

# EXPOSURE DRAFT



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## Consumer Data Right (Authorised Deposit-Taking Institutions) Designation 2018

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I, Josh Frydenberg, Treasurer, make the following instrument.

Dated 2018

Josh Frydenberg **[DRAFT ONLY—NOT FOR SIGNATURE]**  
Treasurer

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## 1 Name

This instrument is the *Consumer Data Right (Authorised Deposit-Taking Institutions) Designation 2018*.

## 2 Commencement

This instrument commences on the day after it is registered.

## 3 Authority

This instrument is made under subsection 56AC(2) of the *Competition and Consumer Act 2010*.

## 4 Definitions

Note: Some expressions used in this instrument are defined in the Act.

*Act* means the *Competition and Consumer Act 2010*.

*associate* has the meaning given by section 318 of the *Income Tax Assessment Act 1936*.

*authorised deposit-taking institution* has the meaning given by subsection 5(1) of the *Banking Act 1959*.

*banking business* has the meaning given by subsection 5(1) of the *Banking Act 1959*.

*product* means a product that is or has been offered or supplied to a person in connection with:

- (a) a banking business; or
- (b) one or more of the following activities:
  - (i) taking money on deposit (otherwise than as part-payment for identified goods or services);
  - (ii) making advances of money;
  - (iii) another financial activity prescribed for the purposes of subparagraph (b)(ii) of the definition of banking business in subsection 5(1) of the *Banking Act 1959*.

Note: Section 56GB of the Act provides that a designation made under s 56AC may make provision in relation to a matter by applying, adopting or incorporating (with or without modification) any matter contained in any other instrument as in force from time to time.

## 5 Designation of sector subject to the consumer data right

- (1) For paragraph 56AC(2)(a) of the Act, information to which section 6, 7 or 8 applies is specified as a class of information.

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- (2) For paragraph 56AC(2)(b) of the Act, authorised deposit-taking institutions are specified as persons who hold such information, or on whose behalf such information is held.
  - (3) For paragraph 56AC(2)(c) of the Act, 1 January 2017 is specified as the earliest day applicable to the sector for beginning to hold such information.

## **6 Specified classes of information—information about user of product**

- (1) This section applies to information that:
  - (a) is about:
    - (i) a person to whom a product has been, or is being, supplied; or
    - (ii) the person's associate; and
  - (b) was observed or provided by the person, or the person's associate, in connection with the person's acquisition or use of the product.
- (2) The information mentioned in subsection (1) includes, but is not limited to, the following:
  - (a) information identifying the person or their associate;
  - (b) information relevant to the person's eligibility to use a product or a feature of a product;
  - (c) the contact details of the person or their associate.

## **7 Specified classes of information—information about use of product**

- (1) This section applies to information about the use of a product by:
  - (a) a person to whom the product has been, or is being, supplied; or
  - (b) the person's associate.
- (2) The information mentioned in subsection (1) includes, but is not limited to, the following:
  - (a) the balance of an account associated with the product;
  - (b) information about a transaction made by the person or their associate in connection with the product;
  - (c) information about an authorisation given by the person or their associate in connection with an account associated with the product, including information about:
    - (i) the persons who are authorised to use or access, or view information relating to, the account; and
    - (ii) a third party authorisation to make a payment.

Note: A direct debit, a scheduled payment and a payee authorisation are examples of a third party authorisation to make a payment.

## **8 Specified classes of information—information about a product**

- (1) This section applies to information about a product, including, but not limited to, the following:
  - (a) a fee or charge associated with the product;
  - (b) an interest rate associated with the product;
  - (c) a feature or benefit of the product;

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- (d) the terms and conditions on which the product is offered or supplied;
  - (e) the eligibility criteria a person must meet in order to be supplied the product.
- (2) Without limiting subsection (1), the information may relate to the product as offered or provided to particular classes of customer, or as tailored to a particular customer.