Submission

to the

Ministry of Business, Innovation and Employment

on the

Consultation on technical Open Banking issues: *Delegation systems and professional trust accounts*

19 June 2026

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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

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Introduction

4. NZBA welcomes the opportunity to provide feedback to the Ministry of Business, Innovation and Employment (**MBIE**) on the Technical proposal: Delegation requirements and treatment of professional trust accounts for Regulated Open Banking (**Technical Proposal**).

5. NZBA commends MBIE for taking into account feedback received on regulation 6 of the Customer and Product Data (General Requirements) Regulations 2025 (**General Regulations**) during the April 2026 consultation on open banking regulations relating to business banking channels (**April Consultation**) in preparing the Technical Proposal. We provide suggestions in this submission to allow for better technical precision and the continued success of the regulated open banking regime in New Zealand.

6. NZBA thanks MBIE for extending the timeframe for submissions on this consultation, which has given stakeholders a better opportunity to engage with, and give consideration to, the complex and technical issues involved. More broadly, however, NZBA notes a wider pattern of relatively short consultation periods in relation to open banking matters. NZBA acknowledges that MBIE has likely adopted shortened timeframes so that the relevant rules can be settled more quickly, allowing banks more time to then build the necessary systems. However, noting public law obligations and norms with respect to consultation, in NZBA's view, consultation periods of at least one month should generally be adopted, with longer timeframes provided for more significant or technically complex proposals. In addition, given the importance of precise language in relation to these technical matters, NZBA anticipates that MBIE will consult on the exposure draft of any regulatory amendments resulting from the Technical Proposal. NZBA believes that longer consultation periods, and ensuring that industry has the opportunity to consider the specific regulatory language proposed, better support the development of a stronger, more enduring regime, ultimately delivering better outcomes for both industry and customers.

7. NZBA also considers that the short timeframes for consultations on open banking, together with the absence of consultation on the specific language of regulation 6 of the General Regulations (**Regulation 6**), has contributed to the need to revisit open banking regulations (including Regulation 6). A longer and more comprehensive initial consultation process may have allowed these matters to be considered earlier, supporting a more efficient process and better outcomes for both industry and customers.

8. We provide below our responses to MBIE's discussion questions set out in the consultation document.

9. In our responses, we identify specific areas where we consider that the Technical Proposal should be amended to better reflect the purpose and

understanding of the open banking regime. In summary, NZBA makes the following key submissions:

9.1 Regulation 6 should be sufficiently flexible to allow banks to work with their existing systems (paragraphs 13 to 15 and 36);

9.2 Regulation 6 should not mandate data-sharing authority for individuals with view-only access to a customer's account. Banks should be permitted to have default arrangements that exclude data-sharing authority for such individuals (paragraphs 16 to 18 and 34);

9.3 MBIE should avoid developing overly prescriptive requirements for edge cases without having first considered appropriately the associated benefits and costs. NZBA considers that this will serve to ensure investment is made in appropriate innovative solutions for the benefit of both customers and industry, and may incentivise non-designated banks to join the regulated open banking regime (paragraphs 20 and 21);

9.4 The Part 2 factors and the Part 3 additional functionality included in the Technical Proposal should not be included in the amended Regulation. In particular, view-only access should not automatically confer data-sharing authority (paragraphs 22 to 25, 28 and 38);

9.5 The question of whether banks should be required to enable individuals to authorise open banking data-sharing on behalf of a customer, but not to authorise payments should be for resolution between banks and their customers. The final regulation should allow banks flexibility in how this role is implemented within their existing systems (paragraph 27);

9.6 The wording of Regulation 6 should make it clear that the systems it refers to are not required to apply where the customer is an individual (paragraphs 29 to 30);

9.7 MBIE should publish a response to submissions providing information on the reasons for which MBIE has (or has not) incorporated feedback received in previous submissions (paragraphs 31 and 35);

9.8 The Customer and Product Data (Designations for Banking and Other Deposit Taking) Regulations 2025 (**Designation Regulations**) should be amended to expressly exclude any requirement for multi-authorisers of data-sharing, for consistency with the approach taken in respect of payments requiring multiple authorisers (paragraph 32);

9.9 MBIE should not pursue more standardisation of open banking entitlement options. Banks should retain flexibility to operate in line with their existing systems, as greater standardisation could reduce competition and impose disproportionate costs on banks whose systems do not align with any prescribed model (paragraph 39); and

9.10 NZBA agrees that MBIE's description of professional trust accounts is sufficient for the purposes of the open banking regime, on the basis that MBIE’s analysis only intends to address situations where the umbrella account product would, if held by an individual, be a call debt security product. Client accounts (referred to throughout as “client ledgers”) are not appropriate for open banking and should be expressly excluded. Umbrella accounts should remain within scope, but open banking functionality for those accounts should be limited to data-sharing on the approval of a single authoriser (paragraphs 41 to 52).

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

Regulation 6 – Confirmation and delegation system

11. We provide below our responses to MBIE’s discussion questions in relation to the confirmation and delegation system.

Problem definition

MBIE question at 22.a: How does the problem definition align with your experience in practice? Are there aspects of the problem that have been underemphasised or overlooked?

12. We note that the issues identified in the Technical Proposal in relation to Regulation 6 have been raised by fintech participants rather than banks (on their own account or to reflect engagement with their customers). In our view, the problem definition in the Technical Proposal may not sufficiently reflect the customer perspective.

13. A purpose of the Customer and Product Data Act 2025 (**Act**) is to realise the value of certain data for the benefit of customers and society. In our view, customers themselves are best placed to determine what is in their interests and the regulatory framework should reflect this. Without proper consideration of the customer perspective, any resulting solution may not meet customer needs and may instead create unnecessary operational complexity.

14. Accordingly, and with respect to Regulation 6, NZBA notes that:

14.1 Banks’ existing systems have been designed and developed to service customers’ needs. Regulation 6 should support their continued use, where appropriate; and

14.2 Regulations should not mandate data-sharing authority for individuals with view-only access to a customer’s account. To do so would cut across customer choice and control.

We discuss these points further below.

Use of existing systems

15. NZBA submits that, as banks' existing systems have been developed to meet customer needs and, where relevant, internal governance processes, Regulation 6 should be flexible enough to allow their continued use where they are sufficient to achieve the intended outcomes of the open banking regime. We understand that this is the current intent of Regulation 6. However, for the avoidance of doubt, NZBA submits that, in practice, it would be complex and costly to require implementation of a new or specific system allowing customers to deliberately delegate authorisation for open banking data sharing and therefore we would not support mandating this in regulations.

View only access

16. In our view, data-sharing should be transparent and informed. Customers should be able to understand how, and to whom, they are delegating authority for data-sharing and how they can revoke those arrangements. We are concerned that the current problem definition may imply a preference for Regulation 6 to apply data-sharing authority by default to all individuals with access to a customer's account, including individuals with view-only access. In our view, this would undermine customer choice and control and is inconsistent with the purpose of the Act.

17. We submit that Regulation 6 should clarify that it does not have the effect of automatically and mandatorily extending data-sharing authority to individuals with view-only access on an account. Banks' policies need not (but may) permit an individual with view-only access on a customer's account to confirm authorisation of a data-sharing request. In our view, the current problem definition would not appropriately reflect customer choice or existing banking systems.

18. For example, business customers have differing structures, governance arrangements and internal policies. Their data-sharing preferences will therefore vary. Some business customers may not wish to permit data-sharing to be authorised by a single individual (or at all); others may consider that appropriate. Business customers should remain subject to default delegation in line with the existing bank policies, with which they are familiar.

19. We support an approach that allows customers to retain meaningful control over their data. In our view, this is an issue best supported by improving customer education and largely using existing authorisation systems designed to allow customers to amend settings to suit their needs.

MBIE question at 22.b: What additional issues or edge cases should be considered to fully understand this problem? Are there distinct sub-problems affecting different user groups?

20. NZBA submits that the primary focus for open banking should be on efficiently realising the value of data for the benefit of those most likely to use, and to benefit from, the regime. If relative benefits and costs of including any edge cases in the open banking regime (including edge cases within the regime's scope) are not thoroughly and properly considered, there is a risk of creating over-engineered, costly solutions that do not reflect customer needs and have limited benefit in practice.

21. In NZBA's view, that outcome would undermine wider participation and deliver poorer outcomes for both industry and customers, by preventing appropriate investment in other innovation initiatives. It may also particularly affect smaller banks and discourage non-mandated banks from joining the open banking ecosystem as data-holders.

Proposed approach

MBIE question at 22.c: Do the factors outlined at Part 2 – and in particular, the third factor relating to the complexity of the customer's banking arrangements – provide the right level of flexibility?

22. We understand that the intention of the Part 2 factors is to enable banks to operate largely within, or in alignment with, existing policies and customer mandates, where appropriate. On that basis, NZBA submits that the three factors should not be included in the amended Regulation 6.

23. Consistent with our comments at paragraphs 16 and 17, we are concerned that the first and second factors may imply an inference that the mere ability to view and download data, or to share information in practice should of itself entitle an individual to authorise open banking data-sharing on a customer's behalf. Regulation 6 should recognise that technical capability does not necessarily equate to customer authorisation and pre-existing view-only access should not automatically be treated as sufficient for the purposes of authorising data-sharing on behalf of a customer. Banks require flexibility to make an assessment of appropriate default settings in light of their existing permissions frameworks and customers' existing permission profiles. Regulation 6 should clearly establish that any extension of data-sharing authority to any individual with view-only access is not mandated by regulation (although may be permissible in light of banks' existing policies and customer authorisations).

24. With respect to the second factor, we consider that a bank's access policy should:

24.1 allow for banks to develop specific open banking data-sharing policies in alignment with their existing policies and customers' existing authorisations; and

24.2 expressly be permitted to exclude data-sharing authority for individuals with view-only access to a customer's account.

We consider that this provides helpful flexibility and appropriately recognises that not all customers are alike.

25. As set out in paragraph 22, we submit that the three factors should not be included in the amended Regulation 6. However, in the event that these (or any other) factors are included in Regulation 6, we would expect that banks would be allowed to exercise discretion when interpreting the factors. This could be achieved by requiring banks to "consider" the relevant factors, rather than to "take [*them*] into account" and clarifying that the factors included are not exhaustive and would therefore allow banks to look to existing permissions frameworks and customer authorisations and needs in developing the Part 2 policy.

26. We note also that we expect that the system referred to in Part 1 would allow banks to continue to use established processes for verifying identity. We consider that Regulation 6, as amended, should allow those processes to continue to be used, including to recognise individuals acting on behalf of a customer where they do not bank directly with the bank.

MBIE question at 22.d: Should Part 3 specify that banks should offer the option of a specific entitlement role whereby an individual would be permitted to authorise open banking data-sharing on behalf of a customer, but not to authorise payments?

27. We consider that this point should remain a matter between each bank and its customers. Open banking data-sharing authorisation will form part of broader existing authorisations frameworks, and accordingly may need to be bundled with other authorisations. NZBA submits that the final regulation should allow banks flexibility in how this role is implemented within their existing systems, rather than prescribing a minimum technical solution.

28. We note that Part 3 refers to systems being required to enable customers to "specify limits, conditions or durations" on individuals' data-sharing authorisations as well as to "view" and "amend" approvals (rather than simply revoke them). We submit that these requirements should be removed. These requirements go beyond the requirements of Regulation 6 as currently drafted, and may require significant additional systems development by banks as they would introduce a different kind of authority to the account authorities banks currently have in place (which do not include the ability to specify limits,

conditions or duration). We are also concerned that the requirements may duplicate or override customers' existing authority structures, risking confusion as to their appropriately authorised data-sharers.

MBIE question at 22.e: Does the proposed approach provide enough clarity for banks, fintechs and customers? If not, how could more clarity be provided?

29. NZBA assumes from the language used in the Technical Proposal that the systems referred to in Regulation 6 are not intended to apply to personal banking customers. We note that further clarity would be necessary with respect to requirements for power of attorney arrangements, vulnerable customers, children's accounts and other edge cases. Accordingly, we submit that the language of Regulation 6 should clarify that the systems referred to in that regulation are not required to (but may) apply where the customer is an individual. This is justified on the basis of:

    29.1 the extraordinary cost for some banks to comply with Regulation 6 in relation to individual customers as well, limiting resource available for other innovation initiatives; and

    29.2 the increased complexity of edge cases with respect to individuals.

30. As noted in our submission on the April Consultation, it is also unclear how Regulation 6 is intended to interact with the concept of a "secondary user" under the Act. This creates uncertainty as to how the regulation fits within the wider statutory framework, including banks' understanding of the risks of contravention and the availability of any defences.

31. We request that MBIE publish a response to submissions providing information on the reasons for which MBIE has (or has not) incorporated feedback received in previous submissions (including the point with respect to "secondary users" raised above).

32. The Designation Regulations specifically exclude any payment that requires the authorisation of two or more persons from being a designated action (see regulation 8(2)(d)). We note that no equivalent carve-out exists for data sharing requiring multiple authorisers, despite the General Regulations only requiring systems to support a single individual "acting alone" (see regulation 6(1)(a)). NZBA submits that the approach to drafting should be consistent across data-sharing and payments authorisation. The Designation Regulations should therefore be amended to expressly exclude any requirement for multi-authorisers of data-sharing from the scope of designated customer data. Any such requirement may involve significant additional technology build, and is more likely to be a requirement of large entity customers, who are not the focus of the open banking regime (as demonstrated in the recent amendments to the Designation Regulations). In our view, the cost of enabling data sharing requiring multi-authorisers is unlikely to be justified by demand from the small and medium-sized

businesses that are expected to be the primary business users of the open banking regime.

MBIE question at 22.f: Are additional safeguards needed to prevent inappropriate delegation within organisations (e.g. junior staff overreach and fraud risks) or can this be managed by the customers' inhouse policies? If additional safeguards are required, what should these be?

33. This should primarily be managed by customers' in-house policies. Banks have limited visibility into customers' internal approval processes and structures, and customers already need to manage these risks outside of open banking.

34. Accordingly, the regulatory requirements should provide for default settings that appropriately protect data, in particular by permitting banks to have default arrangements that exclude default data-sharing authority for individuals with view-only access. In some cases, we consider that permitting individuals with view-only access to share data by default may increase the risk of inadvertent overreach by junior staff or sharing that does not reflect customer wishes, needs and internal policies. We consider that banks' default access policies may grant some individuals the right to authorise data-sharing, with the customer able to use banks' systems (which may include the system under Regulation 6) to amend settings to suit their needs, and that relevant banks would be in the best position to consider their particular default access policies and what (if any) additional policies they may require.

35. NZBA requests that MBIE publishes a response to submissions providing information on the reasons for which MBIE has (or has not) incorporated feedback received in previous submissions, particularly in relation to the relationship between Regulation 6 and the Act. This could enable banks to better assess the risks that inappropriate data-sharing by an individual on behalf of a customer could result in a bank inadvertently contravening the Act and, if so, what defences would be available to the bank.

MBIE question at 22.g: How will the proposals affect small vs large businesses, and Māori organisations?

36. Providing services across small and large businesses, and Māori organisations, requires banks to be able to address each customer's specific needs. Existing systems are designed to respond to this diversity. In its final form, Regulation 6 should support banks to continue to assess and respond to the unique needs of their different types of customers largely through their existing systems and processes.

MBIE question at 22.h: Are there international models or best practices that could inform New Zealand's approach?

37. We understand that Australia uses a nominated representative model which enables banks to use their existing systems and processes when dealing with

non-individual and partnership customers to identify individuals that can act on the customer's behalf. We recommend an approach that aligns with customers' internal governance and enables banks to use existing systems designed to support those processes.

Implementation, standards and guidance

MBIE question at 22.i: Do you foresee implementation challenges for banks, fintechs, and/or customers (including business customers, and customers that are Māori organisations)? If so, what transitional arrangements or guidance would help ensure a smooth rollout?

38. We consider that proposals contained in the Technical Proposal may require significant build work for banks, particularly in light of the Part 3 requirements for the further functionality. As discussed at paragraph 28, we submit that the additional functionality discussed in the Technical Proposal should not be included in Regulation 6, when amended.

MBIE question at 22.j: Should MBIE provide more standardisation of open banking entitlement options (e.g. baseline rules or model policies) or leave flexibility to banks?

39. We do not consider that MBIE should provide more standardisation for open banking entitlement options, and contend that (as outlined above) flexibility should be provided for banks to operate flexibly and in accordance with existing systems. Each of New Zealand's banks operates differently, and in competition with each other, for the benefit of customers. We would be concerned that greater standardisation of open banking entitlement options would reduce competition and disproportionately benefit some banks whose existing policies happen to align with any proposed standardisation. Conversely, it may unfairly impose additional cost burdens on banks whose existing systems happened to differ from the standardisations.

Professional trust accounts

40. We provide below our responses to MBIE's discussion questions in relation to professional trust accounts.

Problem definition

MBIE question at 37.a: How well does our description of professional trust accounts (both the umbrella accounts and the client accounts within them) reflect how they operate in practice? Please highlight any inaccuracies, gaps, or areas that require clarification.

41. NZBA considers that there is complexity in defining professional trust accounts (both the umbrella accounts and the client accounts/ledgers within them), and considers that the description provided in the Technical Proposal is sufficient for the purposes of the open banking regime. For the avoidance of doubt, NZBA submits that agency banking arrangements should specifically be excluded from any definition of professional trust accounts.

MBIE question at 37.b: Do you agree with our understanding that while the umbrella accounts are call debt securities, the client accounts are not?

42. NZBA understands that MBIE's analysis only intends to address situations where the umbrella account product would, if held by an individual, be a call debt security product. Some umbrella accounts held by professional trustees by their nature will not be call debt securities (for example, a professional trustee umbrella account that is a term deposit product would not be a call debt security). NZBA understands that the Technical Proposal does not intend to imply that such out-of-scope products would come into the scope of the regime in the professional trust account context.

43. In that situation, NZBA considers that, as a matter of principle:

    43.1 An umbrella account that would be considered to be a call debt security when held by an individual will not cease to be a call debt security simply because it is held by a professional trustee.

    43.2 Client accounts (which MBIE notes function as separate ledgers) generally should not be treated as call debt securities for the purposes of the open banking regime. We refer to these accounts as "client ledgers" throughout.

44. However, ultimately the above categorisations may depend on an analysis of the particular contractual terms of the umbrella and client ledgers provided by the relevant bank. This may lead to uncertainty and differing approaches in the market, and we note that other legislation (such as for the depositor compensation scheme) benefits from specific deeming rules relating to treatment of trust accounts. Therefore, in our view, the Designation Regulations should be amended to clarify that client ledgers are not "relevant accounts" for the purposes of regulation 7(4) (designated customer data), and that payments from those accounts do not constitute a designated class of action for the purposes of regulation 8 (designated actions).

MBIE question at 37.c: What are the potential benefits and use cases for enabling open banking for:

i. the umbrella accounts (payments and/or data-sharing)?

45. With respect to umbrella accounts, NZBA considers that these are likely to require two or more people to authorise payments. Our view is that MBIE should only pursue enabling payments initiation for these accounts if it has evidence that a material proportion of these accounts allow for payments to be made on the basis of a single authoriser. Requiring payments initiation from these accounts where it is unlikely to be taken up by many customers would impose significant costs for little or no benefit. MBIE may wish to consider explicitly restricting open banking functionality for these accounts to data-sharing on the approval of a single authoriser (see also paragraph 32 above).

ii. the client accounts (payments and/or data-sharing)?

46. We do not consider that client ledgers are appropriate for open banking, given that the accounts in question do not belong to the underlying client but rather to the trustee who holds them.

MBIE question at 37.d: What are the potential costs and risks of enabling open banking for:

i. The umbrella accounts (payments and/or data-sharing)?

ii. The client accounts (payments and/or data-sharing)?

47. These types of umbrella accounts and client ledgers are a particular type of product for which no current open banking standards and consent processes accommodate the underlying client whose funds are represented by that account. That is, there is currently no electronic mechanism by which the underlying client can confirm a data-sharing authorisation to the trustee's bank (given the underlying customer may not bank with that bank).

48. Accordingly, enabling open banking for client ledgers would entail either, or both, excessive costs (in building the necessary technology processes), or excessive risks (if the processes were not built or were built to a low standard).

49. Furthermore, NZBA considers that regulated open banking is inappropriate for client ledgers because:

    49.1 The purpose of the open banking regime is to enable individuals to have control over and access to their data. We are concerned that enabling open banking for the client ledgers would enable trustees to share information on the underlying client ledgers, without the bank having any ability to confirm that the underlying client has approved that data-sharing. This may result in outcomes that are counter to the intentions of the open banking regime; and

    49.2 These accounts are complex and may require special handling. Open banking relies on standardised processes and settings which are inappropriate for these accounts.

Proposed approach

MBIE question at 37.e: To what extent does our proposed approach strike the right balance between our intended objectives outlined at the beginning of this proposal document?

50. We consider that including umbrella accounts in the open banking regime, but excluding client ledgers, satisfies MBIE's objectives.

50.1 It facilitates efficient investment in open banking systems by avoiding unnecessary and inefficient additional spending to build standards and technology to extend regulated data services directly to the client ledgers, where there would be excessive costs/risks (see paragraphs 47 and 48 above).

50.2 It provides for uptake by fintechs and valuable services to customers.

50.3 It provides for customer trust in information and payments security by ensuring that the trustee account holder cannot share information about individual client's ledgers (which the trustee may not have permission to share).

50.4 It aligns with the broader regulated open banking system by not requiring novel types of open banking standards to be developed for limited use, specialist products, while still enabling the benefit of regulated data services to be available for professional trust accounts and without harming the trust of the underlying beneficial customers of each client ledger by sharing that particular person's specific banking information without their consent.

MBIE question at 37.f: Would excluding professional trust accounts in their entirety enable us to better achieve these objectives? What are the trade-offs?

51. We understand that open banking access is intended to apply in general to call debt securities, which includes professional trust accounts. We do not consider that excluding professional trust accounts in their entirety would facilitate the achievement of MBIE's objectives.

MBIE question at 37.g: Are there international models or best practices that could inform New Zealand's approach?

52. NZBA is not aware of any international models or best practices that would materially assist New Zealand's approach to professional trust accounts. These accounts do not appear to have been a particular focus of open banking regimes overseas. Although we understand that the Australian regime may include them within scope, we are not aware of any meaningful guidance or market experience from Australia that would assist in informing the New Zealand approach.