay, Qippay and Volley) operate through data-sharing arrangements with New Zealand banks. Other payment fintechs such as POLi and Windcave's Account2Account operate via impersonated access techniques.
- **Budgeting and accounting:** Fintechs help businesses and individuals manage their finances by connecting directly to their bank accounts. Xero does this through data-sharing arrangements.
- **Income and expenses verification:** Fintechs obtain bank transactions and categorise them, which can, for example, inform loan applications. Some (such as Illion) use impersonated access techniques, and others operate under arrangements with banks.

Banks and consumer organisations have expressed concern about impersonated access

6. Impersonated access techniques are less secure than data-sharing arrangements, as they rely on customers providing their online banking passwords to a fintech that has not been independently vetted.¹⁷ This creates a risk of misuse or unauthorised disclosure of the customer's banking credentials and also violates most banks' terms and conditions of service, potentially leaving the customer liable for any loss they suffer as a result.¹⁸
7. While fintechs using these techniques (such as POLi¹⁹ and Illion²⁰) have stated that their software has not caused any security incidents, Consumer NZ reports that New Zealanders have been subject to scams that mimicked POLi's payments portal to steal their money.²¹ An Australian review found that many customers of fintechs that use impersonated access techniques are unaware that they had given their login details to an organisation other than their bank.²² These techniques are also inefficient, as they require fintechs to stay up to date with changes made by banks to their websites or mobile applications.

With encouragement from Ministers, New Zealand's banks have been developing a voluntary system

8. Payments NZ was established by ANZ, ASB, BNZ, Citibank, HSBC, Kiwibank, TSB Bank and Westpac to develop New Zealand's payment systems. Following letters from

¹⁷ Australian Government: Treasury (2023) Discussion paper and subsequent submissions. *Screen-scraping – policy and regulatory implications*, <https://treasury.gov.au/consultation/c2023-436961>

¹⁸ Consumer NZ (2024) *POLi Payments: How it affects and breaches your banking security*, <https://www.consumer.org.nz/articles/poli-payments-how-it-affects-and-breaches-your-banking-security>

¹⁹ Consumer NZ (2024) *POLi Payments: How it affects and breaches your banking security*, <https://www.consumer.org.nz/articles/poli-payments-how-it-affects-and-breaches-your-banking-security>

²⁰ Illion's submission on MBIE's 2024 discussion paper *Exploring a consumer data right for the banking sector* will be published shortly at <https://www.mbie.govt.nz/document-library>

²¹ Consumer NZ (2024) *POLi Payments: How it affects and breaches your banking security*, <https://www.consumer.org.nz/articles/poli-payments-how-it-affects-and-breaches-your-banking-security>

²² Farrell, Scott. (2017) Report of the Review into Open Banking. <https://treasury.gov.au/sites/default/files/2019-03/Review-into-Open-Banking-For-web-1.pdf>.

previous Ministers of Commerce and Consumer Affairs in 2017²³ and 2019²⁴, Payments NZ established the API Centre. It aims to develop a standardised approach to data-sharing arrangements between banks and fintechs to increase efficiency, reduce costs and further enable uptake of open banking services.

9. The API Centre's Minimum Open Banking Implementation Plan came into force for ANZ, ASB, BNZ and Westpac between May and November 2024. Kiwibank has committed to implementing the Implementation Plan in 2026.²⁵ The Plan imposes the following requirements on the five banks:
 - Provision of account information for transaction accounts, credit cards, savings accounts and lending accounts
 - Provision of payments from transaction accounts
 - Implementation of specific API versions from specific dates (from 30 May 2024 to 30 November 2026)
 - Preparation of template agreements that fintechs can further negotiate to receive data and make payments
 - Target performance guidelines for APIs and system monitoring.
10. With the Commerce Commission's authorisation,²⁶ the API Centre is developing a scheme and criteria for an accreditation body, such as MBIE, to accredit fintechs to access the banks' APIs, and default standard terms and conditions on which banks would contract with fintechs that meet the accreditation criteria. The API Centre has also developed a register which provides information on open banking participants (the five major banks and any accredited fintechs) and enables secure sharing of API access keys.
11. ANZ and BNZ's submissions on MBIE's discussion paper noted that banks and fintechs have invested substantially into open banking technology.²⁷ Commercial information
12. We are not aware of any second-tier banks or non-bank deposit takers in New Zealand that have begun to develop open banking infrastructure.

A regulatory framework is being established for sharing data within designated sectors

13. The Bill is currently before Parliament and may pass through the House in the first quarter of 2025. It establishes an overarching framework for a consumer data right, by enabling Government to make regulations that designate specific sectors. Once a

²³ Hon Jacqui Dean (2017) *Letter to the CEO of Payments NZ "Retail payments in New Zealand"* <https://www.mbie.govt.nz/assets/c974492a99/annex-to-cabinet-paper-update-on-retail-payments.pdf>

²⁴ Hon Kris Faafoi, Open Letter to API Providers, December 2019 [Open letter to API Providers regarding industry progress on API-enabled data sharing and open banking \(mbie.govt.nz\)](https://www.mbie.govt.nz/assets/c974492a99/annex-to-cabinet-paper-update-on-retail-payments.pdf)

²⁵ API Centre (2024) *Minimum Open Banking Implementation Plan* <https://www.apicentre.paymentsnz.co.nz/standards/implementation/minimum-open-banking-implementation-plan/>

²⁶ Commerce Commission (20 August 2024) *Determination: Payments NZ Limited [2024] NZCC 18* https://comcom.govt.nz/data/assets/pdf_file/0021/362091/Payments-NZ-Limited-Final-Determination-20-August-2024.pdf

²⁷ MBIE (2024) *Exploring a consumer data right for the banking sector*, <https://www.mbie.govt.nz/have-your-say/exploring-a-consumer-data-right-for-the-banking-sector>. Submissions were published at <https://www.mbie.govt.nz/document-library> on 20 February 2025. To find relevant submissions, apply a filter for "exploringconsumerdatarightbankingsector".

sector is designated, businesses in that sector that hold designated data (eg banks) would be required to provide that data in a standardised, machine-readable format, to authorised recipients (eg fintechs), with the customers' authorisation.

14. Cabinet has agreed that the banking sector will be the first to be designated following the passage of the Bill, followed by the retail electricity sector.^{28,29} Other sectors that could potentially be designated include telecommunications, insurance, investment or agricultural services.
15. MBIE developed a RIS in 2021 to inform the overarching design of the Bill³⁰ and a second RIS and Stage One CRIS in 2022 to inform some of the technical details and assess cost recovery options.³¹

Open banking would complement the privacy, digital identity, retail payment, and competition systems

16. **The Privacy Act 2020** contains protections for the collection, storage, and handling of personal information. The Privacy Act only protects data relating to identifiable individuals, not organisations. MBIE explored the limitations of the Privacy Act for enabling a consumer data right in its 2021 RIS.³² The Office of the Privacy Commissioner (OPC) wrote in its 2023 Briefing to the Incoming Minister of Commerce and Consumer Affairs that falling behind global regulatory approaches to privacy could impact New Zealand's technology sector and place in the global data economy.³³
17. **The Digital Identity Services Trust Framework Act 2023** establishes a legal framework to make it easier and safer for New Zealanders to digitally verify their identity and share identifying information, such as their name, birth date, bank account number, and authority to act on behalf of others.³⁴ During consultation on the framework, stakeholders expressed a desire to see the framework support a consumer data right to maximise certainty and reduce compliance costs for business.
18. **The Retail Payment Systems Act 2022** aims to promote competition and enhance the efficiency of the retail payment system. Where a network within the retail payment system has been designated for regulation, the Act grants the Commerce Commission powers to set standards, monitor compliance, and intervene to address market failures or systemic risks. The development of open banking for payments initiation will complement the aims of this Act.

²⁸ LEG-24-MIN-0085 refers

²⁹ Hon Andrew Bayly (24 July 2024) 'Open banking' and 'open electricity' on the way [Press release], <https://www.beehive.govt.nz/release/%E2%80%98open-banking%E2%80%99-and-%E2%80%98open-electricity%E2%80%99-way>

³⁰ MBIE (2021), *Regulatory Impact Statement: Establishing a Consumer Data Right*, www.mbie.govt.nz/dmsdocument/15545-regulatory-impact-statement-establishing-a-consumer-data-right-proactiverelase-pdf

³¹ MBIE (2022), *Regulatory Impact Statement: Further decisions on establishing a consumer data right*, www.mbie.govt.nz/dmsdocument/25845-supplementary-regulatory-impact-statement-further-decisions-on-establishing-a-consumer-data-right-proactiverelase-pdf.

³² MBIE (2021), *Regulatory Impact Statement: Establishing a consumer data right* www.mbie.govt.nz/dmsdocument/15545-regulatory-impact-statement-establishing-a-consumer-data-right-proactiverelase-pdf

³³ Office of the Privacy Commissioner (2023) *Briefing to the Incoming Minister of Justice*, <https://www.privacy.org.nz/assets/New-order/Resources/Publications/Reports-to-Parliament-and-Government-BIMs/BIM.pdf>

³⁴ Te Tari Taiwhenua | Department of Internal Affairs (accessed 5 February 2025) *Trust framework for digital identity: Share your information in a digital format* [webpage] <https://www.dia.govt.nz/Trust-Framework-for-Digital-Identity-Share-your-information>

19. **The Finance and Expenditure Select Committee** is conducting an inquiry into banking competition.³⁵ Many submitters to the inquiry have recommended regulating for open banking as an approach to increasing banking competition, including the Commerce Commission, whose banking market study recommended that industry and government commit to ensuring open banking is fully operational by June 2026.³⁶

What is the policy problem or opportunity?

The voluntary bank-led system is undermined by market imbalances, commercial disincentives, and coordination challenges

20. We have identified three root causes undermining the effectiveness of the voluntary approach to open banking, outlined below.
- **Market imbalance favouring the largest banks:** As the incumbent holders of customers' banking data, incumbent participants in existing payments networks, and owners of Payments NZ,³⁷ the five largest banks have had a far greater influence over the development of the voluntary system than fintechs, customers, or smaller banks.
 - **Commercial disincentives on banks:** Fintechs have suggested that banks consider they have a proprietary right to customers' data, and that banks gain a competitive advantage from their exclusive use of it.³⁸ For example, some banks gain a revenue stream from directly transferring data to fintechs³⁹ or can use the data they hold to gain insights about customer preferences. Banks, in turn, have expressed concerns about the financial and reputational impacts of third parties disclosing customer data, or it being compromised.
 - **Coordination failure and risk-aversion:** Banks and fintechs have noted that bilateral negotiation and vetting between each bank and fintech is inefficient. BNZ told us that the API Centre has faced difficulties setting pricing limits without breaching competition laws, and there are issues determining whether an accreditation body or bank would face liability if they accredited or provided data to bad actors.⁴⁰

³⁵ New Zealand Parliament (2024) *Inquiry into banking competition*, www.parliament.nz/en/pb/sc/make-a-submission/document/54SCFIN_SCF_FC430602-F4C3-4B04-957D-08DCB036CF74/inquiry-into-banking-competition

³⁶ Commerce Commission (2024) *Market study into personal banking services*, <https://comcom.govt.nz/about-us/our-role/competition-studies/market-study-into-personal-banking-services>

³⁷ MBIE (2021) *Regulating to reduce merchant service fees*, <https://www.mbie.govt.nz/have-your-say/regulating-to-reduce-merchant-service-fees>

³⁸ This view was expressed by [redacted] Usable Balance, and SISS in submissions on MBIE's 2024 discussion paper *Exploring a consumer data right for the banking sector*, <https://www.mbie.govt.nz/have-your-say/exploring-a-consumer-data-right-for-the-banking-sector>. Submissions can be found at <https://www.mbie.govt.nz/document-library> using the filter "exploringconsumerdatarightbankingsector".

³⁹ Commercial information [redacted]

⁴⁰ Page 6 of BNZ's submission on submissions on MBIE's 2024 discussion paper *Exploring a consumer data right for the banking sector*, <https://www.mbie.govt.nz/have-your-say/exploring-a-consumer-data-right-for-the-banking-sector>. Submissions can be found at <https://www.mbie.govt.nz/document-library> using the filter "exploringconsumerdatarightbankingsector".

These limitations mean the voluntary system is likely to develop more slowly, anti-competitively, inconsistently, and unreliably than is desirable

21. These limitations have resulted in four problems with the voluntary system.

- **Slow implementation.** Implementation of open banking in New Zealand has been slower than in other jurisdictions over the past five years, and initial momentum has stalled several times. Without regulatory incentives, further development may continue to lag behind comparable jurisdictions.⁴¹
- **Anti-competitive settings:** Fintechs have expressed concern about the conditions being placed on them by banks, such as security and insurance requirements that are perceived as onerous and expensive; high charges for accessing data and initiating payments; and pre-requisite membership of the API Centre.⁴²

Under the Implementation Plan banks can set their own fees and price models. Fintechs told us that to identify the fees that banks charge, fintechs need to first join the API Centre, indicate an interest in bilateral agreements, complete security and due diligence, and meet with banks to discuss prices.⁴³ Without an early understanding of fees and commercial viability, small businesses and startups have limited ability to raise capital.

Fintechs also told us that some banks are applying restrictions to open banking payments that are not applied to payments that are made in bank-owned channels (such as limits on the amount of money that can be transferred, or the types of accounts that money can be transferred to and from). Some fintechs expressed concern that banks may choose not to share data in particular cases to encourage people to get specific types of accounts where open banking is available, which may have higher customer fees.⁴⁴

- **Inconsistent adoption by banks:** The voluntary nature of the API initiatives means that banks can unilaterally refuse to share data with fintechs and are not obliged to provide reasons for their refusal. Neither fintechs nor the customers to whom the data relates can compel a bank to share data, and therefore fintechs are entirely dependent on a bank's willingness to do so.

We have heard that fintechs have already run into difficulties with only being able to negotiate commercially viable deals with some banks and not others. This undermines their products' viability of their products. A failure to agree on terms with any one bank could undermine the requestor's business, and therefore limit the

⁴¹ MBIE (2024) *Exploring a consumer data right for the banking sector*, <https://www.mbie.govt.nz/have-your-say/exploring-a-consumer-data-right-for-the-banking-sector> Submissions from fintechs Usable Balance, Worldline, [REDACTED], SISS, PocketSmith, and Xero; and by the industry associations Securities Industry Association and Retail NZ expressed this view. Submissions can be found at <https://www.mbie.govt.nz/document-library> using the filter "exploringconsumerdatarightbankingsector".

⁴² MBIE (2024) *Exploring a consumer data right for the banking sector*, <https://www.mbie.govt.nz/have-your-say/exploring-a-consumer-data-right-for-the-banking-sector> Submissions from Usable Balance, SISS, and [REDACTED] expressed this view. Submissions can be found at <https://www.mbie.govt.nz/document-library> using the filter "exploringconsumerdatarightbankingsector".

⁴³ MBIE (2024) *Exploring a consumer data right for the banking sector*, <https://www.mbie.govt.nz/have-your-say/exploring-a-consumer-data-right-for-the-banking-sector>. Submission from Usable Balance expressed this view. Submissions can be found at <https://www.mbie.govt.nz/document-library> using the filter "exploringconsumerdatarightbankingsector".

⁴⁴ MBIE (2024) *Exploring a consumer data right for the banking sector*, <https://www.mbie.govt.nz/have-your-say/exploring-a-consumer-data-right-for-the-banking-sector>. Submissions from Usable Balance, SISS, [REDACTED], Akahu, Retail NZ, SISS, and CA ANZ expressed this view. Submissions can be found at <https://www.mbie.govt.nz/document-library> using the filter "exploringconsumerdatarightbankingsector".

impact of open banking across the economy.⁴⁵ The ability to unilaterally refuse to share data means that incumbent banks can decide whether or not to share data based on safeguarding their own commercial interests rather than benefiting their customers, which limits competition.

- **Unreliable data:** One submitter expressed a concern that open banking APIs have been implemented as a 'box-ticking exercise', and that missing or duplicate transactions, inconsistent merchant names, and data feed outages happen more frequently over open banking APIs than in the banks' own mobile applications. This incurs costs to fintechs for increased customer support and reputational damage.⁴⁶

As a result, open banking will have narrower uptake in New Zealand than overseas, and New Zealand will miss out on the potential benefits

22. Without regulation, we expect there will be a continued risk of fintechs exiting New Zealand for offshore markets where the benefits are greater, regulatory settings seek to level the playing field and increase competition, and there is regulatory certainty of the requirements on banks and fintechs. As a result, New Zealand will continue to lack access to innovative products and services that rely on the exchange of banking data, and New Zealanders' ability to make full use of their data under open banking will continue to be limited. Additionally, we expect that high barriers to enter the voluntary system could mean the continuation of impersonated access techniques and the security risks that they incur.
23. International experiences in Australia, the UK, and other markets suggests that voluntary initiatives alone will not allow the New Zealand economy to maximise the effectiveness of how it uses customer data. The OECD notes that digital economy regulators have an essential role to define safe conditions for data collection, storage, analysis, use, and re-use.⁴⁷ Most submitters on MBIE's discussion paper (including banks and fintechs) supported the introduction of regulations.

What objectives are sought in relation to the policy problem?

Improved open banking could increase competition, economic growth, value to customers, and information security

24. The purpose of the interventions assessed in this RIS is to address barriers and disincentives to further the development, deployment and use of open banking-enabled services. This will deliver the following four objectives.
 - **Increased banking competition.** Most disruptive competition in the banking sector is driven by new entry from fintechs.⁴⁸ Open banking can support this competitive disruption by overcoming the advantages that incumbent banks have

⁴⁵ MBIE (2024) *Exploring a consumer data right for the banking sector*, <https://www.mbie.govt.nz/have-your-say/exploring-a-consumer-data-right-for-the-banking-sector> Submission from PocketSmith expressed this view. Submissions can be found at <https://www.mbie.govt.nz/document-library> using the filter "exploringconsumerdatarightbankingsector".

⁴⁶ MBIE (2024) *Exploring a consumer data right for the banking sector*, <https://www.mbie.govt.nz/have-your-say/exploring-a-consumer-data-right-for-the-banking-sector> Submission from PocketSmith expressed this view. Submissions can be found at <https://www.mbie.govt.nz/document-library> using the filter "exploringconsumerdatarightbankingsector".

⁴⁷ OECD (2021). Working Party on Measuring the Digital Economy, Working Group paper, Measuring trustworthiness of digital environments and new technologies.

⁴⁸ Commerce Commission (2024) *Personal banking services: Final competition report*, [Final-report-Personal-banking-services-market-study-20-August-2024-Amended-27-August-2024.pdf](https://www.commerce.govt.nz/~/media/Commerce/Personal-banking-services-market-study-20-August-2024-Amended-27-August-2024.pdf), paragraph 2.15

by holding customer data,⁴⁹ expanding the range of products and providers of banking services (including payments), and increasing competition by making it easier for customers to access comparisons informed by their own banking data.⁵⁰

- **Accelerated economic and export growth in the fintech sector.** The fintech sector has grown four times faster than the rest of the technology industry over the past decade and is now New Zealand's most lucrative technology sector, ahead of health and appliance technology. It recorded \$2.6 billion of revenue in 2023 (over half of which is attributed to Xero). Reducing costs and barriers to entry for open banking could accelerate this growth. Open banking could also support economic growth across the wider economy by providing services that increase productivity, particularly for frontier firms.⁵¹
 - **Customers have access to more affordable, convenient, innovative and personalised services.** The services include payments initiation, accounting and budgeting tools, and loan application tools.
 - **Customers have confidence their banking information and payments are secure.** A standardised approach to open banking could make data sharing more secure, with safeguards in place to protect customers from some of the risks of impersonated access techniques.
25. These four objectives align with the Bill's three objectives, with the addition of an additional objective of accelerating economic and export growth. They are broadly similar to the objectives outlined in MBIE's 2024 discussion paper, which were supported by most submitters. While these objectives are mutually reinforcing under an open banking system, some of the technical details of an open banking system require elements of the objectives to be traded off against each other. These trade-offs are explored in Section 2 below.

⁴⁹ Commerce Commission (2024) *Personal banking services: Final competition report*, [Final-report-Personal-banking-services-market-study-20-August-2024-Amended-27-August-2024.pdf](#), Chapter 9

⁵⁰ Australian Government (2011) *Banking Services Switching Arrangements*, https://treasury.gov.au/sites/default/files/2019-03/switchingarrangements_aug2011.pdf

⁵¹ New Zealand Productivity Commission (1 April 2021). *New Zealand firms: reaching for the frontier; final report*, available at <https://www.treasury.govt.nz/publications/new-zealand-firms-reaching-frontier-productivity-commission-inquiry-material-2019-2021>

Section 2: Deciding upon an option to address the policy problem

What criteria will be used to compare options to the status quo?

26. Below are four criteria for assessing the options.

- **Provides for efficient investment and does not pose a barrier to entry in banking:** Stringent requirements on banks for participating in the open banking system could mean that smaller banks are effectively 'locked out'. As a result, customers could leave smaller banks in favour of the incumbent banks in order to access open banking services. This criterion seeks to provide for efficient investment by banks so that they can implement open banking in an effective and timely way, and so that the regulations do not inhibit entry or competition in banking.

This criterion could be achieved by building on existing industry developments and momentum, ensuring banks have clarity about their obligations, ensuring banks are not required to make inefficient investments, and avoiding duplicative regulation and overlapping bank workstreams. It was supported in submissions by both banks and fintechs.

- **Provides for wide uptake by fintechs and valuable services to customers:** This criterion seeks to enable high uptake by existing fintechs (including the voluntary migration of fintechs that currently use impersonated access techniques onto a more secure, standardised system) and encourage entry of new fintechs.

This criterion could be achieved by ensuring the regulations enable a system that is more cost effective and efficient for fintechs than existing impersonated access techniques, ensuring the compliance costs are not prohibitive, ensuring settings enable fintechs to provide valuable services (such as moving a home loan to another bank, or making payments without incurring surcharges), and that the system is not overly complex or expensive for customers to participate in. It was emphasised in submissions from the Privacy Foundation, ANZ, BNZ, [REDACTED] and Retail NZ.

- **Provides customer trust in information security:** This criterion seeks to ensure that customers can trust system participants' ability to handle their data securely and ethically, and that recourse exists where data is misused in a way that causes customers to suffer loss. This will instil confidence and therefore customer uptake.

This criterion can be achieved by ensuring there are sufficient information security protections in place. It was emphasised in submissions by the Securities Industry Association, Illion, the Privacy Foundation, BNZ, and Retail NZ.

- **Provides longevity and flexibility to adapt system settings in the future:** This criterion seeks to ensure that the system is sustainable in the future and can adapt effectively to changes in the banking and fintech sector, consumer trends, and future innovation.

This criterion could be achieved by ensuring that banks are required to uphold their voluntary commitments (at a minimum) to ensure longevity of the system, and that policy requirements are implemented at the lowest level of legislative instrument (for example, through standards rather than through regulations), where it makes sense to do so, so that they can be amended easily.

27. The criteria are equally weighted. They are similar to the criteria used in the 2021 RIS that informed the Bill's development, and to those in MBIE's 2024 banking discussion paper, which were supported by most submitters. They also align with the matters that the Bill requires the Minister of Commerce and Consumer Affairs to have regard to when recommending designation regulations.

What scope will options be considered within?

The scope of options has been informed by experience overseas, particularly the UK and Australia

28. With the increase in volume of banking data and the development of financial software, since 2015 many overseas jurisdictions such as Australia, the UK, the EU, Brazil, India,⁵² Japan, Singapore,^{53,54} and South Korea have enacted regulatory interventions or other government-led initiatives to promote and accelerate open banking. New Zealand can learn from their experience. These lessons have been incorporated into the design of the options in this RIS for designating the banking sector, with a particular focus on borrowing the most successful elements of the Australian and UK schemes.
29. **The UK's** regime has mandated only the nine largest banks to participate in the scheme, but enabled other banks to opt in. It includes both payment initiation and account information. It has been moderately successful, with over 11 million active users and 22 million open banking payments made each month by January 2025.⁵⁵ A Mastercard survey found that 70% of UK customers and 75% of UK businesses are using services enabled by open banking.⁵⁶ The regime has been adjusted several times since its launch in 2017.⁵⁷ For example in the last year the UK has expanded open banking to include variable recurring payments⁵⁸ and has begun transitioning towards a new open banking governance system.⁵⁹
30. **Australia's** banking regulations were launched in 2020, under its equivalent to the Bill, with subsequent designations including retail electricity and non-bank lenders.⁶⁰ Compared to the UK's scheme, Australia has opted to go broader in some areas (applying to all banks rather than just the largest, and including product data) but shallower in others (not including payment initiation).

Australia's regime has faced challenges with low adoption, due to onerous regulatory requirements and limited functionality. Specifically, the banking designation has been

⁵² Alonso, C, Bhojwani, T., Hanedar, E., Prijardini, D., Una, G., & Zhabska, K. (2023) *Stacking up the benefits: Lessons from India's digital journey* (Working paper No. 78). IMF. <https://www.imf.org/en/Publications/WP/Issues/2023/03/31/Stacking-up-the-Benefits-Lessons-from-Indias-Digital-Journey-531692>.

⁵³ Monetary Authority of Singapore (accessed 11 February 2025) *Singapore Financial Data Exchange* [webpage], <https://www.mas.gov.sg/development/fintech/sqfindex>

⁵⁴ Association of Banks in Singapore and Monetary Authority of Singapore (2016) *Financial World: Finance as a Service: API Playbook*, accessible from <https://www.mas.gov.sg/development/fintech/technologies---apis>

⁵⁵ Financial Conduct Authority (published 23 January 2024) *FCA and PSR set out next steps for open banking* [Press release], accessed from <https://www.fca.org.uk/news/statements/fca-and-psr-set-out-next-steps-open-banking>

⁵⁶ Mastercard (December 2024) *Mastercard Rise of Open Banking Report*, accessed from https://openbankingeu.mastercard.com/wp-content/uploads/2024/12/Mastercard-Rise-of-Open-Banking-Report_External-Summary.pdf

⁵⁷ Payments Association (21 May 2024) *Open banking in the UK: An in-depth analysis of its evolution, impact, and future directions* [webpage], accessed from <https://thepaymentsassociation.org/article/open-banking-in-the-uk-an-in-depth-analysis-of-its-evolution-impact-and-future-directions/>

⁵⁸ Open Banking UK (accessed 11 February 2025) *Variable recurring payments* [webpage], <https://www.openbanking.org.uk/variable-recurring-payments-vrps/>

⁵⁹ UK Government (19 April 2024) *Proposals for the design of the future entity for UK open banking* [policy paper], accessed from <https://www.gov.uk/government/publications/proposals-for-the-design-of-the-future-entity-for-uk-open-banking>

⁶⁰ Australian Government: Treasury (2023). Discussion paper and subsequent submissions. *Consumer Data Right rules – expansion to the non-bank lending sector*, including public submissions, <https://treasury.gov.au/consultation/c2023-434434-expansion>

criticised for its inclusion of product data, exclusion of payment initiation⁶¹, reciprocity requirements, restrictions on accredited intermediary software providers sharing data with unaccredited fintechs, frequently changing regulatory requirements⁶², and specific privacy rules which means data has different rules applied depending on whether it is part of the consumer data right regime or not.⁶³

31. All of these factors increased costs to fintechs, banks and regulators, and reduced the value to customers of fintechs' services, thereby lowering uptake.⁶⁴ New Zealand's Bill does not have a principle of reciprocity. Unlike in Australia, New Zealand's Privacy Act applies to all personal data, regardless of the size of the organisation that holds it. The Bill relies on and aligns strongly with the pre-existing standards and protections set out in the Privacy Act.

The scope of options is within the overarching legislative framework established by the Bill

32. The regulatory frameworks and other initiatives that have enabled open banking in each jurisdiction take a range of forms. New Zealand's regulatory framework (the Bill) is most closely modelled on the Australian regulatory framework. The rationale for this approach is contained in MBIE's 2021 RIS.⁶⁵
33. In 2022, MBIE developed a subsequent combined RIS and Stage One CRIS that assessed technical details. Together, these two documents informed the policy design of the Bill.⁶⁶ This RIS builds on decisions that Cabinet has made informed by the two previous documents, namely:
 - to adopt an overarching legislative framework for enabling a consumer data right on a sector-by-sector basis (the Bill)
 - that any designation of a sector (such as banking) under the Bill would be cost recovered through application fees charged to fintechs for accreditation, and annual levies charged to banks and fintechs.
34. This RIS only assesses whether the banking sector should be designated under the Bill, and what form that designation should take. It does not assess the merits of designating sectors other than banking, such as electricity, telecommunications or insurance. Cabinet has agreed⁶⁷ and the Minister of Commerce and Consumer Affairs

⁶¹ Australian Government: Treasury (2020) *Inquiry into future directions for the consumer data right*, <https://treasury.gov.au/publication/inquiry-future-directions-consumer-data-right-final-report>

⁶² Australian Government: Treasury (2024) *Consumer Data Right Compliance Costs Review*, <https://treasury.gov.au/publication/p2024-512569>

⁶³ Australia's privacy legislation only applies to data held by large businesses, while the consumer data right imposed privacy obligations on all designated data holders and accredited fintechs.

⁶⁴ Australian Government: Treasury (2024) *Consumer Data Right Compliance Costs Review*, <https://treasury.gov.au/publication/p2024-512569>

⁶⁵ MBIE (2021), *Regulatory Impact Statement: Establishing a Consumer Data Right*, www.mbie.govt.nz/dmsdocument/15545-regulatory-impact-statement-establishing-a-consumer-data-right-proactiverelase-pdf

⁶⁶ MBIE (2022), *Regulatory Impact Statement: Further decisions on establishing a consumer data right*, www.mbie.govt.nz/dmsdocument/25845-supplementary-regulatory-impact-statement-further-decisions-on-establishing-a-consumer-data-right-proactiverelase-pdf.

⁶⁷ LEG-24-MIN-0085 refers

has announced⁶⁸ that banks would be the first data holders to be designated under the Bill, followed by the retail electricity sector.

35. Neither does this RIS address wider competition issues in the banking sector. These are being considered by the Finance and Expenditure Committee's inquiry into banking competition.

Options differ according to the range of banks to be designated, and requirements imposed upon banks

36. The feasible options hinge on four components, as set out below.

- **Which banks should be designated, and from when?** Currently, five banks have committed to the voluntary scheme (ANZ, ASB, BNZ, Westpac, and Kiwibank). The regulations could designate just these banks or could also designate some or all of the 22 other second-tier banks operating in New Zealand.⁶⁹
- **What restrictions should be imposed on banks charging fees to fintechs?** Currently each bank has full discretion to determine the fees they will charge to fintechs for accessing customer data and initiating payments. The regulations could leave fees to the discretion of the banks, or they could impose restrictions on banks such as mandating a certain volume of free requests, capping or prohibiting fees in general, or requiring fees to be subject to principles such as being in line with efficient long-run costs.⁷⁰
- **What restrictions should be imposed on banks limiting payment amounts?** Currently, each bank has full discretion to impose limits on the dollar amount that fintechs can transact in a single transaction. These payment limits range from \$2,000 to a few tens of thousands of dollars, varying between each bank-fintech arrangement. The regulations could leave these limits to the discretion of banks, or they could impose restrictions on the banks such as mandating that payment limits be higher than a certain dollar amount, or making payment limits subject to principles such as not being lower than the limit the bank has imposed on the mobile and internet banking payment systems that customers have direct access to.⁷¹
- **What requirements should be imposed on banks to onboard fintechs within a particular timeframe?** Once a fintech has become an accredited requestor, individual banks need to provide it API access keys so that it can connect to the banks' data systems (onboarding). Currently, the voluntary scheme does not mandate a particular timeframe in which banks must onboard fintechs. The

⁶⁸ Hon Andrew Bayly (24 July 2024) 'Open banking' and 'open electricity' on the way [Press release], <https://www.beehive.govt.nz/release/%E2%80%98open-banking%E2%80%99-and-%E2%80%98open-electricity%E2%80%99-way>

⁶⁹ The UK has taken an approach similar to Options Two and Three, by only imposing requirements on the nine largest banks under its 2017 Payment Services Directive. As of November 2024, an additional 11 banks are voluntarily participating. Australia initially only imposed requirements on Australia's four major banks (ANZ, ASB, BNZ and Westpac) in 2020, but from July 2021 this expanded to include all Australian banks, and from 2022, non-bank lending was also designated. There are currently 81 data holders in the banking sector on Australia's consumer data right register (including banks, credit unions, and other financial service providers), who together are responsible for 127 banking brands.

⁷⁰ In Australia and the UK, banks are prohibited from charging fees, and therefore all requests are free, except when fintechs are using 'premium' APIs.

⁷¹ Australia's regime does not include payment initiation, and therefore payment providers must still negotiate individually with banks. Xero's submission stated that in Australia, banks are setting payment limits that are too low, and so hinder functionality for business customers. The UK's system does include payment initiation. The UK does not impose restrictions on banks' ability to set payment limits, and so limits vary depending on the bank, the type of account, the type of payment, and the type of recipient. For example, NatWest sets a £20,000 limit per payment and Barclays sets limits of £50,000 per transaction and £100,000 per day for business accounts.

regulations could leave this to the banks' discretion or mandate a particular timeframe.⁷²

Some features are common across all options to impose regulations that designate the banking sector

37. Some features of the proposed options to designate the banking sector under the Bill received overwhelming support from submitters or demonstrate benefits that clearly outweigh their costs. As a result, these features are the same across all options in this RIS. They are set out below.

- **Types of data:** The designation would include customer data (customer details, transactions and account balances) for most account types (transaction, saving, credit card, lending) and account holders (business, individual, and joint) where the customer already has digital access.

The designation would require banks to make account information for the previous two years available (MBIE's discussion paper suggested seven years, but most submitters considered that two years was adequate and would reduce banks' costs). The designation would also include payments initiation from accounts where customers can transact electronic credit payments in New Zealand Dollars.

The designation would not include product data (ie bank fees and interest rates), because it would require substantial investment from banks and few submitters on MBIE's discussion paper considered it necessary. Neither would it impose a reciprocal obligation on fintechs to share their own data with banks. These settings all mirror those that the banks have committed to under the voluntary system.

- **Accreditation criteria:** In addition to the criteria in the Bill, to achieve accreditation fintechs would need to hold adequate insurance and be a member of a financial services dispute resolution scheme.
- **Authorisation requirements:** Customers would not be able to access APIs directly, only through a fintech's services. The regulations would specify that fintechs and banks need to seek and receive informed authorisation from customers before their data can be shared between them; and that banks and fintechs need to maintain digital 'authorisation dashboards' for customers to view and revoke active authorisations.

The regulations would provide for the development of technical standards to specify the information that fintechs and banks must provide in authorisation requests and on dashboards. These settings mirror the voluntary system.

- **Register:** As required under the Bill, a register would be made available for customers and participants to identify accredited fintechs and designated banks and facilitate secure connections to APIs. The API Centre already operates a register under the voluntary system. MBIE and Payments NZ are working through what changes may be required to meet the Bill's statutory requirements.

What options are being considered?

Overview of options

38. Due to the complexity of the policy area and the variety of policy components within any individual option, many distinct options could be created and assessed. We have

⁷² In the UK and Australia, there are no onboarding timeframe obligations imposed on banks. The Australian Government's onboarding factsheet suggests that onboarding can take 1-3 months, depending upon how ready the fintech is to connect to banks' systems.

packaged the components into four distinct options along a spectrum of least-to-most interventionist. The four options assessed in this RIS are:

- **Option One (counterfactual):** No regulations. Open banking develops according to the voluntary system committed to by the five largest banks.
- **Option Two:** Regulations that mirror the settings agreed in the voluntary system in order to ensure its longevity and efficiency.
- **Option Three:** Regulations that generally mirror the settings agreed in the voluntary system in order to ensure its longevity and efficiency, with a few minor adjustments to encourage increased competition between banks and higher uptake from fintechs.
- **Option Four:** Regulations that go substantially further than the voluntary system by mandating participation from all banks and non-bank deposit takers operating in New Zealand (as opposed to just the five largest banks) and prohibit banks from charging fees to fintechs for accessing customer data, to significantly increase the range and reach of open banking.

39. Table 1 compares the features of each option.

Table 1: Key features of the four options

	Option One (Counterfactual) – the voluntary system	Option Two – Regulations that mirror the voluntary system	Option Three – Regulations that largely mirror the voluntary system, with minor adjustments	Option Four – Regulations that go substantially further than the voluntary system	Approaches taken in the UK and Australia
Which banks should be designated, and from when?	ANZ, ASB, BNZ and Westpac have voluntarily committed to implement open banking by 30 May 2025 for payments initiation, and 28 November 2025 for account information. Kiwibank has committed to implement by 30 May 2026 for payments initiation and 30 November 2026 for account information.	ANZ, ASB, BNZ and Westpac would be designated by 1 December 2025 for both payments initiation and account information. Kiwibank would be designated by 1 June 2026 for payments initiation and 1 December 2026 for account information.	Same as Option Two.	All registered banks and non-bank deposit takers would be designated; with the largest five banks designated under the same dates as Options Two and Three, and the remaining banks designated soon afterwards (e.g. 1 year after Kiwibank).	UK: 9 largest banks (akin to Options Two and Three) Australia: Initially the four major banks (akin to Options Two and Three), then expanding to all banks (akin to Option Four)
What restrictions should be imposed on banks charging fees for data or payment requests?	Banks are not subject to restrictions on the fees that they can charge.	Same as the counterfactual.	Banks are limited in the fees they can charge fintechs for accessing customer data and initiating payments.	Banks would not be permitted to charge any fees to fintechs for accessing customer data or initiating payments.	UK and Australia: free (akin to Option Four).
To what extent should banks be able to impose payment limits?	Banks are not subject to restrictions on the payment limits they can impose on fintechs	Same as the counterfactual.	Banks cannot impose payment limits on fintechs that are lower than those in bank-owned channels.	Banks would not be permitted to impose payment limits on fintechs below a specified amount (for example, \$20,000 per payment).	UK and Australia: No restriction on banks' discretion to impose payment limits (akin to Options One and Two).
What requirements should be imposed on banks to onboard fintechs within a particular timeframe?	The standards do not impose a requirement on banks to onboard fintechs within a particular timeframe.	Same as the counterfactual.	Banks would be required to onboard fintechs within five days of the fintechs receiving accreditation.	Banks would be required to onboard fintechs within 24 hours of the fintechs receiving accreditation.	UK and Australia: No onboarding timeframe obligations (akin to Options One and Two).

Option One (counterfactual): The voluntary system committed to by the five largest banks

40. Under the counterfactual, the Government would not introduce regulations to designate the banking sector. Instead, the five largest banks would continue implementing a voluntary open banking system. Open banking would be fully operational for the five largest banks by 30 November 2026, as outlined in Table 1.
41. The settings under the voluntary system generally give banks a large degree of discretion over matters such as charging fees to fintechs, imposing payment limits on fintechs, and providing access keys to fintechs.
42. Most submitters on MBIE's discussion paper option did not support this option. They considered a voluntary system to be insufficient due to a market imbalance in favour of banks, commercial disincentives faced by banks, and coordination challenges between banks, fintechs and regulators. Evidence from the UK, Australia, and other jurisdictions suggests that open banking uptake has been more successful in jurisdictions where a regulatory approach was taken.⁷³
43. We recommend against this option, because it will perpetuate the issues outlined in the problem definition.

Option Two: Regulations that mirror the voluntary system

44. Under Option Two, the regulations would mirror the voluntary system's settings. This would ensure that banks fully meet their existing commitments on an ongoing basis and would not impose any further requirements on banks. Only the five banks that have committed to the voluntary system would be designated.
45. The settings under Option Two would maintain the level of discretion that banks would have under Option One. For example, banks would not be subject to restrictions on the fees that they can charge, or on the payment limits that they can impose on fintechs, and they would not be required to onboard fintechs within a particular timeframe.
46. The benefits of this option compared to Option One are:
 - **Reduced cost from negotiating bilateral contracts:** Centralised accreditation of fintechs will reduce the costs to banks of negotiating bilateral contracts with each one. However, bilateral contracts would still be required to address matters such as fees charged by banks. Banks would likely use these contracts to impose additional conditions on access.
 - **Benefits from a small increase in open banking uptake:** While this option would not substantially address barriers to access under the status quo, we expect it would give fintechs greater confidence in the longevity of open banking, which would encourage uptake. This would result in greater benefits to customers from open banking, such as more competitive and lower cost banking services, increased customer convenience, and reducing security risks from use of impersonated access.
47. Banks and fintechs would incur some costs from this option compared to Option One:
 - **Compliance costs on banks:** Implementing open banking technology infrastructure is expensive for banks, due to the costs involved in developing, maintaining and operating the required IT infrastructure and associated services, such as API access. Westpac has estimated the cost of implementing open banking in Australia

⁷³ OECD (2021). Working Party on Measuring the Digital Economy, Working Group paper, Measuring trustworthiness of digital environments and new technologies.

as between AUD \$150-200 million,⁷⁴ the Australian government estimated that costs to banks ranged from under \$1 million to well over \$100 million each,⁷⁵ and ANZ has estimated it has spent Commercial information to implement open banking in New Zealand.⁷⁶

However, given that the proposed regulations would only designate the major banks that have already committed to implement open banking, the marginal implementation costs imposed by the proposed regulations are low as the banks have largely already incurred them. This is a significant difference to the Australian regulatory regime, which imposed requirements on Australian banks before the banks had developed systems and data structures to meet technical requirements.⁷⁷

- **Compliance costs on fintechs:** Fintechs wishing to participate in open banking would be required to apply to MBIE for accreditation. This would incur an application fee to recover MBIE's costs of assessing the application. The exact quantum of this application fee would be assessed in MBIE's forthcoming Stage Two CRIS, but we expect it to be low compared to the benefits of participating in the regime.

More significant would be the costs on fintechs in meeting accreditation requirements. The costs of meeting accreditation requirements may be greater for smaller providers or new entrants, who are less likely than larger existing providers to have already made adequate investments in infrastructure to handle and protect data.⁷⁸ In Australia, it has been estimated that the cost to an organisation to build a data storage centre capable of hosting open banking data to the required security standard could be in the range of AUD \$50,000 - \$70,000.⁷⁹

Unlike in Australia, small businesses in New Zealand are already required to meet information security requirements in the Privacy Act. The requirements on fintechs under Option Two are likely to be less than those imposed under the counterfactual, where banks may impose onerous security and insurance requirements on fintechs.

The proposed regulations would not require any fintech to achieve accreditation and participate in open banking, so fintechs would voluntarily take on these obligations.

- **Participation levy:** To make the open banking regime fiscally neutral, MBIE would charge an annual levy to all designated banks and accredited requestors. This is similar to other regulatory options, and our assessment of the cost recovery mechanism is in a Stage One CRIS, which is included in Section 4. The specific levy

⁷⁴ Westpac CEO Brian Hartzer, addressing the Australian House of Representatives' Standing Committee on Economics (11 October 2018); ("Open banking in the first instance is probably going to cost us somewhere in the AU\$150 to AU\$200 million to implement because of the complexity of our systems environment"), as quoted in <https://www.zdnet.com/finance/westpac-predicts-open-banking-to-cost-au200m-to-implement/>

⁷⁵ Australian Government: Treasury (2024) *Consumer Data Right Compliance Costs Review*, <https://treasury.gov.au/publication/p2024-512569>

⁷⁶ ANZ's submission on MBIE (2024) *Exploring a consumer data right for the banking sector*, <https://www.mbie.govt.nz/have-your-say/exploring-a-consumer-data-right-for-the-banking-sector> can be found at <https://www.mbie.govt.nz/document-library> using the filter "exploringconsumerdatarightbankingsector".

⁷⁷ Australian Government: Treasury (2024) *Consumer Data Right Compliance Costs Review*, <https://treasury.gov.au/publication/p2024-512569>

⁷⁸ OECD, Working Party on Data Governance and Privacy in the Digital Economy (2021). Data Portability: Analytical Report, Mapping data portability initiatives and their opportunities and challenges. DSTI/CDEP/DGP(2021)1.

⁷⁹ Cornwalls Law + More (20 May 2021) "The Consumer Data Right as a service for Australian Fintechs: A workable way out of a scrape", published in *Australian Banking & Finance Law Bulletin*, Volume 37, No 2, pages 21 – 26. Available at <https://www.cornwalls.com.au/the-consumer-data-right-cdr-as-a-service-for-australian-fintechs-a-workable-way-out-of-a-scraper/>

amount will be assessed in MBIE's forthcoming Stage Two CRIS later this year. The policy settings of the proposed regulations have been designed to keep costs to a minimum.

48. The banks supported many of this option's components. They prefer retaining discretion to charge fees to fintechs and would prefer fees to be left to negotiation. However, this option was not supported by most fintech respondents. They suggested that without fee caps and restrictions on payment limits, the current power imbalance would persist. For example, Akahu, a fintech intermediary, raised concern about open banking payment limits being lower than web and mobile channels, and Xero suggested that without restrictions, banks would likely set payment limits that reduce functionality.⁸⁰

Option Three – Regulations that largely mirror the voluntary system, with a few adjustments to address power imbalance and increase uptake

49. Under Option Three, the regulations would impose several more obligations on the banks than under the voluntary system. The same five banks would be designated, with the same timeframes as under Option Two, but other banks could voluntarily opt in at any time.
50. The regulations would specify that banks can charge fintechs no more than five cents per payment request and one cent per account information request, and that they must publish their charges. This is at the low end of current charges, but some banks charge considerably more (for instance, up to a dollar per payment request). The regulations would also include an additional provision that prohibits banks from charging customers themselves for using fintechs' services.⁸¹ Banks would be restricted from imposing payment limits on fintechs that are lower than those in bank-owned channels. Banks would also be required to onboard fintechs within five days of the fintechs receiving accreditation and requesting access.
51. This option removes the need for bilateral contracts between banks and fintechs. Banks and fintechs could still negotiate bilateral contracts if fintechs wished to access data or request actions on terms on different terms to those published by banks.
52. The proposed regulations will increase the benefit to fintechs and customers (which include both individuals and businesses) compared to the voluntary system, due to the higher uptake from fintechs that we anticipate as a result of the regulations. Greater availability and uptake of open banking will enable customers to benefit from more competitive and lower cost banking services, increased customer convenience, and reduced security risks from use of impersonated access. Some specific benefits of this option include:
- **Easier access and reduced costs to fintechs:** This option would reduce or eliminate individual negotiation with banks, and lower some requirements imposed by banks (eg restrictions on on-sharing data and onerous security or insurance). It would limit the fees that banks can charge fintechs for data requests and payment initiation.
 - **Customer benefits from new and innovative products.** Customers would gain access to convenient and innovative services such as budgeting tools, streamlined

⁸⁰ Akahu and Xero's submissions on MBIE (2024) *Exploring a consumer data right for the banking sector*, <https://www.mbie.govt.nz/have-your-say/exploring-a-consumer-data-right-for-the-banking-sector> can be found at <https://www.mbie.govt.nz/document-library> using the filter "exploringconsumerdatarightbankingsector".

⁸¹ Although no banks are currently charging customers for open banking services, if banks were to introduce these charges, it would greatly disincentivise use of open banking.

loan approvals, and new payment services, potentially with lower fees and surcharges.

There may be particular benefits to small and medium businesses from products that reduce administrative costs, streamline processes for making payments and manage invoices and suppliers. An example of this is in the cloud accounting sphere, where the services offered by businesses such as Xero have provided significant benefits to businesses. A survey of 150 business leaders of medium-to-large businesses in the UK found that those businesses using open banking among their payment systems spent on average 45 hours a month on finance tasks, compared to 57 hours per month by businesses that do not use open banking. Across the year, the saving is an average of 150 hours per business.⁸²

- **Increased information security, resulting in a lower risk of unauthorised transactions:** As open banking is adopted, data sharing activities that are currently undertaken through impersonated access techniques will instead be undertaken through secure APIs. This should reduce instances of customers unintentionally providing their bank account login details to dishonest actors who mimic services that use impersonated access techniques.
53. This option would have all the compliance costs on banks and fintechs of Option Two, along with additional costs on banks:
- **Fee caps:** Under the current system, banks are charging fintechs up to \$1 per payment, and a variable amount for account information requests. The proposed regulations would cap fees at five cents per payment request and one cent per account information request. Although we expect that the total volume of fees charged could increase, due to higher uptake from fintechs, the regulatory approach may still limit the fee revenue available to banks.
54. This option received substantial support during consultation, with support from some banks, and general support from fintechs and other parties.

Option Four – Regulations that go substantially further than the voluntary system

55. Under Option Four, the regulations would impose significantly more obligations on banks than under the voluntary system. Rather than just designating the five banks that have committed to the voluntary system (as under Options Two and Three), the regulations would designate all or most registered banks in New Zealand, along with all or most non-bank deposit takers.
56. Designation dates for the largest five banks would be the same as under Options Two and Three, while the remaining banks and non-bank deposit takers would be designated for payment initiation and account information soon after Kiwibank (for example, 1 December 2027). If enacting this option, the exact date for designating the remaining banks and non-bank deposit takers, and any exemptions, would be determined following further consultation.
57. Under Option Four, banks would not be permitted to charge any fees to fintechs for accessing customer data or initiating payments. Banks would also not be permitted to impose payment limits on fintechs below a specified amount (for example, \$20,000 per transaction). If enacting this option, the exact restriction would be determined following further consultation. Banks would also be required to onboard fintechs within 24 hours of the fintechs receiving accreditation and requesting access.

⁸² Open Banking Expo (2024) *Payit by NatWest: Open banking saving UK businesses hundreds of hours annually*, <https://www.openbankingexpo.com/news/payit-by-natwest-open-banking-saving-uk-businesses-hundreds-of-hours-annually/>

58. Compared to Options One, Two and Three, this option would further boost uptake by fintechs and reduce the costs to them of participating in open banking and providing their services. It would mean that impersonated access was no longer required at all for most applications, which would improve information security for customers.
59. However, this option would impose significant costs on banks:
- **General compliance costs:** Fintechs and the five main banks would incur similar compliance costs as under Options Two and Three. However, this option would impose significant costs on the additional banks and deposit takers, as few (if any) have developed the data infrastructure required to enable open banking.
 - **No fee revenue:** Banks would not receive any fee revenue. This would substantially reduce incentives for banks to invest in open banking beyond the required minimum and may also result in fintechs making high and inefficient numbers of requests.
60. Most submitters, including banks and some fintechs, did not support designating the other banks and non-bank deposit takers. Some noted that the market power of the additional banks and deposit takers small, so there is less imperative to regulate them. Others suggested that as the incumbent banks begin normalising the availability of open banking services, the second-tier banks may voluntarily participate in order to provide a competitive service for their customers.
61. Several submitters, however, thought that the banking designation should eventually be extended to the other banks, and two fintechs suggested this should occur soon (eg six months after the designation comes into force for Kiwibank), noting that this would increase the value of services provided to customers.
62. Some submitters said that not being designated may give smaller banks a cost advantage over larger banks, as they are not required to maintain APIs. Additionally, smaller, non-designated banks could potentially become accredited fintechs themselves, which would give them an information advantage, as they could access data held by other banks without needing to share the data that they themselves hold.
63. Very few submitters supported designating non-bank deposit takers, and many considered it unnecessary for achieving the stated objectives. A small number of fintechs, however, suggested that the inclusion of non-bank deposit takers would increase the viability of fintechs' services.

Comparison against criteria

64. The following page contains a table summarising our comparison of Options Two, Three and Four against the counterfactual (Option One) using the four criteria outlined earlier. The table uses the following notation and colour-coding for our assessment of each option against the criteria.

++	Much better than the counterfactual
+	Better than the counterfactual
0	About the same as the counterfactual
-	Worse than the counterfactual
--	Much worse than the counterfactual

Table 2: Comparison of the four options against the counterfactual, using the four criteria

	Option One - Counterfactual	Option Two – Light-touch	Option Three - Medium-touch	Option Four – Heavy-touch
Provides for efficient investment and does not pose a barrier to entry in banking	0: Same as the counterfactual.	0: Would impose limited costs on banks as they would not be required to implement anything they have not already committed to under the voluntary system.	-: Would impose some costs on banks.	- -: Would impose substantial costs on banks, particularly smaller banks, and could therefore inhibit banking competition.
Provides for wide uptake by fintechs and valuable services to customers	0: Same as the counterfactual	0: Would not remove most barriers to entry for fintechs and therefore would not provide additional value to customers. However, as banks would be required to adhere to their commitments, fintechs will have more confidence in the longevity of system, which could increase marginally increase uptake.	+: Would address the major barriers to entry faced by fintechs; primarily by limiting fees and enabling standardised terms and conditions; and thereby enable provision of a wider range of services.	++: Would address major and minor barriers to entry faced by fintechs, primarily by removing all fees and enabling standardised terms and conditions, and thereby enable provision of a wider range of services to a wider range of customers (including customers of second-tier banks).
Provides customer trust and confidence in information privacy and security	0: Same as the counterfactual	+: Enables trust by providing government endorsement, but unlikely to incentivise a shift away from impersonated access techniques due to the barriers to entry for fintechs.	++: Enables trust by providing government endorsement and incentivises a shift away from impersonated access techniques.	++: Enables trust by providing government endorsement and incentivises a shift away from impersonated access techniques.
Provides longevity and flexibility to adapt system settings in the future	0: Same as the counterfactual	+: Would safeguard open banking by preventing banks from withdrawing from their voluntary commitments.	+: Would safeguard open banking by preventing banks from withdrawing from their voluntary commitments.	0: Would safeguard open banking by preventing banks from withdrawing from their voluntary commitments; but could reduce flexibility by imposing the same requirements on smaller banks before the system has been piloted.
Overall assessment	0: Same as the counterfactual	0: Marginally better than the counterfactual as it will ensure longevity of the system; but unlikely to address power imbalance and therefore could see low uptake. Components of this option were supported by banks but strongly opposed by fintechs.	+: Better than the counterfactual, as it is likely to result in higher uptake from fintechs and customers, while imposing minimal costs on banks and not constituting a barrier to entry in banking. Components of this option had moderate support from both banks and fintechs.	+: Better than the counterfactual on most accounts; but the costs to second-tier banks could inhibit competition and therefore count against the overarching objective. Components of this option had moderate support from fintechs but were strongly opposed by banks.

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

65. Any designation of the banking sector (Options Two, Three and Four) would be an improvement on the counterfactual, as they would all at a minimum ensure longevity of the open banking system that the banks have voluntarily developed.
66. Of the three options considered, we think that **Option Three** is likely to best achieve the stated objectives and deliver the highest net benefits. This is because it will impose low costs on banks and not constitute a barrier to entry in banking, while also promoting higher uptake from fintechs and customers, and increasing protections for customers' data and payments. In contrast:
 - **Option Two** would be unlikely to sufficiently address the power imbalance between banks and fintechs
 - **Option Four** is likely to impose substantial costs on banks (particularly second-tier banks) which could inhibit competition and therefore count against the overarching objective.
67. The tables on the next page summarise the costs and benefits of this option compared to the counterfactual.

Benefits for Māori

68. During consultation, Māori submitters expressed a strong interest in collective benefit from data and management of data, in addition to individual benefit. Iwi, hapū and other Māori organisations face challenges in accessing timely, relevant, and accurate data in order to carry out their functions and meet their aspirations. The proposed regulations will make it easier for Māori organisations to become accredited fintechs to offer specialist data capability and functionality for Māori groups.
69. The regulations could also act to increase the range of fintech services that Māori individuals and organisations have access to. This may enable family trusts and Māori organisations to more easily access personalised financial advice and increase the efficiency and effectiveness of iwi and hapū governance by enabling easier sharing of banking data within iwi. It could also improve iwi and hapū data sovereignty by enabling the sharing of banking data with initiatives such as Te Whata.⁸³

⁸³ Te Whata (accessed 11 February 2025) *About: He whata kai, he whata kōrero, inā he māramatanga* [webpage], <https://tewhata.io/about/>

Table 3: Additional costs of the proposed regulations compared to the counterfactual

Affected groups	Comment	Impact	Evidence Certainty
Designated banks	The five designated banks (ASB, ANZ, BNZ, Kiwibank and Westpac) would likely face reduced revenue from fees due to fee caps and some minor compliance costs. They could also face greater competition from new entrants. Other banks that are not designated will not be obligated to incur these costs; but may voluntarily choose to participate in the system, in which case they would also incur these costs. Costs of annual levies will be assessed in a forthcoming Stage Two CRIS.	Medium. Monetised quantum of costs from levies will be estimated in MBIE's forthcoming Stage Two CRIS.	Medium. Evidence and analysis informing the fees and levies will be incorporated in MBIE's forthcoming Stage Two CRIS.
Fintechs	Fintechs that seek accreditation would incur costs from their application to MBIE for accreditation and annual levies, which will be assessed in a forthcoming Stage Two CRIS. Fintechs that do not wish to access banking data will not be obligated to incur these costs.	Low. Monetised quantum of costs from fees and levies to be estimated in MBIE's forthcoming Stage Two CRIS.	Medium. Evidence and analysis informing the fees and levies will be incorporated in MBIE's forthcoming Stage Two CRIS.
Customers of designated banks	None. We do not expect banks or fintechs to pass costs on to customers any more than they would under the counterfactual.	None	High.
Regulators	<p>MBIE would incur initial costs to establish the regime and will have ongoing costs for its new regulatory functions. The Office of the Privacy Commissioner may incur both establishment and ongoing costs, as the Bill enables customers to make privacy complaints about the way banks and/or fintechs have treated their banking data.</p> <p>MBIE is designing the regime focusing on the implementation of open banking, rather than also considering implementation for other sectors that could be designated at a later date. The benefit of this approach is that MBIE will be able to implement the regime by 1 December 2025 and can leverage the opportunity to build on the work the banking sector has already done. But as more sectors are designated, this approach may be less cost-effective - as what works for banking may not work for other sectors. As such, Crown funding may be required at some point to help support a cross-sectoral CDR regime.</p>	<p>Commercial information</p> <p>These will be fully cost recovered from banks and fintechs, to be determined in MBIE's forthcoming Stage Two CRIS.</p>	Medium. Evidence and analysis will be incorporated in MBIE's forthcoming Stage Two CRIS.
Wider economy	None. We do not expect the regulations to create costs for the wider economy.	None	High.
Non-monetised costs		Low.	Medium. Evidence and analysis informing the fees and levies will be incorporated in MBIE's forthcoming Stage Two CRIS.
Monetised costs		Unknown.	

Table 4: Additional benefits of the proposed regulations compared to the counterfactual

Affected groups	Comment	Impact	Evidence Certainty
Designated banks	Designated banks will incur benefits from increased certainty and standardisation, which would reduce the cost and improve the efficiency of data exchange processes. They will also incur benefits from reduced costs of bilateral negotiations.	Medium.	Low. Some banks suggested they could incur these benefits in their submissions, but there is limited evidence from overseas available.
Fintechs that seek accreditation	Designated fintechs will incur benefits from increased certainty, reduced barriers to entry, and reduced fees to banks to access their data, which will enable them to attract higher customer uptake.	High.	Medium. Fintechs raised these benefits frequently in submissions.
Customers of designated banks	Customers of designated banks will incur benefits from greater choice and control over how their data is used, access to a wider range of more convenient, personalised services, and increased confidence in the open banking system.	High.	Medium. Fintechs and other interest groups raised these benefits frequently in their submissions; and there is some evidence of benefits incurred overseas, particularly Australia and the UK.
Regulators	None	None.	Medium.
Wider economy	The wider economy will incur benefits from economic and export growth in the digital technology sector, increased overall productivity, particularly for small businesses using open banking services, and increased alignment with Australia which would advance the NZ-Australia Single Economic Market.	Medium.	Medium. Report from the Australia and New Zealand productivity commissions emphasised the opportunities for open banking to advance the single economic market. ⁸⁴
Non-monetised benefits		High.	Medium.
Monetised benefits		Unknown.	Low. There is very little quantitative evidence available (from New Zealand or overseas) to inform a robust estimate of the monetised value of these benefits.

⁸⁴ Australian Government Productivity Commission and New Zealand Productivity Commission (2019). Growing the digital economy in Australia and New Zealand, Maximising opportunities for SMEs. <https://www.productivity.govt.nz/assets/Research/b32acca009/Growing-the-digital-economy-in-Australia-and-New-Zealand-Final-Report.pdf>

Section 3: Delivering an option

How will the new arrangements under Option Three be implemented?

MBIE will be the lead agency responsible for implementing the regulations

70. Cabinet has agreed that for any designation, MBIE will be the regulator responsible for the overarching regime and for compliance and enforcement for non-privacy matters⁸⁵ and that the Privacy Commissioner will be responsible for enforcement and information provision in relation to the *Privacy Act 2020*.⁸⁶ Some remaining functions (such as accreditation of fintechs) will likely be delivered by MBIE, and other functions (such as standards development) could be delivered by [REDACTED] another organisation.⁸⁷ MBIE and other parties are working through the operational allocation of responsibility.
71. Cabinet has agreed that the scheme should be cost recovered through fees and levies, which will be charged to participating fintechs and banks. Our assessment of the proposed cost recovery mechanism is included in the Stage One CRIS at Section 4.
72. We are assessing the operational details of implementing the proposed regulations, including who delivers each function, which will inform the total quantum of costs. Once these details are finalised, we will consult the proposed fee and levy charges with banks and fintechs. This advice and consultation will inform a Stage Two CRIS. The Stage Two CRIS will inform a second Cabinet paper and a second set of regulations, which will establish the cost recovery mechanism.

The Minister of Commerce and Consumer Affairs expects the designation to come into force by 1 December 2025

73. Once the Bill has passed through the House, the Government will develop two sets of regulations. The first will reflect the assessment in this RIS and will consist of the key policy details for the designation. The second set of regulations will reflect our assessment in the forthcoming Stage Two CRIS and will specify the operational arrangements and distribution of levies and application fees between banks and fintechs for enabling cost recovery.
74. The Minister of Commerce and Consumer Affairs has stated an intention that the designation will come into force from 1 December 2025, thereby requiring banks to provide customer data and make payments on request of accredited fintechs. It would be desirable for the regulations to come partially into force before then, so that technical standards can be developed and fintechs can be accredited before the banks are designated on 1 December 2025. As discussed in the analysis section, the designation for Kiwibank would come into force later (on 1 June 2026 for payments initiation, and on 1 December 2026 for account information).

Stakeholders will continue to be involved in system development

75. MBIE will continue to engage frequently with the API Centre, the five largest banks, and interested fintechs as the regulations and standards are developed. The Minister of

⁸⁵ Cabinet (19 June 2023) *Consumer Data Right: release of exposure draft Bill* [Cabinet minute], CAB-23-MIN-0245 Revised, at [6.2] <https://www.mbie.govt.nz/dmsdocument/27068-consumer-data-right-release-of-exposure-draft-bill-minute-of-decision-proactiverelase-pdf>

⁸⁶ Cabinet Economic Development Committee (27 July 2022) *Consumer Data Right: Further Decisions* [Cabinet minute], DEV-22-MIN-0151, at [8]. <https://www.mbie.govt.nz/dmsdocument/25843-consumer-data-right-further-decisions-minute-of-decision-proactiverelase-pdf>

⁸⁷ *Customer and Product Data Bill*, clause 96(A).

Commerce and Consumer Affairs intends for the development of the regime (particularly of the technical standards) to be primarily led from within the sector.

76. The Bill requires that before a designation is made, the Minister must have regard to the interests of Māori customers and must consult with one or more people who have expert knowledge of te ao Māori approaches to data. In the early development of the Bill, MBIE consulted with Te Kāhui Rarauranga (an independent body established by the Data Iwi Leaders Group); a panel of Māori data experts⁸⁸, and the Treaty Provisions Oversight Group administered by Te Arawhiti. As it was already communicated that the first sector to be designated under the Bill would be banking, much of the feedback provided at that time was relevant to the proposal to designate the banking sector. MBIE will engage further with Māori data experts on the regulations and standards.

We have identified five implementation risks

77. These implementation risks are outlined below, alongside their proposed mitigations:

Table 5: Implementation risks and their proposed mitigations

Risk	Mitigation
Implementation timeframes: Due to the tight timeframes for regulators to implement components of the new scheme, particularly the development of a register and accreditation processes, the designation could be delayed.	Development of two sets of regulations, so that PCO can begin drafting and standards can be developed before the cost recovery and operationalisation details are finalised. Additionally, MBIE is only designing its implementation based upon open banking (rather than futureproofing for other sectors) and is working with the banking sector to limit duplication of work that has already been completed by the API Centre.
Inhibited innovation from banks: Banks may be dis-incentivised from investing and innovating in the collection of data, given the lower expected returns on investment (for example, because of fee caps).	Costs imposed on banks will be kept to a minimum, by largely mirroring the voluntary system they have already committed to, and not imposing the system on second tier banks.
Fraud and privacy breaches: As the number and variety of actors that can access data increase, there is a corresponding increase in the risk of that data being subject to new forms of theft or online fraud, data or privacy, digital security incidents, excessive data profiling leading to financial exclusion, the manipulation of consumers' behavioural biases when operating online, and the aggregation of transaction and account information data to identify individuals.	We have examined international approaches and have proposed regulation design that we think will enable adequate regulatory supervision. This includes the introduction of an accreditation criteria relating to information security, and limits on who can access customer data. Additionally, by providing an alternative to impersonated access techniques we expect data and payments to be more secure. The regulations will also contain security measures to protect data and ensure remediation.

⁸⁸ Attendees included Fonteyn Moses-Te Kani (Waihikurangi Trust), Tahu Kukutai (The University of Waikato), Te Taka Keegan (The University of Waikato) and Dan Te Kanawa (Tūhono)

<p>Low customer trust: Customer trust and confidence will be critical to the success of open banking. To date consumer messaging has focused on the risks of sharing their personal information with third parties, and discouraged consumers from doing so. This mentality is counter to the premise of open banking and would hamper individuals' and consumers' willingness to engage.</p>	<p>To ensure that data sharing doesn't come at the expense of confidentiality and give grounds to potential customer fears, the proposed regulations will contain security measures to protect data and ensure remediation.</p>
<p>Low uptake from fintechs: If the costs of accreditation for fintechs are set at a level that creates higher barriers to entry than would occur under the voluntary scheme, this may reduce participation in open banking. Many stakeholders with a trans-Tasman presence noted that this had occurred in the implementation of the Australian open banking regime which they perceived to have imposed disproportionately onerous requirements on smaller or lower risk fintechs. These stakeholders strongly encouraged officials to learn from the Australian experience when designing the accreditation framework for New Zealand.</p>	<p>The proposed technical accreditation criteria are being developed collaboratively by a working group of both banks and fintechs, who are reflecting on the Australian experience. We will consult with fintechs and banks on proposed fees and levies to ensure that they are set to enable participation and innovation, while fully recovering the system's costs. The outcomes of this consultation will be reflected in MBIE's forthcoming Stage Two CRIS.</p>

How will the new arrangements be monitored, evaluated, and reviewed?

System performance monitoring

78. The UK and Australia's industry-led open banking organisations set standards and guidelines for technical performance monitoring. Similarly, the API Centre's performance and monitoring guidelines are flexible, non-binding, and output-based.⁸⁹ They centre on two metrics for banks:
- API availability (the target is for banks to ensure API endpoints are available between at least 99.5%-99.9% of the measured period, including scheduled downtime)
 - Request response speed (the target is for banks to ensure that 95% of data requests are responded to within 300 milliseconds for payments initiation, and within two seconds for account information).

Policy review

79. The Bill does not currently include a requirement for a review. However, given the Bill is a new regime in an area of technological change, we anticipate that there will be a need to consider relatively early whether the regime is performing as expected and New Zealand is on track to meet the intended objectives.
80. As an intermediate benchmark, we expect to see several fintechs offering open banking-enabled services across the four largest banks by June 2026, and across the five largest banks by early 2027.
81. Over the following two to three years, we anticipate a policy review to consider:
- whether there has been a substantial amount of fintech and customer uptake
 - whether there has been continued development and adoption of new standards supporting new use cases.
82. This will inform advice on whether the designation should be widened to cover more banks and a wider range of customer data and actions (eg a shift towards Option Four).

⁸⁹ API Centre (accessed 4 February 2025) *API performance and monitoring guidelines*
<https://paymentsnz.atlassian.net/wiki/spaces/PaymentsNZAPIStandards/pages/1578303530/API+Performance+and+Monitoring+Guidelines>

Section 4: Stage One Cost Recovery Impact Statement. Designating the banking sector under the Customer and Product Data Bill

Status Quo

Costs will be incurred for accreditation, a register, compliance, and information provision

83. The costs incurred for operating the proposed open banking regime under the Bill include the following:
- accrediting fintechs, to ensure that only organisations with adequate security procedures and other credentials can access customers' banking data
 - compliance and enforcement, to ensure that accredited fintechs and banks comply with their obligations
 - operating a register, which will enable customers and participants to identify accredited fintechs and designated banks and could potentially also be used to facilitate secure connections from fintechs to banks' APIs
 - development of technical standards that prescribe how data can be exchanged, to ensure that fintechs' integrations with banks don't have to be customised each time
 - information provision, to ensure that banks, fintechs and customers are aware of their rights and obligations under the regime.

These functions are necessary to address the problem and deliver the outcomes defined in the RIS

84. We recommend Government intervention to address the underlying limitations of the voluntary system. These functions are a necessary part of a regulatory regime, which is in turn necessary to ensure that the open banking regime meets the desired aims.

Responsibility for these functions will sit with MBIE, the Privacy Commissioner, and likely an external organisation such as the API Centre

85. Many of the functions listed above are being delivered by the API Centre under the voluntary scheme. The API Centre recovers its costs through membership fees which are charged to both banks and fintechs (the banks pay the largest share).
86. As assessed in Section 3 of this RIS, Cabinet has agreed that for any designation, MBIE will be the regulator responsible for the overarching regime and for compliance and enforcement for non-privacy matters⁹⁰ and that the Privacy Commissioner will be responsible for enforcement and information provision in relation to the *Privacy Act 2020*.⁹¹ Some remaining functions (such as accreditation of fintechs) will likely be delivered by MBIE, and other functions (such as standards development) could continue to be delivered by the API Centre or another external organisation. MBIE and these parties are working through the operational allocation of responsibility.

⁹⁰ Cabinet (19 June 2023) *Consumer Data Right: release of exposure draft Bill* [Cabinet minute], CAB-23-MIN-0245 Revised, at [6.2] <https://www.mbie.govt.nz/dmsdocument/27068-consumer-data-right-release-of-exposure-draft-bill-minute-of-decision-proactiverelase-pdf>

⁹¹ Cabinet Economic Development Committee (27 July 2022) *Consumer Data Right: Further Decisions* [Cabinet minute], DEV-22-MIN-0151, at [8]. <https://www.mbie.govt.nz/dmsdocument/25843-consumer-data-right-further-decisions-minute-of-decision-proactiverelase-pdf>

Cabinet has agreed that the scheme should be cost recovered; and this is provided for in the Bill

87. In 2022 MBIE completed a Stage One CRIS recommending that the consumer data right should be fully cost recovered through fees to data requestors (such as fintechs) for applying for accreditation, and levies to both data holders (such as banks) and accredited requestors (such as fintechs) for ongoing operation of the scheme.⁹²
88. Informed by this Stage One CRIS, Cabinet agreed that the Bill would enable two forms of cost recovery:
 - accreditation fees, which could be charged to fintechs applying for accreditation to cover the costs of that accreditation
 - levies, which could be charged to banks and/or fintechs that would permit recovery of the cost of the remaining regulatory functions.⁹³
89. As a result, the draft Bill provided for regulations to be made for the purpose of enabling these two forms of cost recovery.⁹⁴
90. The select committee amended the draft Bill to ensure that fees and levies can be used to meet the costs of not only regulators carrying out functions under the regime; but also of other 'approved persons' Commercial information. The select committee also amended the draft Bill to enable full (rather than just partial) cost recovery through fees and levies.⁹⁵

Policy rationale

Full cost recovery for accreditation via fees is appropriate as fintechs will be the primary beneficiaries, and accreditation services are a private good

91. The primary beneficiaries of accreditation are the fintechs themselves, as it enables them to access a regime that provides for more ease and lower cost than individual negotiations with banks. Therefore, it is appropriate for fintechs to bear the cost of assessing their applications for accreditation to ensure they meet the criteria. This is consistent with how registration and licensing fees operate throughout the economy. The service of accreditation is both rivalrous (as resources spent accrediting one fintech cannot be spent accrediting another) and excludable (as accreditation will legally only extend to one organisation), so accreditation is a private good.
92. We anticipate that fees would be on a full cost recovery basis, because the costs to applicants are likely to be minimal in comparison to the benefit gained by operating in the market; while the costs involved in assessing accreditation applications could be moderate when the total number of applications is taken into account.
93. We have sought to achieve short-term cost savings in our design of the scheme so that accreditation of fintechs can be fully cost recovered through application fees, without need for Crown funding. This funding approach has influenced the design of the system and tools and has limited design to matters that will benefit designated banks

⁹² MBIE (2022), *Regulatory Impact Statement: Further decisions on establishing a consumer data right*, www.mbie.govt.nz/dmsdocument/25845-supplementary-regulatory-impact-statement-further-decisions-on-establishing-a-consumer-data-right-proactiverelase-pdf.

⁹³ Cabinet Economic Development Committee (27 July 2022) *Consumer Data Right: Further Decisions* [Cabinet minute], DEV-22-MIN-0151. <https://www.mbie.govt.nz/dmsdocument/25843-consumer-data-right-further-decisions-minute-of-decision-proactiverelase-pdf>

⁹⁴ *Customer and Product Data Bill*: Clause 127 (for accreditation fees) and clause 129 (for levies) www.legislation.govt.nz/bill/government/2024/0044/latest/LMS920150.html

⁹⁵ *Customer and Product Data Bill*: Commentary www.legislation.govt.nz/bill/government/2024/0044/latest/LMS920150.html

and accredited fintechs, but not necessarily participants in a consumer data right for other sectors such as retail electricity.

Full cost recovery for other regulatory functions via levies is appropriate as both banks and fintechs benefit from ongoing maintenance of the regime, and most services are club goods

94. For cost recovery of the remaining functions (such as compliance and enforcement, operating a register, developing technical standards, and providing information), levy funding from banks and fintechs has benefits over funding from general taxation. Many of these services (such as the development of standards or a register) can be considered club goods, as their use by one person does not detract from their use by another, but parties can be excluded from them. In accordance with Treasury's guidance, levy funding is an appropriate mechanism for cost recovery of club goods, rather than taxpayer funding. The use of a sector-specific levy is also justified as some of the functions, such as development of technical standards relating to payments initiation, would be specific to the banking sector, and would not be used by other sectors designated under the Bill such as retail electricity.

High level cost recovery model

95. Our intended approach for the regime is to minimise costs by utilising existing industry infrastructure and ensuring that MBIE and the Office of the Privacy Commissioner's resourcing is optimised. As the recommended option in this RIS complements the voluntary system developed by the API Centre, and many of the upfront costs of developing aspects of an open banking system, such as the development of some standards, a register, and accreditation criteria have been partially borne by the API Centre, we expect the remaining costs to establish the regulatory regime and align the current open banking system to Government objectives to be moderate. We expect costs of operating the system will amount to Commercial information to establish the regime, and Commercial information annually depending on the level of capital investment required, which will be funded from fees and levies.
96. Commercial information
97. Due to fiscal and time constraints MBIE is designing its implementation around open banking and not considering future sectors. The benefit of this approach is that we expect MBIE to be able to implement open banking by 1 December 2025, and this gives us the greatest opportunity to build on work the banking sector has already done. However, as more sectors are designated, this option is likely to be less cost-effective for government and the wider economy over the long term and will likely require future adjustment.

MBIE's forthcoming Stage Two CRIS will assess allocation of responsibility and distribution of fee and levy charges

98. The proposal to recover costs through fee and levy charges was generally supported in public consultation.
99. MBIE officials are assessing the operational details of implementing the proposed regulations, Commercial information. Once these details are finalised, we will consult again with banks and fintechs on proposed fees and levies. This advice and consultation will inform a Stage Two CRIS. The Stage Two CRIS will inform a second Cabinet paper and a second set of regulations, which will establish the cost recovery mechanism.