


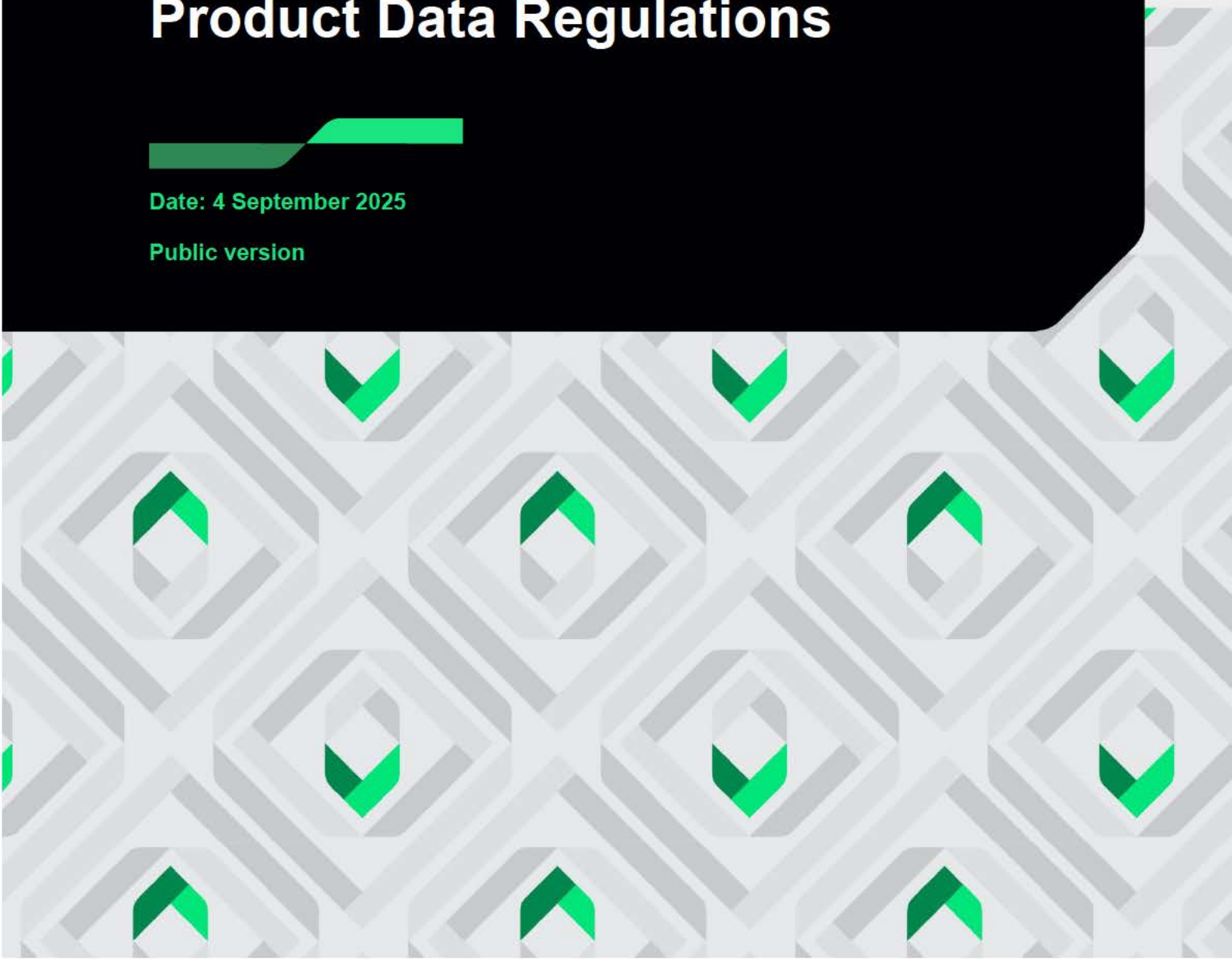


Submission to the Ministry of Business, Innovation & Employment on Customer and Product Data Regulations



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Public version



Kiwibank submission to the Ministry of Business, Innovation & Employment on Customer and Product Data Regulations

Summary

1. Kiwibank welcomes the opportunity to provide feedback to the Ministry of Business, Innovation & Employment (**MBIE**) on the exposure drafts of the Customer and Product Data (Banking and other Deposit-Taking) Regulations 2025 (**Banking Regulations**) and the Customer and Product Data (General Requirements) Regulations 2025 (**General Regulations**), (together, **Regulations**).
2. Kiwibank supports the submissions made by the New Zealand Banking Association – Te Rangapū Pēke (**NZBA**) (which we contributed to) and Payments NZ Limited (**Payments NZ**). The purpose of this submission is to highlight the points that are most important to Kiwibank. The extended deadline for this submission also enabled us to consider some further points, which we raise in this submission.
3. In summary:
 - a) We strongly support aligning the Regulations with version 2.3 of the API Centre Standards and the Minimum Open Banking Implementation Plan (**Industry Requirements**). We have highlighted a number of areas where stronger alignment is required to ensure a smooth transition to a regulated open banking regime.
 - b) Regulation 6(2) of the General Regulations must be amended to provide that data holders must, within 5 working days of receiving the relevant notice, *supply information necessary* for an accredited requestor to connect to the data holder's system (rather than provide full access to that system). This will reflect Cabinet's decision and ensure that this requirement is practical and safe.
 - c) The reporting requirements for accredited requestors set out in Regulation 9 of the General Regulations are burdensome and overlap with requirements under other legislation. MBIE should consider how these requirements can be streamlined.
4. We have also made some drafting comments.

Achieving full alignment with the Industry Requirements

5. The scope of the Regulations is broader than the scope of the Industry Requirements. We expect this is not intentional, as we understand that MBIE is seeking to align the Regulations with the Industry Requirements. We strongly support this approach, which will enable a smooth transition to a regulated open banking regime.
6. We emphasise that data holders are highly unlikely to be able to comply with any requirements beyond the Industry Requirements within the relevant timeframes. Implementing open banking functionality safely and securely is complex and takes time. Additionally, new functionality must be delivered in accordance with detailed standards to ensure consistency across the industry. Even differences that appear minor (such as bringing additional account types into scope) will often be significant in practice.
7. Accordingly, it is crucial that the Regulations are amended to better align with the Industry Requirements. We note that any requirements that go beyond the Industry Requirements could be considered separately, through a full consultation process. This would need to include a process to develop API standards setting out the details of how any such new requirements would be implemented consistently by different data holders.

8. Key aspects of the Banking Regulations that must be amended to ensure alignment include:
 - a) the definition of relevant account;
 - b) the scope of designated customer data; and
 - c) the concept of equivalency.
9. We set out more information on these key aspects below. We also encourage MBIE to closely consider the more detailed analysis of alignment between the Industry Requirements and the Regulations set out in Payments NZ's submission.

Definition of relevant account

10. The definition of "relevant account" set out in the Banking Regulations captures accounts that are not in scope under the Account Information API Standard, including fixed term deposit products and PIE term fund units. The Account Information API Standard applies to transactional accounts and savings accounts. It expressly does not apply to term deposits. Term deposits have different features to transactional accounts and savings accounts, and bringing them in scope would require significant amendments to the Account Information API Standard. We do not expect that this is achievable within the relevant timeframes.

Recommendation: Replace regulation 7(3)(a)(i) of the Banking Regulations with a provision that refers to an account relating to a call debt security (as that term is defined in the Financial Markets Conduct Regulations 2014).

Designated customer data: Regulation 7(1)(c)(iii) (Balance description)

11. Regulation 7(1)(c)(iii) specifies that "a description of how the balance is calculated" is designated customer data. [REDACTED]
[REDACTED] there is no equivalent requirement in the Industry Requirements. Instead, the Industry Requirements require API Providers to provide the type of balance. For example, the response to a request to this API endpoint might be "Available balance" or "End of day balance".

Recommendation: Replace regulation 7(1)(c)(iii) of the Banking Regulations with the words "the type of balance", and replace the corresponding example with the words "Available balance".

Designated customer data: Regulation 7(1)(c)(iv) (Balance date and time)

12. Regulation 7(1)(c)(iv) specifies that "the date and time of the balance" is designated customer data. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Recommendation: Delete the words "and time" from regulation 7(1)(c)(iv) of the Banking Regulations.

Designated customer data: Regulation 7(1)(e) and 7(2) (Machine-readable statements data)

13. Regulation 7(1)(f) provides that PDF copies of bank statements are designated customer data. Regulations 7(1)(e) and 7(2) provide that machine-readable data¹ from those

¹ Machine-readable data is data structured and formatted so that a computer can automatically read, interpret, and process it without human intervention.

statements (**Statements Data**) is also designated customer data. The requirements relating to Statements Data should be removed because:

- a) This would align the Regulations with the direction of the Industry Requirements.
- b) [REDACTED]
- c) Statements Data is unlikely to enable many, if any, new use cases.

14. We expand on this below.

15. The Industry Requirements currently require API Providers to provide Statements Data. However, the API Council has recently agreed that the API Centre should review the requirement to provide Statements Data, with a view to removing it from the Industry Requirements. It has also agreed that, in the meantime, the API Centre should consider how to give effect to an exemption from this requirement. Accordingly, removing regulations 7(1)(e) and 7(2) from the Banking Regulations would align with the direction of the Industry Requirements.

16. [REDACTED]

17. Additionally, we do not believe that Statements Data is likely to enable many, if any, new use cases. There are other endpoints that provide accredited requestors and customers with access to PDF statement files and machine-readable transaction data, customer information and account information.² It is difficult to see what additional value Statements Data could provide.

18. To the extent that any use cases would be enabled by Statements Data, we are happy to explore alternative ways to provide more direct and efficient endpoints. This would also be preferable from a privacy perspective – the requirements relating to Statements Data require data holders to provide accredited requestors with all information from a statement, when the accredited requestor may only require a small amount of that information.

Recommendation: Remove regulations 7(1)(e) and 7(2) of the Banking Regulations to reflect recent developments in respect of the Industry Requirements.

Equivalency

² In accordance with regulations 7(1)(a), (b), (d) and (f) of the Banking Regulations.

19. The concept of equivalency is central to the Industry Requirements. Equivalency means that an API Provider should only be required to initiate a payment or share data where a customer would be able to initiate that payment or obtain that data through a bank's proprietary channels. The Regulations should reflect this.
20. In particular, designated customer data should only include information that is available to the customer through an electronic facility. Regulation 7(1) should be amended to clarify this.
21. Additionally, it should be clear that a data holder does not need to initiate a payment where an account is suspended or frozen. Two ways this could be achieved are:
 - a) By adding a provision to the Banking Regulations to provide that, in determining whether a data holder would "ordinarily perform the action to which the request relates in the course of the data holder's business", regard must be had to whether the data holder has the ability to refuse to perform the action under its terms and conditions.
 - b) By adding the words "and the data holder has not exercised a right under its terms and conditions that allows it to refuse to make a payment (for example, where an account has been frozen)" to regulation 8(2)(e) of the Banking Regulations.

Recommendations:

Amend regulation 7(1) of the Banking Regulations to provide that the classes of customer data specified are only designated customer data to the extent that they are ordinarily available to the customer through an electronic facility.

Amend the Banking Regulations to expressly provide that a data holder does not need to initiate a payment where an account is suspended or frozen.

Access to the system with 5 wording days of a request

22. The General Regulations should be amended to clarify what a data holder must do within 5 working days of receiving notice that an entity has become an accredited requestor (**Accreditation Notice**).
23. The General Regulations provide that a data holder must, within 5 working days of receiving an Accreditation Notice, give the accredited requestor access to the data holder's system to enable it to make requests under the Act. On one interpretation, this could mean that data holders need to provide full system access to accredited requestors within 5 working days. This is not appropriate because:
 - a) Under current onboarding processes, providing full system access in 5 working days would be challenging (particularly where large volumes of applications are received at the same time). This may give rise to risk (for example, if onboarding steps must be skipped or rushed to meet regulatory timeframes).
 - b) The onboarding timeframe is not fully within the data holder's control. This is because there are some steps that need to be completed by the accredited requestor, such as providing tokens and certifications and undertaking relevant testing.
 - c) This would be a significant departure from Cabinet's decision, which was that data holders should be required to *supply information necessary* for an accredited requestor to connect to the bank's system (rather than provide full access to the system). Data holders have been developing onboarding processes on this basis.
24. Accordingly, the General Regulations should be amended to reflect Cabinet's decision. We are happy to explore alternatives in future, including an appropriate timeframe for full onboarding. This would need to be carefully framed so that time spent on aspects of the onboarding process that are not in that data holder's control is excluded.

Recommendation: Replace regulation 6(2) of the General Regulations with a requirement for data holders to, within 5 working days of receiving an Accreditation Notice, provide the information necessary for an accredited requestor to establish connections with the bank’s electronic system.

Regulatory overlap

25. Regulation 9 of the General Regulations includes requirements that would be burdensome for some accredited requestors and that overlap with requirements under other regulatory regimes. MBIE should consider how these requirements can be streamlined. For example, MBIE should consider providing an exemption for registered banks that are accredited requestors. Registered banks are already heavily supervised by the Reserve Bank and the Financial Markets Authority. Additional supervision by MBIE in respect of the matters set out in Regulation 9 would create an unnecessary, duplicative regulatory burden. This would be counter to the Finance and Expenditure Committee’s recent recommendation that regulators should co-operate to remove duplication and streamline processes between agencies.³

Recommendation: Exempt registered banks from Regulation 9 of the General Regulations, and consider whether any other types of entities should be exempt on the basis that they are appropriately supervised under other legislation.

Drafting comments

26. We suggest the following changes for clarity:
- a) Amend the definition of ‘statement’ in the Banking Regulations to:
 - i) clarify that it does not include types of statements that are not intended to be captured, such as disclosure statements provided in accordance with the Credit Contracts and Consumer Finance Act 2003; and
 - ii) clarify that a statement may contain data about other accounts, alongside the account specified in the request.
 - b) We strongly recommend deleting regulations 7(1)(e) and 7(2) of the Banking Regulations. However, if regulation 7(1)(e) of the Banking Regulations is retained, we suggest inserting the word “if” after the words “the following data”. This will ensure that data holders are only required to provide data if it is actually included in a statement.
 - c) Amend the definition of “relevant account” in the Banking Regulations to provide that an account is only a “relevant account” if the data holder is the issuer or the lender (as applicable) of that account.
 - d) Amend the definition of “acting as an intermediary” in the Banking Regulations to ensure that regulations 9(2)(b), 9(2)(c), and 9(3) cannot be utilised to avoid provisions of the Regulations that would otherwise apply.
 - e) Amend regulation 10(3) of the General Regulations to make it clear that notice can be provided through an internet website or mobile application.

³ [Inquiry into banking competition – final report.](#)