New Zealand Banking Association
Te Rangapū Pēke

Submission

to the

Ministry of Business, Innovation and Employment

on the

Consultation: *Exposure draft of open banking regulations under the Customer and Product Data Act*

29 August 2025

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About NZBA

1. The New Zealand Banking Association – Te Rangapū Pēke (**NZBA**) is the voice of the banking industry. We work with our member banks on non-competitive issues to tell the industry's story and develop and promote policy outcomes that deliver for New Zealanders.

2. The following seventeen registered banks in New Zealand are members of NZBA and support this submission:

- ANZ Bank New Zealand Limited
- ASB Bank Limited
- Bank of China (NZ) Limited
- Bank of New Zealand
- China Construction Bank (New Zealand) Limited
- Citibank N.A.
- The Co-operative Bank Limited
- Heartland Bank Limited
- The Hongkong and Shanghai Banking Corporation Limited
- Industrial and Commercial Bank of China (New Zealand) Limited
- JPMorgan Chase Bank N.A.
- KB Kookmin Bank Auckland Branch
- Kiwibank Limited
- Rabobank New Zealand Limited
- SBS Bank
- TSB Bank Limited
- Westpac New Zealand Limited

Contact details

3. If you would like to discuss any aspect of this submission, please contact:

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Introduction

4. NZBA welcomes the opportunity to provide feedback to the Ministry of Business, Innovation and Employment (**MBIE**) on the exposure draft of Customer and Product Data (Banking and other Deposit Taking) Regulations 2025 (**Banking Regulations**) and the exposure draft of Customer and Product Data (General Requirements) Regulations 2025 (**General Regulations**) (together, the **Regulations**).

5. NZBA commends the significant effort that MBIE has expended in developing the Regulations within a compressed timeframe. NZBA supports the further development of open banking in New Zealand. We celebrate greater data access and sharing abilities for customers.

6. In this regard, NZBA is concerned that the short two-week consultation provides limited opportunity for stakeholders to engage fully and give adequate and appropriate consideration to the large range of significant issues in play. NZBA believes that a longer consultation period would support the development of stronger, more enduring regulations. In our view, a more measured, well-sequenced approach would lead to better outcomes for both industry and customers.

7. NZBA's understanding is that MBIE intends for the regulatory requirements to accurately reflect Cabinet's decisions and align with existing industry standards, notably version 2.3 of the API Centre standards (**API Standards**). We strongly support that approach, which we believe would help ensure a smooth transition to, and public confidence in, the new regime.

8. In our review, we have identified specific areas where we consider that the proposed requirements do not fully align with these intentions, and have provided specific recommendations to achieve alignment. As set out in more detail below, these include:

    8.1. That the scope of data sharing requirements should be clarified and inconsistencies should be minimised (including that requirements to provide structured data in addition to PDF statements should be removed) (paragraphs 12 to 22).

    8.2. The scope of accounts for data sharing and payment initiation should be aligned with API Standards (paragraphs 23 to 28).

    8.3. Timing to provide system access to new accredited requestors should be amended for clarity and practicality (paragraphs 29 to 38).

    8.4. The "electronic facility" definition should be refined (paragraphs 39 to 41).

    8.5. Joint account concepts should be further clarified (paragraphs 42 and 43).

8.6. Additional liability provisions should be considered further at a later stage (paragraphs 44 and 45).

8.7. Additional mechanics relating to accredited requestors (paragraphs 46 to 50) and accreditation as an intermediary (paragraphs 51 to 54) should be included.

9. NZBA understands that the API Centre will be making submissions setting out **specific differences** between the data sharing requirements of the Banking Regulations and the API Standards, as discussed in more detail at paragraphs 17 to 22. NZBA encourages MBIE to closely consider and eliminate such differences.

10. We would be happy to continue to engage with MBIE as this work progresses.

Overarching comments

11. We provide the following overarching comments, in addition to our specific submissions below:

11.1. NZBA notes that the General Regulations do not currently specify any limits or rules regarding fees for data services, as this matter remains under Government consideration. Given that the Regulations are scheduled to take effect on 1 December 2025, it is critical that this issue is resolved promptly. This is particularly important as, depending on the final rules adopted, bilateral agreements between banks and accredited requestors may be required.

11.2. While the Regulations provide welcome detail, significant areas for development remain as outlined in our submission below. While NZBA expects that any forthcoming standards will generally reflect the existing API Centre requirements, we would greatly appreciate clarity on when standards will be issued (including any standards to be available by 1 December 2025), which API Centre standards, terms and conditions they will reflect, and the extent to which any changes will be required to reflect the regulatory framework.

11.3. NZBA is supportive of the MBIE's overarching approach to the matter of enduring customer consent at regulation 10 of the General Regulations. We consider this strikes an appropriate balance to encourage the success of New Zealand's open banking regime.

Scope of data sharing requirements should be clarified and inconsistencies should be minimised

12. NZBA understands that MBIE intends the regulatory requirements for data sharing to align with the API Standards. However, we have identified inconsistencies between the

Banking Regulations' requirements and the API Standards in this respect, as set out in more detail below.

13. NZBA queries whether this inconsistency is intentional. We consider that if this is intentional, it will significantly challenge bank compliance (and may in some cases be practically impossible) as additional API feeds will need to be established for 1 December. If such inconsistencies remain in the final Regulations, we strongly encourage further guidance or commentary on any exemption process that may be available, where such inconsistencies mean that members may not be able to achieve full compliance by 1 December.[1]

14. We are concerned that such inconsistencies may (on one interpretation) force banks to collect data that they currently do not hold, as well as transpose data between formats. This would conflict with the intention of the regime to require banks to provide access to customer data that they hold.

15. NZBA further queries whether the examples in the Banking Regulations of specific customer data are provided as examples, or a list of requirements. We are concerned that the examples provided in the Regulations are more extensive and more specific than the API Standards, and include types of data that are not typically shared by banks, in New Zealand or overseas.

16. We consider that the following areas require additional guidance in particular:

Statement information (regulation 7(1)(e) of the Banking Regulations)

17. NZBA submits that regulations 7(1)(e) and 7(2) of the Banking Regulations (relating to structured statements data) should be removed. On the recommendation of the API Centre's Business Working Group, the API Centre Council has recently agreed that the API Centre should review the requirement to provide structured data from statements, with a view to removing it from the API Standards. It has also agreed that, in the meantime, the API Centre should consider how to give effect to an exemption from this requirement. We consider that this reflects general agreement on this issue between API Providers and third parties.

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[1] NZBA notes that while there is a class exemption making power in the Customer and Product Data Act 2025, this is a Ministerial exemption making power. Accordingly, given the process requirements for such a power to be exercised, NZBA is concerned that it may be very unlikely, if not impossible, to have class exemptions in place by 1 December 2025.

18. NZBA understands that the reasons for removing the requirements to provide structured data from the API Standards include:

    18.1. Some data holders may not hold structured data from statements.

    For instance, a viable current approach to creating statements may be to extract structure data from raw data into a staging area, and then generate and archive the statements, with the staging data expiring a short time later. Accordingly, in such cases: (a) structured data from statements would not fall within the definition of "customer data" under the Customer and Product Data Act 2025 (**Act**), being data that is "held by or on behalf of a data holder" (meaning that data could not be designated); and (b) to provide structured data in respect of a statement in such cases, those members would need to reconstruct the structured data. This would require significant effort, give rise to significant risk, and be counter to the purpose of the open banking regime, which is to require data holders to share data that they hold, rather than to create new data.

    18.2. Much of the data that could be contained in statements can be obtained from other API endpoints, so structured data from statements provides very limited value for accredited requestors and customers.

    Customer information and transaction data is already required to be provided, in accordance with regulations 7(1)(a) and (d) of the Banking Regulations. NZBA queries the value and clear use cases for the additional information required by regulations 7(1)(e) and 7(2) from structured statement data, such as data about a loyalty programme. To the extent that any of the necessary data would support potential use cases, our members are available to discuss other options for its provision through more direct and efficient endpoints.

19. However, if, despite our submission above, regulation 7(1)(e) of the Banking Regulations is retained, NZBA submits that:

    19.1. We understand that the intention is that banks must only share information under this regulation if it is actually included in their statements. However, the drafting is unclear, and we are concerned there may be an interpretation they they now need to ensure all listed information is made available for the previous six-month period, if the bank holds such data, even if it was not included in a statement format before the commencement of the Regulations. Such an interpretation would in turn require retrospective analysis of statements prior to 1 December 2025 and require banks to put the information that they hold into a statement format in order to satisfy the requirement. We

suggest that this lack of clarity could be addressed with a minor amendment to regulation 7(1)(e) as follows:

> "the following data*, if* contained in a statement for a relevant account that the data holder has sent or made available to the customer during the 6 month period before the time of the request under section 15 of the Act:"

19.2. The drafting should make clear that the information required to be made available pursuant to paragraph (e) (in addition to the statements themselves), is the current mandatory requirements of the API Standards. This would mean that some data, for example in relation to loyalty programmes, would be required to be shared only if banks are already doing so.

Transaction particulars (regulation 7(1)(d) of the Banking Regulations)

20. We note that data holders are required to share "particulars of each transaction" for the past two years. We submit that the term "particulars" is too broad and ill-defined[2] to stand on its own without further guidance. It should be clearly described that any relevant particulars required should be as provided in the technical standards. Otherwise, without being defined, the use of the word "particulars" may lead to inconsistent approaches from different banks, and different interpretations of what is ultimately required.

21. Additionally, it is not clear whether the matters included in the examples (below regulation 7(1)(d)) are intended to show required information in every case, or items that may constitute particulars (but are not the only way a bank may provide particulars). The examples should be clarified, with preliminary wording such as, "If the following data is held by the data holder, it would constitute particulars of a transaction" or simply list the data that should be provided by the data holder if it is held by the data holder rather than referencing "particulars" if there was to be a move away from the reference to "particulars" (see our submissions in the above paragraphs).

Description of balance (regulation 7(1)(c)(iii) of the Banking Regulations)

22. Under the Banking Regulations, data holders are required to share "a description of how the balance is calculated." In contrast, the API Standards require banks to share the type of balance – such as "available balance" or "end of day balance". Regulation

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[2] We also note that a possible interpretation of the term "particulars" is a very narrow reference to the 'PCR' fields currently used in New Zealand electronic payments (Particulars, Code, Reference).

7(1)(c)(iii) of the Banking Regulations (and the relevant example) should be amended to reflect this.

Scope of accounts for data sharing and payments initiation

23. The definition of "relevant account" in the Banking Regulations is broader than in the API Standards and would include accounts such as term deposits.[3] If the current definition is retained, banks may need to carry out additional, unplanned technical work, which would significantly challenge the smooth implementation of the new regime by the 1 December 2025 deadline.

24. To achieve consistency with the API Standards (which we understand is the intention), regulation 7(3)(a)(i) should be amended to clearly reflect the scope of current API Standards coverage (for instance, in relation to transactional accounts this could be based on the existing definition in the Financial Markets Conduct Regulations 2014 of a call debt security, for example).

25. Additionally, there is a discrepancy in the Banking Regulations between:

    25.1. the relevant accounts to which the regulation 7 "Designated data" provisions apply; and

    25.2. the wider set of accounts to which the regulation 8 "Designated action" requirements apply.

26. Both data sharing and payment initiation requirements should apply only where a customer can already access their account through an electronic facility.[4] Currently, this limitation is included in regulation 7 (data sharing), but not in regulation 8 (payment initiation). As a result, from 1 December 2025, the Banking Regulations may require banks to facilitate payments from accounts that are not already accessible through existing electronic systems. We suggest that the relevant wording in regulation 7 is mirrored in regulation 8(2).

27. Additionally, NZBA submits that the definition of "electronic facility" should be amended as follows to include an additional requirement that the customer for the account can make payments from the account through an electronic facility.

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[3] The API Standards only cater for the BACHO account number formats, which are not used by PIE or Term Deposit Accounts.

[4] See also our submissions below in relation to the "electronic facility" concept.

"(a) means an electronic facility that:

(i) gives a customer access to data about a relevant account on a substantially continuous basis; ~~and~~or

(ii) enables a customer to initiate payments from an account on a substantially continuous basis; or

(iii) both (i) and (ii) above; and

(iv) is maintained by or on behalf of a data holder (for example, an internet site or a mobile application); but"

28. NZBA also notes that banks are not required to process payments above a 'relevant limit' described in regulation 8(3) of the Banking Regulations. As drafted, banks are generally not required to process payments above the limit they would normally apply through their electronic facility. However, this limit can be overridden if a customer instructs the bank to impose a higher limit (regulation 8(3)(a)(i)). We consider the Banking Regulations should be drafted to ensure that in no cases can a customer unilaterally instruct a higher limit above what is set through the electronic facility (although customers may require a lower limit). This could be achieved by amending regulation 8(3) as follows:

(3) In this regulation, **relevant limit** means– the lowest of the following:

~~(a) the lesser of the following:~~

~~(i)~~ (a) a limit (if any) for payments made under section 19 of the Act that the customer has instructed the data holder to impose:

~~(ii)~~ (b) a limit (if any) agreed between the data holder and the accredited requestor:

(c) the amount determined under subclause (4).

~~(b)~~ (4) ~~if no limit applies under paragraph (a),~~ the amount determined under this subclause (4) shall be the greater of the following:

[…]

Timing to provide system access to new accredited requestors

29. NZBA is **significantly concerned** that the General Regulations may require a data holder to provide system access to an accredited requestor within five working days

after notifying the data holder that the requestor is accredited. NZBA submits that regulation 6(1)(b) of the General Regulations should be extended to require that the accredited requestor formally requests access under the CPD Act, to distinguish from situations where an accredited requestor just informs the data holder of their accreditation, which, under the current wording would require the data holder to enable access and could create ambiguity as to whether access had been formally requested.

30. In our view, without further clarity (as discussed below) the narrow five working day timeframe may increase risk and present significant challenges to banks, especially where large volumes of requests are received, as may be the case at the inception of the regime.

31. Firstly, we query what "access to system" within the five working days is intended to mean. We believe the General Regulations should be clarified to ensure they closely align with Cabinet's April 2025 recommendation that banks are **to supply information necessary** for an accredited requestor to connect to the bank's system (rather than provide full access to the system), within five working days of receiving an onboarding request from the accredited requestor.

32. Without this additional clarity, we are concerned that "access to the system" may be interpreted to require banks to grant full system access to accredited requestors, including the ability to make data and payment initiation requests within five working days.

33. In our view, such a requirement would be a significant departure from Cabinet's decisions and would introduce risks for all industry parties, including fintechs and other potential accredited requestors. Any mandated timeframes should allow for proper testing to ensure accredited requestors can use data holders' systems safely and reliably, supporting good customer outcomes.

34. The amount of time required will vary depending on the circumstances, but it will only be in rare cases that 5 working days or less could be achieved given all the technical steps and correspondence to flow back and forward between the accredited requestors and the data holder. This is particularly likely to be the case at the inception of the regime in December 2025, when data holders may receive large volumes of onboarding requests at the same time as being subject to systems change freezes. This is also likely to occur each time an additional entity becomes a data holder. Pushing through access requests on an extremely tight timeline would introduce unnecessary system risk (and risk of loss of confidence in open banking, particularly at the start of the regime).

35. Finally, NZBA's view is that it is inappropriate for data holders to be required to provide system access within a certain timeframe, in the absence of clear regulatory guidance as discussed at paragraph 36.3 below (and noting that, as discussed above, the

current drafting goes beyond Cabinet's decisions to date). Data holders do not have full control of the onboarding process, which relies on the accredited requestor to take certain steps and provide certain information, such as exchanging certificates and tokens.

36. If (despite our comments above) it is intended that the General Regulations require full system access to be provided within a mandated timeframe, we submit that:

    36.1. A five working day limit may be viable only to provide accredited requestors access to a testing or QA environment, provided that the accredited requestor has given all necessary information, materials and certificate information to allow this to occur.

    36.2. A more appropriate time limit for full system access would be 20 working days after completing testing. Given the complexity of the activities involved, including exchanging and setting up certificates and testing in both the sandbox and production environments, we believe there is a risk of error, breach and accordingly dispute where this is required in a condensed timeframe.

    36.3. The General Regulations or standards should provide more detail on what accredited requestors must provide in their notices to banks requesting system access, and ensure that any time limit for access does not begin until all necessary and prescribed information is provided.

37. NZBA further submits that the General Regulations should be amended to provide guidance on how a bank should verify that a requestor is accredited. For instance, confirmation from a register (which ideally would not rely on human checking of a website register, due to inefficiencies and risks this may introduce to the system) and issue/use of certificates.

38. We are happy to discuss these (or other) workable alternatives with MBIE – including how onboarding processes could be automated and made faster in future.

"Electronic facility" definition and immediacy of data availability

39. The Banking Regulations include a definition of "electronic facility", that is used to determine what accounts are within scope of the data sharing requirements (regulation 7(3)(c)). We understand this is generally intended to capture mobile app and website-based systems. However, while phone banking is expressly excluded by the definition, SMS banking is not mentioned. We consider that the definition should be clarified to exclude this.

40. NZBA also notes that the "electronic facility" definition refers to giving customers access to account data on a "substantially continuous basis". This appears to account for internet and mobile banking to occasionally be unavailable (e.g., for maintenance). In addition, the data sharing provisions refer to making available data of each transaction that has occurred. This may capture standard system refresh intervals and payments settlement times not happening in real time. However, we suggest that the Banking Regulations explicitly state that designated data presented must be as currently available via the electronic facility. This will specifically exclude any possible interpretation that banks must develop new (and challenging) real time data processing capabilities.

41. Finally, as a drafting point, we consider it may be preferable to use a different defined term (such as "electronic account access"), to avoid confusion with the similar defined term "electronic system" in the Act.

Joint accounts

42. Under the API Standards, a third party can only request information about an account if actions in respect of that account only require authorisation by one person. This is not currently reflected in the Banking Regulations. Accordingly, the definition of "relevant account" in the Banking Regulations should be amended to capture only accounts where actions on the account do not require the authorisation of 2 or more persons.

43. NZBA also notes that the Banking Regulations appear to require that customers be able to access information about their joint accounts, and their own name and contact details but not the name and contact details of other account holders. Data holders deal with joint accounts in different ways. In some cases, customer information may be recorded against the joint account, while in other cases, it may only be recorded against the customer's profile. Additionally, in some cases joint account holders may be able to view customer information relating to the other joint account holders through their electronic facility, and in other cases they may not. It would be helpful for the Banking Regulations to clarify that data holders may satisfy regulation 7(1)(a) of the Banking Regulations by:

    43.1. providing customer information in respect of all joint account holders, or only a requesting joint account holder; and

    43.2. providing the customer information attached to the profile of the relevant customer, or the account itself.

Liability and other provisions

44. NZBA notes that the Regulations do not include any additional provisions regarding liability or similar matters (as the Act contemplates may be made by regulation). For example, section 52 of the Act contemplates additional regulations in respect of CPD storage and security requirements.

45. While we do not consider that such further provisions are necessary for 1 December (given the existing provisions in the Act which apply when there has been a contravention of that Act), we consider that it would be helpful to consider such provisions on a longer timeline after further industry consultation.

Accredited requestors

46. Regulation 10(2) of the General Regulations requires an accredited requestor, on a twelve-monthly basis, to give each customer a written notice "about" the scope of the authorisations that customer has given. In our view, this regulation should be clarified to refer to a written notice "setting out" the scope of the customer's authorisations, and stipulating further detail on the information to be provided to customers, such as the type of information that may be accessed and the accounts in respect of which that information may be accessed.

47. We also note that the Act requires accredited requestors to have insurance or guarantees to cover penalties or similar liabilities. We consider that these requirements need to be bolstered in the Regulations. In particular:

    47.1. We are concerned that the Regulations do not include any resource requirement for accredited requestors to cover contractual disputes with customers or data holders (only liabilities under the Act), such as where confidential customer information that is not personal information is disclosed in breach of the agreement between an accredited requestor and a customer. Insurance and guarantees should also require a certain level of resources to be available by accredited requestors to ensure that the accredited requestor is able to appropriately deal with customers and data holders if things go wrong. This is important to ensure confidence in the system.

    47.2. We also note that there is no express requirement or similar to consider the financial resources of any insurer, guarantor, or (in the case of self-insurance) the accredited requestor itself. Such factors should be included as part of MBIE's consideration of an application.

    47.3. For self-insurance, we consider that there should be material further guidance as to what is required to satisfy this. For instance, what provisions are required

to ensure that enough resource remains available (and any ring-fencing or similar to protect from insolvency).

48. NZBA also submits that the Regulations should be amended to require accredited requestors to maintain their insurance, guarantees and/or self-insurance on an ongoing basis and/or to notify MBIE if any cover lapses so that accreditation can be revoked.

49. We note that the Regulations allow the MBIE chief executive to suspend or cancel an accreditation under the Act where they are satisfied that an applicant no longer meets the criteria or requirements set out in regulations. However, we are concerned that the Regulations do not provide a simple method for updating MBIE on these matters. We query how MBIE will ensure that continuous insurance renewal and other accreditation requirements are maintained.

50. We are also concerned that there is no provision for material information to be provided to banks:

    50.1. by either MBIE or an accredited requestor where an accredited requestor's accreditation is suspended or cancelled; and

    50.2. by an accredited requestor where a customer withdraws their authorisation under section 38 of the Act.

Accreditation as an intermediary

51. NZBA notes that applicants may apply for accreditation with respect to acting as an intermediary and that (under regulation 14 of the General Regulations) in considering applications for accreditation as an intermediary, the Chief Executive must be satisfied that the applicant has **adequate processes** to:

    51.1. verify the identity of fourth party persons to whom it provides intermediary services; and

    51.2. provide **reasonable assurance** that each person to whom it provides intermediary services has adequate arrangements in place with respect to certain important matters, including (but not limited to) security and compliance with the Act and Privacy Act obligations.

52. NZBA seeks clarification on whether additional regulations or technical standards will apply to the processes accredited requestors must have in place, and the assurances they provide, regarding the persons to whom they offer intermediary services. Noting our comments at paragraph 44 about the lack of additional liability

provisions in the Regulations, NZBA seeks greater clarity in this area to ensure that customers can be assured that there are clear standards that Accredited Requestors must meet in this respect. NZBA contends that this will also help protect against inappropriate data usage and loss by fourth parties accessing the regime through accredited requestor intermediaries which will, in turn, ensure confidence in the open banking ecosystem.

53. In addition, NZBA notes that the Banking Regulations define the circumstances in which an Accredited Requestor is "acting as an intermediary" in the provision of data provided and payments facilitated in accordance with the Act (regulation 9(2)). In particular, NZBA notes that an accredited requestor may avoid a requirement to obtain accreditation for acting as an intermediary where the accredited requestor makes requests "mainly for the purpose of [the accredited requestor] providing goods or services" to the customer (rather than to a fourth party) (regulation 9(3)).

54. NZBA considers that additional guidance is required with respect to the threshold at which an accredited requestor is providing services for its own purposes and when it is providing information and services to a fourth party. In the absence of this clarity, NZBA is concerned that an accredited requestor may be able to obtain data for its own purposes by providing a service directly to customers, but with the intent of also providing all or most of that data to fourth parties (providing an equivalent to an intermediary service, but without having to carry out reasonable assurance with respect to the arrangements of fourth parties to whom it is effectively providing intermediary services). NZBA submits that regulation 9(3) should require that any third party who passes information on to a fourth party meets the standard required of an intermediary under regulation 14(2) and (3) of the General Regulations. This will ensure that those requirements are not disapplied simply because the accredited requestor is also making use of the regime to provide goods and services to the customer in its own right.