

## Consumer Data Right (CDR) Exposure draft law and explanatory materials

To assist in identifying relevant issues this table sets out the key elements of the CDR and shows the relevant sections and references.

In some cases, the exposure draft does not include specific details on particular issues. These are explained below.

Issue	Bill ref.	Brief explanation
<b>What is CDR and who does it apply to?</b>		
What is a designated sector?	56AC	The consumer data right (CDR) provides consumers with the power to direct their information go to other data holders in a sector or to accredited data recipients within the relevant sector or in another sector.
What is CDR data?	56AF	
Who is a CDR consumer?	56AF	
What is a Data Holder? Do I have to comply?	56AG	
What is an Accredited Data Recipient?	56AG	
<b>How do I become accredited?</b>		
Accreditation process including suspension or revocation of accreditation	56BB(c) 56BF 56CE	The consumer data right will apply to data holders who have information relevant to the designated sector – for banking, banks.
Can my application for accreditation be refused?	56CF	Other participants can become accredited to receive information through the CDR system.
Register of Accredited Entities	56CK	A register of accredited participants will be maintained and accreditations can be revoked or suspended. Consumer data rules will be made about revocation and suspension of accreditations.
Data Accreditation Registrar	56CA	
<b>What are consumer data rules?</b>		
What is covered by the consumer data rules?	56BA – 56BH	Consumer data rules will provide the detail on compliance with the CDR for each designated sector.
What is the process for making consumer data rules?	56BN	They will cover all aspects of a designated sector including consent to disclosure, how CDR data can be used and by whom particularly if a sector has a tiered approach to accreditation.
Is consultation required?	56BO	
Emergency rules	56BQ	

Issue	Bill ref.	Brief explanation
Ministerial consent and Parliamentary oversight	56BP	While the consumer data rule making powers are broad, this is balanced with Ministerial consent and Parliamentary oversight as consumer data rules are disallowable instruments.
How are they enforced?	56BJ 56BM	
How do they interact with the CDR Privacy Safeguards?	56EC	Further, with the exception of emergency rules, the ACCC will undertake public consultation prior to finalising the rules.
How do they apply to the Data Standards Body and data standards?	56BB 56GB	
<b>What are the data standards?</b>		Data standards will be made to provide guidance on the technical requirements for CDR data, including how the data should be transferred.
How are they made?	56FE	
How are they enforced?	56FG	
<b>What are the CDR privacy safeguards?</b>	Div 5	The CDR privacy safeguards are the minimum standards applying to safeguard the privacy of CDR data. They apply irrespective of whether the data belongs to an individual or a business, provided that the data is CDR data (pursuant to the designation and any consumer data rules), belonging to a CDR consumer.
What data do they apply to?	56EB	
What do they require?	56ED – 56EO	The APPs continue to apply to many of the uses, the collection and storage of CDR data in the hands of data holders.
Notification of breaches of the CDR privacy safeguards	56ER	
How are they enforced?	56ET – 56EV	The APPs continue to apply to many of the uses, the collection and storage of CDR data in the hands of data holders.
How do they interact with the Privacy Act?	56EC	
<b>What are the Minister's powers?</b>		The Treasurer, on advice from the ACCC, will via legislative instrument designate a sector of the economy as a CDR sector.  The Treasurer also has responsibility for a range of appointments including the Data Standards Body Chair and the Data Recipient Accreditor.
The Minister designates a sector and CDR data	56AD	
The Minister also has powers and functions in relation to appointments.	56CA 56FA	
<b>What are the ACCC's powers?</b>		The ACCC's existing powers under the <i>Competition and Consumer Act</i> (CC Act) are extended to apply to the Consumer Data Right and any breaches of the consumer data rules.
Application for pecuniary penalties for breach	76	
Injunctions where a person may or is engaging in conduct in contravention of Part IVD	80	
A range of orders may be sought	86C 86D 86E 87	
The ACCC's powers power to obtain information, documents and evidence and it is extended to cover Part IVD and the consumer	155	

Issue	Bill ref.	Brief explanation
data rules		
<b>What are the OAIC's powers?</b>		The OAIC has a range of powers to enforce breaches of the CDR privacy safeguards. These powers are modelled on existing provisions of the <i>Privacy Act 1988</i> .
Delegation of CC Act powers	26	
Conducting an assessment to determine compliance	56EQ	The OAIC has a range of powers to enforce breaches of the CDR privacy safeguards. These powers are modelled on existing provisions of the <i>Privacy Act 1988</i> .
Civil penalty provisions	56ET	In addition, the ACCC may delegate its powers under the CC Act to the OAIC.
Enforceable undertakings	56EU	
Injunctions	56EV	
<b>Commencement date and transitional provisions</b>	Item 2	The Bill commences from Royal Assent. Application of the CDR to the banking sector will commence once the Minister designates the sector via legislative instrument. Then CDR data from 1 January 2017 will be captured by the CDR system.