

ACCC CDR Amendment No. 3 changes

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Key changes

The No. 3 amendment to the CDR Rules was made on 23 December 2020 and reflect the majority of the changes proposed in the earlier consultation. The key topics are summarised in this document for easy reference.

1 Changes to rules about consents

2 Authorising transfer of CDR data between accredited persons

3 Authorising of CDR data for research

4 Changes to Data Holder obligations

5 Changes to who may share CDR data

6 Clarifying rule amendments on:

- The application of product data request rules to 'white labelled' products
- Closed accounts, required and voluntary product data disclosures
- Reporting and record keeping requirements

Here's the amending instrument reference:

<https://www.legislation.gov.au/Details/F2020L01688>

Note: There are a range of other minor changes and also amendments relating to the functions and powers of the Accreditation Registrar which are not covered here as most participants will not be impacted by them – see the amending instrument for further details

1 Changes to rules about consents

Key changes here are the ability to amend consents and the separation of consent into separate types for collection, use, disclosure, direct marketing and research. This is a very substantial change that replaces the entirety of Division 4.4 of the Rules. Note that the majority of the impact of these changes is on the ADR, but there may be new technical requirements for DHs to meet to support consent amendment if the DSB introduces specific capability into the APIs.

- The changes allow for consents to be amended, including the ability to add or remove uses, data types, accounts or data holders, or to amend the duration of the consent (the ability to amend consents is optional)
- The amendments now allow for separate consents as follows:
 - **Collection consent** – permission for an ADR to collect data from a DH
 - **Use consent** – permission for an ADR to use the collected data
 - **Disclosure consent** – permission for an ADR to share data with another ADR
 - **Direct marketing consent** – permission to use or disclose the data for direct marketing
 - **De-identification consent** – permission to de-identify the data and use it for general research or disclose it to others (including selling the data)

Authorising transfers of CDR data between accredited persons

This extends the ADR to ADR sharing between a Principal and a Provider under the CAP arrangements to allow more flexible data sharing amongst ADRs

- The amendments now permit an ADR to share data with another ADR that is providing goods or services to a consumer
- This provision becomes active from 1 July 2021 or when the DSB has prepared standards to support this sharing
- The rules on direct marketing are also amended to allow ADRs to recommend a product or service from another ADR as long as a direct marketing consent is in place

Authorising of CDR data for research

This allows ADRs to request consent to use CDR data for research purposes

- When an ADR offers a good or service to a consumer they are now permitted to also request consent to de-identify the collected data and use it for general research purposes
- Note that the ADR can't request data (beyond that which is required to offer the good or service) simply for research purposes
- The research can be unrelated to the good or service offered, but the consumer must be provided with a description of the nature of the research that the data will contribute to and any benefit to be derived by the consumer in providing their consent

4 Changes to Data Holder obligations

This is mainly about improving the customer experience for joint accounts and improved clarity of who the Data Recipient is

Joint accounts

- Data Holders are now required to allow consumers to make joint account elections as part of the data sharing process
- The amended rules also require data holders to have an online Joint Account Management Service (where previously it could be offline)
- Recognising that there are a few cases with more than two joint account holders, the rules now cater to joint accounts with three or more account holders
- Another amendment is to further support vulnerable customers through enabling them to operate data sharing on a joint account as if they were the sole account owner
- These changes are scheduled to become mandatory from 1 Nov 2021

Data Holder dashboards and authorisation processes

- The amendments now require the DH dashboard and authorisation process to include additional identifying information about the ADR such as the name of the software product
- These changes will become mandated when appropriate standards have been promulgated

5 Changes to who may share CDR data

This change is the expansion of data sharing beyond individuals to companies and partnerships and to permit secondary users of accounts to share CDR data

- From 1 Nov 2021, the major banks will be required to share data at the request of non-individuals
- From 1 Nov 2022, all banks will be required to share data at the request of non-individuals
- Non-individual accounts will require a “nominated representative” to be assigned the right to share data on behalf of the non-individual – banks must create mechanisms to support this concept
- Nominated representatives will have access to the Data Holder dashboard of the non-individual
- In addition to the extension to non-individuals, banks will be required to support data sharing by secondary users of accounts (e.g secondary card holders for credit card accounts)
- Banks will need to provide mechanisms for account owners to authorise and remove authorisation for secondary users

The application of product data request rules to 'white labelled' products

This is the formalisation of the previously issued guidance paper by the ACCC for white-label products in the context of Product Reference Data sharing

- The ACCC previously provided guidance on who was responsible for sharing Product Reference Data in the context of a white-labelled product created by one Data Holder and marketed and branded by another
- The main clarification is that where there are two Data Holders involved, then the Data Holder with the contractual relationship with the customer is responsible for responding to product data requests
- The proposal does not address the case of consumer data requests in the white-label scenario – the position on this is still under development and now the subject of a second guidance paper

Closed accounts, required and voluntary product data disclosures

These changes provide consistency clean-ups and clarity of requirements

- In relation to closed accounts, it has been clarified that across transaction data, account data and product specific data, data will only be required to be shared if the request is made within 24 months of the account closing
- It has been clarified that information that is required to be disclosed under the National Consumer Credit Protection Act 2009, or that is otherwise required to be disclosed to a customer entering into a contract is Required Data
- It has also been clarified that if a Data Holder is providing voluntary product data, then that must be disclosed through its product data request service

Reporting and record keeping requirements

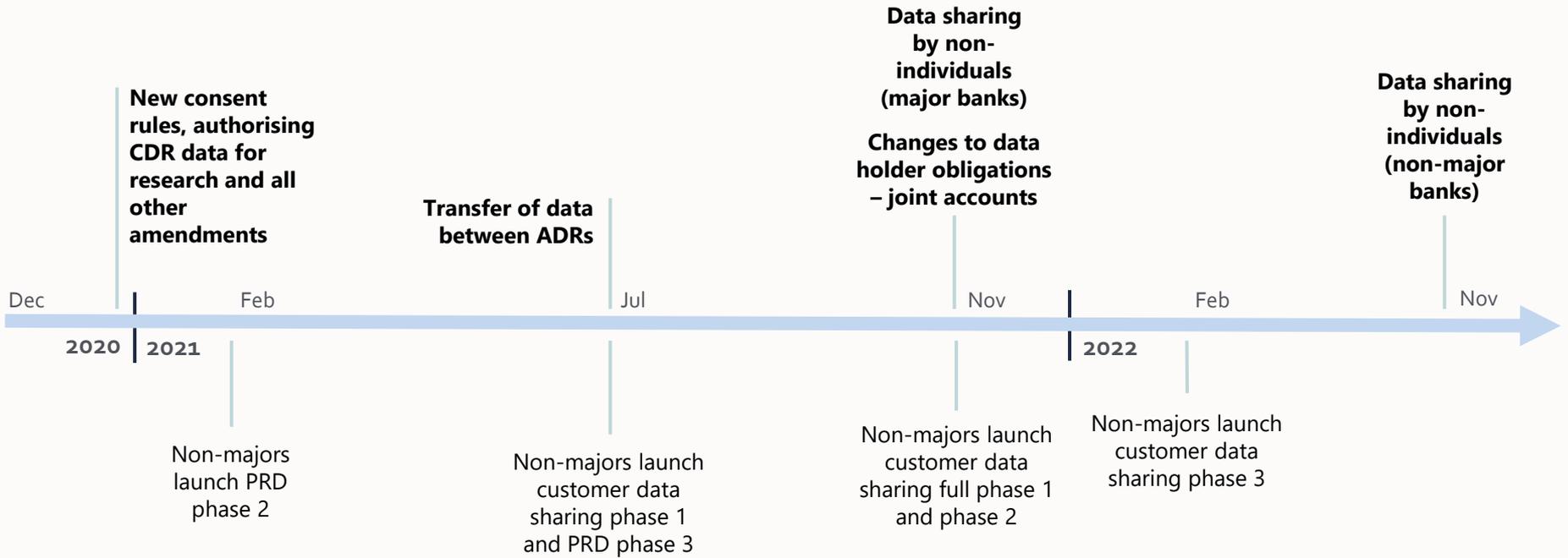
The amendments enhance the record keeping requirements for both Data Holders and Accredited Data Recipients

- For Data Holders, there are two new requirements:
 - *any written agreement of a kind referred to in subrule 2.4(5) the data holder has entered into* (agreements relating to responsibility for responding to product data requests for white-labelled products)
 - *the processes by which the data holder asks CDR consumers for their authorisation to disclose CDR data and for an amendment to their authorisation, including a video of each process*
- For Accredited Data Recipients, there are two new and one enhanced requirement:
 - *disclosures of CDR data to accredited persons under these rules, and the accredited persons to which any CDR data was disclosed* (in the context of ADR to ADR sharing)
 - *if the use is for general research—records of any additional benefit to be provided to the CDR consumer for consenting to the use* (in relation to the use of de-identified data)
 - *the processes by which the accredited data recipient asks CDR consumers for their consent and for an amendment to their consent, including a video of each process*

Timeline

Here is the timeline for the amendments.

Note: Dashboard additional information requirements will be implemented once standards have been set and such additional information is required by the Registrar at the time of onboarding



PRD – Product Reference Data

OUR COMPANY

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