



## NAB Submission on “Safe and Responsible AI in Australia” Discussion Paper

National Australia Bank Ltd (**NAB**) welcomes the opportunity to provide a submission to the Department of Industry, Science and Resources (**DISR**) on the Safe and Responsible AI in Australia discussion paper (**the Paper**).

Recognising the benefits of this technology, NAB is supportive of the intention to reduce the potential risk from AI usage and support safe and responsible AI practices. This submission is focused on four key areas:

1. Definitions
2. Regulatory approach
3. Industry standards
4. Exploring the broader AI implications

## Background

NAB sees significant benefits from the use of AI in certain areas; better customer service (for example faster and more effective credit decisions), more personalised financial support, tools to increase the efficiency of our staff and the potential for substantial cost reductions. These opportunities are increasing as this technology rapidly develops and NAB is accelerating its experimentation in various AI technologies. There are already great benefits being realised from the use of AI in NAB within cyber security, fraud, and financial crime. In addition, NAB participated in the DISR Australian AI Ethics Principles [piloting facial recognition technology](#) to digitally verify customer identities in 2019.

NAB supports the Government approach that allows Australians to benefit from the use of AI and to continue its ability to compete internationally in the adoption of new technology. This will attract talent and investment, while reducing exposure to sophisticated criminal networks overseas.

NAB's overriding priority in the adoption of AI is to realise the significant benefits while keeping our customers, colleagues and communities safe. All AI usage within NAB is governed by NAB's existing Risk Management Frameworks and ecosystem (including the Privacy Policy, Model Risk Policy and the Group Information Risk Policy) and must align with our Data Ethics Principles.

The NAB Data Ethics Principles of most relevance to this submission are:

- *We are transparent about the use of AI to facilitate decisions that have a significant impact on people's lives.*
- *We maintain the capability for human oversight of, and timely intervention in, AI facilitated decisions and set the parameters and rules for such decisions.*

NAB has also contributed to the Australian Banking Association (**ABA**) submission in response to the Paper.

# 1. Definitions

NAB is broadly comfortable with the International Organisation for Standardization (**ISO**) definitions used in the Paper and believes it is important to be internationally aligned. However, caution is required in the implementation of these definitions in regulatory and governance frameworks. The rapid rate of AI development will necessarily require the adjustment of some definitions as the technology advances, and they need to be appropriately flexible to account for this.

One opportunity to strengthen the definitions framework will be defining the characteristics inherent in “high-risk” AI applications.

In addition, in other areas of the Paper there is a focus on the term “training” when referring to AI bias and transparency. NAB considers model “tuning” (or the absence of effective tuning) to be another phase where bias can occur, after models have been trained. Any statement covering potential bias and transparency risks should cover both “training” and “tuning”.

Consideration should also be given to the phrase “explicit programming” in the ISO definitions. While it is true that AI is a system generating outputs without explicit programming, this might prevent consumers from appreciating the reality of extensive training, tuning and other development work upfront. Indeed, the AI engine would generally make predictions which are used to apply programmed rules before action is taken (for instance making a decision or taking an action).

## 2. Regulatory approach

There are a range of pre-existing laws and regulations which govern the existing safe and responsible AI usage in Australia (broader areas of potential risk which may not be covered are described later in this Submission). Some of these are directly applicable - for instance privacy law. Others may apply tangentially. For example, Australian Human Rights law currently applies to potential misuse of AI in terms of failure to address bias or discrimination. Financial services regulation applies regardless of whether products and services are provided by technology, a human or a hybrid. Enforcement action has already been taken in cases that involve AI, without the need for new technology specific legislation.

NAB also recognises the need to balance the enabling of innovation with the safe and responsible use of AI. An increased regulatory burden may have an adverse impact on innovation and Australia’s ability to compete internationally. In addition, the significant productivity benefits of this technology, may not be fully realised.

Prior to making any decisions regarding the introduction of new legislation or governance, the Government should first map the coverage of existing laws in relation to AI issues.

The Government should also consider how any potential new legislation can be future proofed given the rate of change associated with this technology.

The creation of specific AI regulation has inherent challenges, including the time it takes to develop new laws, the lack of universally understood definitions relating to AI, and the ability to future proof against emergent risks. The creation of AI specific regulation also sets a precedent for any future technologies presenting new risks to have bespoke laws developed, cumulatively complicating the regulatory compliance burden imposed on Australians.

Rather than the development of new AI-specific regulations, NAB supports harmonisation of existing legislation (including at the state and territory level) and programs to raise awareness of how existing laws apply to AI use (including by SMEs).

To the extent that there are material risks occasioned by AI which are not dealt with by existing regulations, NAB considers that narrow, targeted and pro-innovation additional regulation should be used to close the gaps, rather than seeking to legislate a comprehensive “AI law”.

### 3. Industry standards

One of the non-regulatory initiatives which will be of importance for the safe and responsible use of AI in Australia is the application of industry standards, specifically for vendors selling or providing AI technologies. NAB suggests that a form of Government certification (potentially administered by the National AI Centre) based on the existing AI Ethics Principles should be considered. This would certify vendors whose tools and models are difficult for most business consumers to assess as safe and responsible. This is similar to the AI Verify model developed by Singapore’s Infocomm Media Development Authority (**IMDA**). Certification to provide confidence in use is a more positive approach than a focus on banning high-risk applications.

### 4. Exploring the broader AI implications

There is a need to explore a range of potential AI risks which are not within the remit of the Paper and may require a review of regulatory approach. For example, one impact of the use of AI (particularly generative AI) is the energy footprint created by the computational power currently needed to support AI training.

Resilience will also be a key consideration which may require regulatory oversight. Where AI or Machine Learning is used in critical infrastructure this will be paramount. This is not covered in the Paper, though is likely dealt with tangentially in critical infrastructure legislation.

As AI technology continues to evolve, NAB recommends a proactive approach to the identification of associated risks, and how they are governed by the existing laws and regulations in place within Australia. A risk-based approach would allow for proportionate responses to the huge variety of potential use cases for AI tech by targeting high risk applications of AI while still allowing for responsible innovations that drive economic growth.

## Conclusion

The potential benefit from AI in our society is significant and must be carefully balanced with ensuring it is safely used. Within banking, it should be used for the betterment of customers and colleagues, which will continue to be the guiding principle for NAB policy. NAB appreciates the opportunity to contribute to this important discussion and we look forward to ongoing engagement on this topic.

Yours sincerely,

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