



Australian Government



Consumer
Data Right

CDR rules: consent and operational enhancement amendments

Consultation paper

August 2024

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Purpose of this consultation

Treasury is publicly consulting on draft changes to the *Competition and Consumer (Consumer Data Right) Rules 2020* (CDR Rules) and invites interested stakeholders to comment on these proposals.

About the CDR

The CDR gives Australians greater control over their data, empowering consumers to opt-in to share their data with trusted data recipients for the purposes the consumer has authorised. Through the CDR, consumers can:

- choose between different products and services, with a quick and easy way to compare what providers are offering
- choose who has access to your data, what data they can access and how long they can access it for
- benefit from more competition, innovation, products and services in the marketplace.

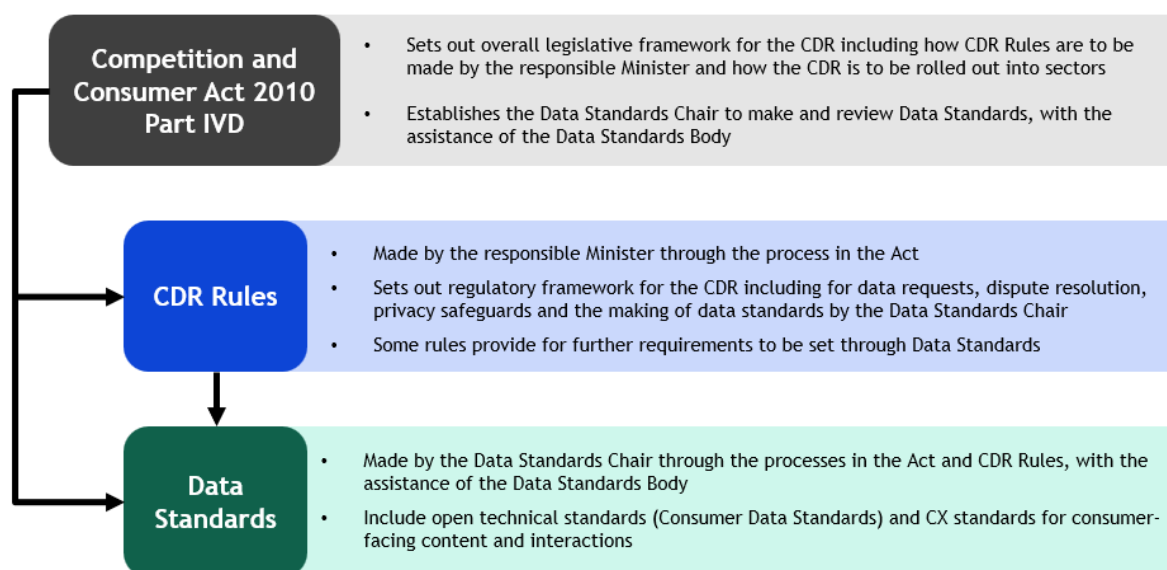
CDR obligations in the banking sector commenced in July 2020 and in the energy sector in November 2022. The CDR currently applies to data held by banks and electricity retailers in the National Electricity Market (NEM), as well as the Australian Energy Market Operator (AEMO).

The table in **Appendix B** sets out the types of data to which the CDR applies in relation to these sectors.

Treasury's role

Treasury leads CDR policy, including developing the CDR Rules and related advice to the government. Treasury is responsible for advising the Hon Stephen Jones MP, Assistant Treasurer and Minister for Financial Services, who is the responsible minister and has the authority to make and amend the CDR Rules. The CDR Rules provide the regulatory framework for how the CDR operates.

Within Treasury, the [Data Standards Body](#) (DSB) is responsible for assisting Mr Andrew Stevens, the Data Standards Chair, in developing data standards (Standards) to support the CDR.



Treasury works closely with the [Australian Competition and Consumer Commission](#) (ACCC) and the [Office of the Australian Information Commissioner](#) (OAIC), which implement and enforce the CDR Rules.

- The ACCC is responsible for the accreditation process, including managing the CDR Register. It also ensures providers comply with the CDR Rules and takes enforcement action where necessary. Under the Act, the ACCC may also exempt providers from meeting some or all CDR obligations under the CDR Rules, the Act, or regulations.
- The OAIC is responsible for regulating privacy and confidentiality under the CDR. The OAIC also handles complaints and notifications of eligible data breaches relating to CDR data.

Treasury is also consulting with the ACCC and OAIC about the draft Rules.

Previous consultation

This paper follows [Treasury's public release and consultation on its Consent Review and Operational Enhancements design papers](#) (design papers) between August and October 2023. These design papers sought stakeholder feedback on opportunities to amend the CDR Rules to:

- better support the consumer experience while maintaining key consumer protections, and
- ensure they are fit-for-purpose and support the CDR's policy objectives.

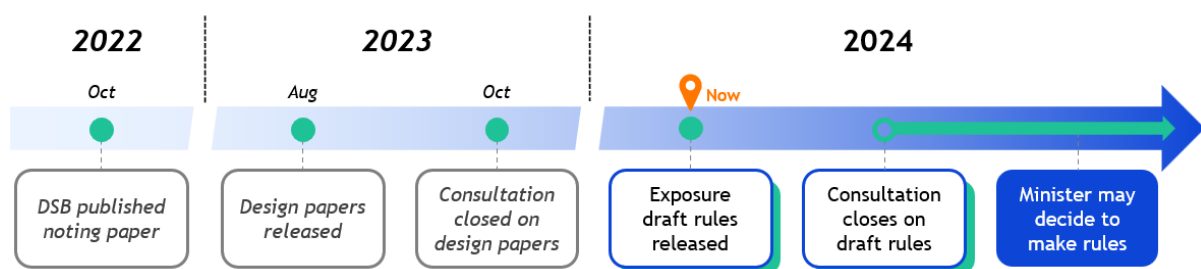
As part of the consultations through the design papers, Treasury also conducted stakeholder forums to assist stakeholders in understanding the proposed changes to the CDR Rules, and to provide an opportunity for discussion and feedback.

The feedback received in response to design papers and stakeholder forums informed the draft Rules released with this consultation paper. Based on this feedback, the draft Rules prioritise:

- amendments to the consent rules to support uptake of the CDR by facilitating a better consumer experience
- operational enhancements to support use cases (for example, to make it easier for business consumers to use the CDR or to support banks to offer CDR-enabled services to their customers) and to address unintended outcomes in the current CDR rules.

A summary of stakeholder feedback received in response to the design papers is at **Appendix A**.

Some of the draft Rules refer matters to the data Standards. As such, the DSB will consult in parallel with stakeholders in relation to making the necessary Standards. More information on the DSB's consultation can be found [here](#).



Submissions

Treasury seeks written feedback in response to this consultation paper by **9 September 2024**. Feedback may be provided via email to CDRRules@treasury.gov.au.

Following the consultation period, Treasury intends to publish non-confidential submissions on its website in accordance with Treasury's [submission guidelines](#). If you would like your submission, or any part of your submission, to remain confidential, please follow the instructions in these guidelines.

Next steps

Treasury will provide advice to the Minister on the outcomes of this consultation process, to satisfy the requirements of the Act. This will support the Minister in deciding whether to make any of these draft Rules.

Under section 56BP of the Act, the earliest date by which any of the draft Rules may be made is 60 days after commencement of consultation.

Questions for feedback

Treasury invites written responses on the draft Rules to assist in assessing whether the changes should proceed. The questions set out below are intended to focus stakeholders on the areas on which Treasury is seeking feedback. Additional questions specific to the proposed rule change are included in the 'proposed changes' section. Treasury invites stakeholders to comment on any or all of the draft Rules, and/or to respond to any or all of these questions.

The questions focus on the expected benefits and regulatory impact of the proposed rule changes. This includes, but is not limited to, challenges of implementing the changes (including financial, non-financial and opportunity costs), and the impact of the changes on the interests of consumers, use cases and uptake of the CDR. Clear evidence that will support an assessment of benefits and costs will be of particular assistance.

Item	Question
1	Do you support the proposed rule change? Why/why not?
2	What benefits (if any) would the rule change have for your organisation, other organisations, and/or consumers?
3	What implementation challenges (if any) would your organisation, other organisations and/or consumers face as a result of the rule change?
4	What would be the impact of <u>not</u> proceeding with the proposed change?
5	Are there any other matters that should be considered when assessing the proposed rule change?

Proposed changes

This section summarises the key draft Rules Treasury is consulting on. Details on the draft Rules are also set out in the explanatory statement. Other minor changes are detailed in these documents.

1. Consent Review

The Consent Review changes seek to simplify the consumer consent process while maintaining consumer protections. Stakeholders were broadly supportive of the proposed changes outlined in the design paper and where there was mixed feedback, Treasury's responses are outlined below.

Note in the context of the Consent Review, the term 'data recipient' refers to both accredited data recipients (ADRs) and CDR representatives.

1.1. Allowing a data recipient to bundle CDR consents, so that consumers can give multiple consents with a single action

To provide a single good or service, a data recipient may have to ask a consumer to consent to the collection, use and/or disclosure of data. Under the current rules, consumers may have to give multiple consents through separate actions, which leads to consumer fatigue.

To address this, Treasury is proposing rule changes to allow a data recipient to bundle collection, use and/or disclosure consents, where they are 'reasonably needed' for the provision of the requested good or service. Although each consent would remain standalone and independent of each other, this change effectively allows a consumer to give multiple CDR consents with a single action. However, the CDR Rules would continue to prohibit the bundling of direct marketing, de-identification, or any other non-CDR consents (that is, consents that are not defined under the CDR Rules).

At a high level, the term 'reasonably needed' in this context refers to situations where it would not be possible for the data recipient to provide the service to the consumer, without the consumer giving all consents. However, stakeholder feedback indicated additional clarity is needed to enable CDR participants to ascertain whether compliance is achieved.

The current rules already include a data minimisation principle (DMP) at Rule 1.8 that states an accredited person:

- must not collect more data than is reasonably needed to provide the requested goods or services, or for a time period longer than is what is reasonably needed, and
- may only use the collected data consistently with the consent provided, and only as reasonably needed to provide the requested goods or services or to fulfill any other purpose as consented to by the consumer.

In response to this feedback, Treasury is proposing to link this term to the DMP. Further, given a data recipient would be able to bundle disclosure consents, and the DMP currently only applies to collection and use consents, Treasury is proposing to expand the DMP so that it applies to disclosure consents.

1.2. Allowing a data recipient to pre-select the elements of an individual consent that would be reasonably necessary for the data recipient to provide the good or service

An individual consent can be made up of multiple elements such as the datasets it applies to, who the datasets will be disclosed to, what a data recipient is seeking to use the data for, and/or the duration for which the consent is active. Under the current rules, a consumer must actively select or clearly indicate their preferences for each of these elements. However, this introduces a false choice as the good or service cannot be delivered without specific selections being made. It also unnecessarily increases the cognitive load on consumers.

Instead of requiring a consumer to actively select each dataset or consent duration, Treasury is proposing rule changes to allow a data recipient to clearly indicate the consent elements (that is, the datasets, uses, duration, and/or who the data sets will be disclosed to) where they are 'reasonably needed' for the service to function. Where a consent element is not needed for a data recipient to provide the good or service, it must remain opt-in.

Similar to the proposed rule changes to allow a data recipient to bundle CDR consents, the term 'reasonably needed' in this context would be linked to the DMP. Further, the DMP will also be amended to ensure a data recipient does not pre-select consent elements that are not needed for the good or service.

1.3. Simplifying the information a data recipient is required to provide to the consumer at the time of consent

When a consumer gives a consent, a data recipient is required under the current rules to provide to the consumer detailed instructions for how to withdraw their consent, and information about the consequences of doing so. This is contrary to research which has shown while consumers highly value being told their consent can be withdrawn at any time, the specific details of how to withdraw consent, and the consequences of withdrawal were less critical at this time. Instead, consumers value this information being accessible in the CDR receipt and CDR policy, as artefacts that they can access again at a later date if needed.

To ensure consumers are being provided the right information at the appropriate time, Treasury is proposing rule changes so that when a consumer gives the consent, a data recipient would only be required to advise consumers they may withdraw their consent at any time. Information on how a consent can be withdrawn and the consequences of doing so would be provided in the CDR receipt.

1.4. Allowing a data recipient to consolidate the delivery of 90-day notifications to reduce consumer notification fatigue

A data recipient is required to periodically notify a consumer a consent is still active if they have been idle for 90 days. In the CDR Rules, these are referred to as 90-day notifications. However, under the current rules, it is unclear whether a data recipient can consolidate these notifications. In some cases, this leads to consumers receiving multiple 90-day notifications in quick succession, which unnecessarily increases consumers' cognitive load.

Treasury is proposing rule changes to clarify a data recipient can consolidate the delivery of 90-day notifications for active consents. To improve the usefulness and actionability of these notifications, the change also moves the informational requirements around 90-day notifications to the Standards. The more specific nature of these requirements are more suited for the Standards as they can be adapted more iteratively in response to consumer, behavioural, or technological changes.

It is proposed that the Standards will require a 90-day notification to include the information as proposed in the design paper.

1.5. Simplifying the obligations in relation to CDR receipts

A CDR receipt is a notice that a data recipient gives to the consumer after the consumer has given a consent, amended a consent, or withdrawn a consent. Currently, the scope of the CDR receipt requirements is broad as it encompasses specific details about the consent as well as 'any other information' provided to the consumer at the time of consent. To simplify the content of CDR receipts and to improve consistency, Treasury is proposing this rule change to require CDR receipts be given in accordance with the Standards. The more specific nature of these requirements are more suited for the Standards as they can be adapted more iteratively in response to consumer, behavioural, or technological changes.

Treasury is proposing the Standards will require a CDR receipt to include the information as outlined in the design paper.

1.6. Requiring a data recipient to provide consumers information about all supporting parties who may access the consumer's data at the time a consumer gives a consent

Under the current rules, there are varying requirements on how the names and details of any sponsors, principals, and outsourced service providers are displayed as part of the consent flow. To support consistency and transparency, Treasury is proposing this rule change to align all information requirements relating to supporting parties who may access the consumer's data. The rule change would also mean data recipients would need to provide further details about outsourced service providers.

1.7. Requiring data recipients to delete redundant CDR data unless a consumer has given a de-identification consent

Currently, the requirements around de-identification and deletion of redundant consumer data are complex and overlapping. In addition to de-identifying redundant data, consumers can separately provide a de-identification consent to a data recipient. Potential interactions between these mechanisms can lead to unintuitive and seemingly contradictory outcomes for consumers. For example, a situation could arise where a consumer could elect to have their redundant data deleted while separately providing a de-identification consent.

Treasury is proposing this rule change to require ADRs to delete redundant CDR data by default unless the consumer has provided a de-identification consent in relation to that data.

1.8. Requiring a data recipient to advise consumers of the marketing activities they will undertake because of a direct marketing consent

Currently, the CDR Rules are silent on how a data recipient must ask for a direct marketing consent from a consumer. Treasury is proposing a rule change to require a data recipient to advise consumers of the marketing activities they will undertake as a result of giving that direct marketing consent.

2. Operational enhancements

2.1. Nominated representatives

Business consumers whose accounts are held by non-individuals, or for a partnership, are unable to use the CDR to share their consumer data without a nominated representative.

Stakeholders have raised concerns that some data holders have implemented processes for appointing nominated representatives that create unnecessary barriers to participation in the CDR, including paper-based processes or processes where numerous forms must be completed. Submissions in response to the Operational Enhancements design paper largely affirmed this view, with many responses supporting changes to the CDR Rules to require this service to be easily accessible and user-friendly.

Stakeholders also recognised that, outside of the CDR, business consumers can appoint ‘administrators’ as users on their online banking account. These administrators are required to have their identities verified and generally have authority to perform actions on the account. Given the widespread use of administrators to manage business accounts, most stakeholders also supported changes to the Rules to ensure efficient processes to appoint online administrators as nominated representatives are implemented.

Treasury acknowledges some data holders were not supportive of the proposals to require data holders to provide an online mechanism for appointing a nominated representative, and to deem account administrators to be nominated representatives under the CDR.

- In particular, data holders expressed concerns in relation to data security and ensuring they would still be able to conduct appropriate identify verification checks.
- Several data holders also expressed concerns about the proposal to deem account administrators to be nominated representatives. They submitted that non-individual accounts can be subject to complex authorisation arrangements and provided examples of scenarios where an account holder may not wish for an account administrator to be able to authorise data sharing. They also noted that, unlike a financial transaction, data sharing cannot be reversed.

Treasury has considered these submissions in developing the draft Rules. To improve business adoption of the CDR and streamline these processes, the draft Rules would require data holders to:

- a) provide a process for consumers to appoint a nominated representative that is both prominently displayed and readily accessible, and simple and straightforward to use
- b) offer an online process for allowing online administrators to be appointed as nominated representatives.

To allow data holders adequate time to make relevant systems changes, the draft Rules would defer the commencement of these obligations for 12-months from the date these changes take effect.

Treasury considers the above proposals address key concerns raised by data holders, while still requiring efficiency improvements. In particular, the draft Rules do not deem any individual to be a nominated representative. In all cases, the account holder will need to take active steps to appoint someone to this role. In addition, data holders would only be required to offer an online process to allow account holders to appoint an existing account administrator as their nominated representative. This removes any risk that data holders might be required to offer an online

appointment process in relation to an individual whose identity has not already been confirmed by the data holder according to their established processes.

2.2. Expanding the circumstances in which accredited ADIs can hold CDR data as a data holder

The current Rules allow an accredited authorised deposit-taking institution (ADI) to hold CDR data as a data holder where a consumer has acquired a product from the ADI and has agreed to the ADI holding this data as a data holder, rather than as an ADR.

However, ADIs have raised concerns that these rules prevent banks from using the CDR to provide services to customers seeking to apply for products and are contrary to their usual data management practices for fraud control and analytics. Treasury recognises the current operation of these rules limits the use of this data in a manner which can be inconsistent with the ordinary course of an ADI's business.

In response to these concerns, Treasury proposes to broaden (not replace) the existing circumstances in which an accredited ADI is permitted to hold CDR data as a data holder.

The draft Rules would:

- permit accredited ADIs to hold CDR data as data holders where a consumer has applied, or is applying, to acquire a product from an ADI
- require the ADI to notify the consumer, before the first collection of the consumer's data, that the collected data will be held by the ADI as a data holder, rather than as an ADR
- require the ADI to inform the consumer that the CDR Privacy Safeguards as applicable to a data holder, rather than those applicable to an ADR, would apply in relation to the data
- require the ADI to inform the consumer of the manner in which they propose to treat the data. For example, the accredited ADI may explain the difference between the Australian Privacy Principles and the CDR Privacy Safeguards to the consumer.

Treasury's intention is the new circumstances in which an ADI can hold CDR data as a data holder would include:

- where a consumer has completed an online application for a banking product
- where a consumer has contacted a bank with the intention of acquiring a banking product but is unable to complete their application without the ADI first receiving CDR data (for example, where a consumer has started an application for a loan product but the bank requires the consumer's transaction data for the application to be completed and subsequently assessed by the bank).

The proposed changes are not intended to apply where a consumer has contacted a bank to make preliminary inquiries, such as to compare existing product offerings or to seek quotes in relation to these products.

Questions:

- Is the requirement for the ADI to provide information about the manner in which they propose to treat the data adequate to ensure the consumer has the information they need to make a decision to allow data to be held as a data holder rather than an ADR?
- Should the ADI be required to advise the consumer that the data will be subject to the Australian Privacy Principles?
- Are the new circumstances sufficiently broad to support key use cases for accredited ADIs receiving CDR data?
- Should these broadened circumstances be replicated for energy retailers (see existing clause 9.2, Schedule 4) and for non-bank lenders?

2.3. CDR representative arrangements

The CDR representative model has driven a substantial increase in participation in the CDR. Treasury is proposing to clarify the obligations of CDR representative principals (principals) to ensure their CDR representatives comply with relevant Standards.

To ensure key consumer experience requirements are consistent for CDR consumers, the draft Rules propose to clarify that a principal must ensure their CDR representatives comply with CDR data standards expressed to be consumer experience data standards as if they were an ADR. A civil penalty provision would apply to a principal if their CDR representative fails to comply with these Standards as if they were an ADR.

The draft rules also propose to clarify that a principal will be in breach of their obligations where a CDR representative fails to comply with the required terms of their CDR representative arrangement, irrespective of whether the required term is included in the written contract between the principal and the CDR representative.

To provide principals with sufficient time to make necessary adjustments to their CDR representative arrangements and current practices, the draft Rules also propose to defer the commencement of these obligations by 6 months from the time these draft Rules take effect.

Question: Do CDR representative principals consider a deferral of these obligations by 6 months is sufficient to make adjustments to their current practices, where necessary?

2.4. Simplifying data holder requirements – secondary users

The current CDR Rules require data holders to offer a functionality that allows an account holder who has given a secondary user instruction to indicate they no longer approve of CDR data relating to that account being disclosed to an accredited person in response to consumer data requests made by that secondary user.

In response to the Operational Enhancements design paper, stakeholders indicated these requirements are unnecessarily difficult to implement and may not fully capture the complexities of

data sharing structures. In particular, stakeholders noted this obligation may result in an account holder unintentionally ‘blocking’ the ability of a secondary user to share data with other organisations, as the ‘block’ would by default include an unrestricted ADR and any of their CDR representatives, affiliates and software products. These submissions were consistent with previous stakeholder feedback.

Treasury initially proposed amending the Rules to require data holders to allow account holders to ‘block’ secondary user data sharing in relation to a particular authorisation. However, some stakeholders suggested this change would introduce unnecessary build complexity for data holders and would have limited utility for account holders. In particular, the proposed solution would not prevent a secondary user from re-making the ‘blocked’ authorisation. Treasury has therefore not progressed this proposal.

Nonetheless, Treasury considers the current requirement is not fit for purpose and proposes to streamline these rules to better support data sharing practices. The draft Rules would remove the obligation for data holders to provide account holders with an online service that allows them to ‘block’ CDR data being disclosed to an ADR in response to data sharing requests made by secondary users.

Treasury is satisfied the CDR Rules would continue to adequately protect account holders, who would still separately be able to withdraw a secondary user instruction if they wish to cease data sharing from their account on behalf of a secondary user.

The draft Rules also clarify that data sharing on behalf of a secondary user cannot continue in circumstances where an account holder has ceased being eligible to share data.

Question: The Operational Enhancements design paper included a proposal to require data holders to make an online service available to account holders for giving secondary user instructions. In light of stakeholder submissions, this proposal has not been included in the draft Rules, however, Treasury welcomes further feedback on whether this change is desirable. In particular, would such a change support certain use cases, for example, for business consumers?

Rule changes specific to the energy sector

2.5. Exempting energy trial products from the CDR

Treasury is proposing rule changes to exempt certain plans made available by electricity retailers from being subject to the CDR Rules. The exemption would apply for plans offered with the description ‘pilot’ or ‘trial’, where the pilot or trial ends no more than 12 months after its initial offering and is to be supplied to no more than 1,000 customers. These plans would no longer be exempt if supplied or offered after the trial period or to more than 1,000 customers.

In the Operational Enhancements design paper, Treasury sought stakeholder views on mirroring the ‘trial products’ exemption that applies in relation to the banking sector, which similarly exempts banking products from the CDR Rules in specific trial circumstances. Treasury noted this may help remove possible disincentives for electricity retailers to introduce innovative new products, particularly for smaller retailers which do not have the scale to pilot products internally.

Stakeholder submissions expressed a preference for covering energy ‘trial products’ with a 12-month trial period. Feedback indicated that ‘trial products’ may have different characteristics in the energy sector compared to the banking sector – for example, by involving provision of energy appliances and infrastructure to consumers, by bundling with other products or services and by targeting needs of particular consumer cohorts. Although some stakeholders expressed a preference for a more principles-based approach for the exemption, Treasury considers there is a need for clarity about the scope of the exemption for compliance purposes.

Question: Does the proposed rule change cover the appropriate scope of trials conducted by electricity retailers?

3. Other proposed changes

Treasury is proposing other minor changes to the CDR Rules to help address inconsistencies, reduce unnecessary regulatory burden and minimise costs of complying with the CDR Rules.

- Broaden the definition of ‘complex request’ in respect of the energy sector to include requests that are made on behalf of CDR consumers who have nominated a representative in relation to their CDR data. This reflects the increased complexity of these types of requests. Relevant provisions of the draft amendments are Schedule 4, Part 8, definition of complex request.
- Align the timing of complex data sharing request obligations of electricity retailers commencing upon becoming a larger retailer with the timing of these obligations commencing upon a small retailer becoming an ADR. Relevant provisions of the draft amendments are in Schedule 4, Part 8.
- Align the timing of data holder obligations of ADRs commencing upon becoming a small electricity retailer with the 12-month deferral of these obligations that applies where a small electricity retailer becomes an ADR. Treasury is proposing other consequential changes to the staged application of the rules to the energy sector. Relevant provisions of the draft amendments are in Schedule 4, Part 8.

Appendix A – Summary of stakeholder feedback in response to Consent Review and Operational Enhancements design papers

The below tables provide a summary of the stakeholder feedback received in response to the design papers, which Treasury publicly released for consultation between August and October 2023.

Table 1 – Stakeholder feedback in response to Consent Review design paper

Item	Issue(s)	Summary of stakeholder feedback	Treasury response to stakeholder feedback
1	Bundling multiple consents	Most stakeholders supported the change because it would reduce friction in the consent process without undermining informed consent. Some stakeholders noted the need for a clear definition of the term ‘reasonably required’.	Having considered this feedback, Treasury is proposing to use the term ‘reasonably needed’ linked to the data minimisation principle (DMP) at Rule 1.8.
2	Pre-selected and actively selected options	Most stakeholders supported this change. Some stakeholders did not support the change because active selection may increase engagement in the consent flow. Other stakeholders recommended that pre-selection is limited to options that are essential for the service to function.	Treasury has reviewed this feedback and considers that limitations to pre-selection through the DMP appropriately balance consumer protection against the burden placed on ADRs to demonstrate compliance.
3	Information related to consent withdrawal	Most stakeholders supported this change, noting that it would simplify the consent flow and may minimise cognitive overload. Two stakeholders did not support the change because it may result in this information being hidden in receipts, which are potentially less likely to be read.	Treasury has considered the feedback and proposes to proceed with the changes as set out in this paper.
4	Information relating to supporting parties	Most stakeholders supported this change, noting it is more consistent and supports informed consent. Other stakeholders believe the current requirements reduce cognitive overload and note that consumers can access the updated CDR policy at any time.	Treasury has considered the feedback and proposes to proceed with the changes as set out in this paper.

5	Notifications (CDR receipts and 90-day notifications)	Most stakeholders supported these changes. Non-supportive stakeholders raised concerns about the amount of information that would be required in a receipt and noted the risk of notification fatigue.	Treasury has considered the feedback and proposes to proceed with the changes as set out in this paper. The DSB will also consult on Standards that set out the information requirements for CDR receipts and 90-day notifications.
6	De-identification and deletion by default	Stakeholders had mixed views. Supportive parties said that the change would reduce complexity and increase trust in the CDR. Other stakeholders submitted that a 'deletion by default' approach sets the bar too high for ADRs and may undermine the commercial viability of the CDR.	Treasury notes the feedback but considers the changes are necessary to provide clarity and certainty about how redundant data is to be treated and strengthens protection for consumers.
7	Dark patterns	Most stakeholders supported a principles-based prohibition of dark patterns. Some stakeholders did not support the change because it may create unnecessary regulatory complexity and uncertainty and discourage ADR innovation.	This rule change is not being progressed because it is not needed for the Data Standards Chair to set out principles-based requirements within the Standards. The DSB is currently considering the progression of standards and guidelines regarding the use of deceptive patterns in the CDR.

Table 2 – Stakeholder feedback in response to Operational Enhancements design paper

Item	Issue(s)	Summary of stakeholder feedback	Treasury response to stakeholder feedback
Rules of general application			
1	Secondary Users	<p>Stakeholders expressed a range of views. The majority supported removing the current requirement for data holders to offer a functionality that allows an account holder who has given a secondary user instruction to indicate they no longer approve of CDR data relating to that account being disclosed to an accredited person on behalf of that secondary user. Stakeholder submissions agreed this requirement is not fit-for-purpose. Some stakeholders were supportive of Treasury’s proposed alternative, noting this change would provide greater consistency to the Rules. However, others advised that it would introduce unnecessary technical complexity for data holders, increasing their build costs, and would have limited utility for CDR consumers.</p>	<p>This feedback is reflected in the draft Rules, which simplify the secondary user rules by removing the current requirement and rely on account holders being able to withdraw a secondary user instruction if they wish to stop data sharing on behalf of a secondary user.</p> <p>Treasury is separately proposing a minor change to clarify that, where an account holder is no longer eligible in relation to an account, any existing secondary user instructions would no longer have effect.</p>
2	Nominated Representatives	<p>Stakeholders expressed a range of views, many supportive of streamlining the nominated representative appointment process, however, some stakeholders raised concerns around deeming account administrators to be nominated representatives and requiring data holders to provide an online service to appoint nominated</p>	<p>In light of this feedback, and comments on the costs and risks associated with the changes proposed in the design paper, Treasury has taken a more targeted approach to simplifying the nominated representative appointment process. The details of these proposed amendments, which</p>

Item	Issue(s)	Summary of stakeholder feedback	Treasury response to stakeholder feedback
		<p>representatives. In particular, concerns were raised about:</p> <ul style="list-style-type: none"> - practical challenges for large organisations with multiple account administrators with bespoke access and authorisation permissions - potential misalignment with business consumers' <i>Anti-Money Laundering and Counter-Terrorism Financing Act 2006</i> compliance strategies - how quickly data sharing can be suspended or ceased if a nominated representative acts against the business consumer's wishes - lack of clarity around who has the authority to withdraw nominated representative authorisations (i.e. to override the deeming mechanism). <p>Treasury also received mixed feedback about the proposal to require nominated representatives to be identified on the consumer dashboard, including privacy concerns.</p>	<p>Treasury seeks further stakeholder feedback on, are set out above.</p> <p>In light of stakeholder submissions, Treasury is not progressing the proposal to require nominated representatives to be identified on the consumer dashboard.</p>
3	<p>Avoidance of harm</p> <p>Treasury considered amendments to the general avoidance of harm rules to support consistency with the rules for joint accounts and apply to</p>	<p>Stakeholders had a diversity of views, many supporting the expansion to protect consumers, however cautioned against expansions outside joint accounts.</p>	<p>Treasury has considered stakeholder feedback in relation to this proposal, and, in favour of prioritising other changes to ensure the Rules are fit for purpose, has deferred consideration of this measure at this time.</p>

Item	Issue(s)	Summary of stakeholder feedback	Treasury response to stakeholder feedback
	obligations to provide records and notifications to CDR consumers.		
4	<p data-bbox="293 376 712 403">CDR representative arrangements</p> <p data-bbox="293 437 734 699">Treasury considered amendments to support compliance with existing obligations under the CDR Rules by clarifying the requirements on principals and CDR representatives, as well as strengthening consumer protections.</p>	<p data-bbox="770 376 1368 600">Many stakeholders expressed support for the amendments, however raised significant concerns around the complexity of the rules about CDR representative arrangements, suggesting further consideration is required before the proposed changes are made.</p>	<p data-bbox="1413 376 2020 759">In light of stakeholder submissions, Treasury has deferred the proposed amendments while further consideration is given to these rules. Treasury is instead consulting on draft Rules to require a principal to ensure their CDR representatives comply with CDR data standards expressed to be consumer experience data standards as if they were an ADR (an issue that was not included in the design paper but has been separately raised with Treasury).</p>
5	<p data-bbox="293 788 725 895">Obligation to handle all CDR data received from a principal as service data</p> <p data-bbox="293 928 725 1187">Treasury proposed amendments to clarify that an OSP or CDR representative must comply with their obligations under the relevant agreement as though all CDR data received from their principal is service data.</p>	<p data-bbox="770 788 1368 1126">A small portion of stakeholders were supportive, noting this change would clarify expectations and ensure uniformity of data management. Many stakeholders raised concerns that this proposal would introduce complexity for consumers and would create inconsistencies in how data is handled by an entity who receives similar kinds of data from different sources (including from a principal).</p>	<p data-bbox="1413 788 2020 975">Treasury has considered the value of making such changes to the Rules and, based on the concerns raised by a large proportion of stakeholders, has determined this measure should not be progressed.</p>
6	<p data-bbox="293 1222 741 1329">Consent continuity for CDR representatives and affiliate granted unrestricted accreditation</p>	<p data-bbox="770 1222 1368 1366">Most stakeholders were supportive of minimising disruptions to active consents and historical data being available. However, a number of stakeholders noted the CDR does not currently</p>	<p data-bbox="1413 1222 2020 1366">In light of this feedback, Treasury has deferred the consideration of such amendments until further investigations around the feasibility of consent continuity are undertaken by CDR agencies.</p>

Item	Issue(s)	Summary of stakeholder feedback	Treasury response to stakeholder feedback
	Treasury proposed amendments to minimise the disruption to active consents in circumstances where a CDR representative or affiliate is granted unrestricted accreditation.	provide a mechanism to transfer consents, and doing so would be complex to implement and may increase security risks. Stakeholder feedback also suggested these amendments would require significant changes for data holders to account for modifications to the Register for CDR representative software products.	
Energy			
7	<p data-bbox="293 635 719 738">Authorisations granted by nominated representatives in the energy sector</p> <p data-bbox="293 770 719 1225">Treasury proposed a broadening of the definition of ‘complex request’ under the CDR Rules in relation to the energy sector to include consumer data requests made by CDR consumers who use a nominated representative to support authorisations. This was to delay the timing of data sharing obligations commencing in relation to retailers providing nominated representative functionality.</p>	Although some stakeholders supported the rule change, others did not see a rationale for the rule change given the timing of the existing implementation date. However, some feedback identified additional benefits that would arise from the rule change such as to simplify exemption applications to the ACCC in relation to these obligations.	Treasury has considered the feedback and proposes to proceed with the changes as set out in this paper.

Item	Issue(s)	Summary of stakeholder feedback	Treasury response to stakeholder feedback
8	<p data-bbox="293 277 725 304">Trial products for the energy sector</p> <p data-bbox="293 336 725 596">Treasury proposed changes to make energy ‘trial products’ exempt from the CDR Rules, mirroring an exemption that applies for the banking sector. Treasury sought feedback on reflecting the specific needs of the energy sector.</p>	<p data-bbox="770 277 1379 539">As summarised in this paper, stakeholders generally supported introducing this exemption. Stakeholders provided feedback that exempting trial products with a trial period of up to 12-months was appropriate. Some stakeholders proposed a more principles-based approach to this exemption.</p>	<p data-bbox="1413 277 1917 384">Treasury has considered the feedback and proposes to proceed with a trial product exemption as set out in this paper.</p>
9	<p data-bbox="293 639 725 699">Insight disclosures for the energy sector</p> <p data-bbox="293 735 725 995">Treasury proposed changes to allow insight disclosures of CDR data in the energy sector similar to the banking sector. Treasury sought feedback on whether a sector-agnostic, sector-specific or hybrid approach was appropriate.</p>	<p data-bbox="770 639 1379 938">Stakeholders expressed a range of views about the proposed changes. Some stakeholders considered that insight disclosures were not relevant to the energy sector, would not add value, and potentially carried privacy risks. Other feedback indicated some interest in a form of disclosure such as summarised or aggregated data about a consumer’s electricity usage.</p>	<p data-bbox="1413 639 2002 820">Treasury has considered stakeholder feedback in relation to this proposal, and, in favour of prioritising other changes to ensure the Rules are fit for purpose, has deferred consideration of this measure at this time.</p>
10	<p data-bbox="293 1034 725 1061">Historic metering data liability</p> <p data-bbox="293 1098 725 1369">Treasury proposed changes so that an energy data holder acting in good faith would not be liable under the CDR framework where they on-share incorrect metering data provided to them by the Australian Energy Market Operator (AEMO). This was</p>	<p data-bbox="770 1034 1379 1332">Although some stakeholders expressed support for the rule change, other stakeholders considered the change would not address underlying risks. Feedback indicated potential perverse outcomes such as removing disincentives against poor data handling practices. Some stakeholders considered that energy data holders could take other means to reduce their liability such as insurance policies.</p>	<p data-bbox="1413 1034 2007 1177">Treasury does not plan to proceed with the rule change at this time noting work being undertaken by the Data Standards Body about Standards relevant to the LCCD changes.</p>

Item	Issue(s)	Summary of stakeholder feedback	Treasury response to stakeholder feedback
	<p>proposed in relation to electricity market procedure changes introducing the Last Consumer Change Date (LCCD) flag, to record the date range of consumer metering data in AEMO's market systems and enable a consumer's historic metering data to be identified.</p>		
Other issues			
11	<p>Issues for future consideration</p> <p>Treasury also welcomed preliminary feedback about other proposals for operational enhancements to the CDR Rules to address other issues. For example, Treasury raised the question of when a banking or energy data holder who has collected CDR data as an ADR should be able to hold that data as a data holder (rather than as an ADR).</p>	<p>Among other matters, stakeholders raised feedback suggesting ADIs should be able to treat data they receive as an ADR in the way they treat the same data they currently receive via other means in their ordinary course of business. Banking stakeholders suggested amending the conditions in the rules to allow them to hold CDR data as a data holder where it is about a customer who seeks to acquire a product. Some stakeholders also considered that the requirement to seek a consumer's consent to hold the data as a data holder prevents relevant use cases.</p>	<p>Having considered this feedback, Treasury is proposing the making of rules set out in this paper to address this feedback which would allow accredited ADIs to hold CDR data as a data holder, including proposing to replace the current the current collection consent requirement.</p> <p>Treasury will continue to consider preliminary feedback provided by stakeholders in relation to other matters in the paper.</p>

Appendix B – Banking and energy data sets

The below table provides a summary of the banking and energy data sets to which the CDR currently applies.

Banking sector	Energy sector
<ul style="list-style-type: none">• Customer data, including a consumer’s name and contact details• Account data, including a consumer’s account balance• Transaction data, including the amount debited or credited• Product specific data, including interest rates, fees, and associated features about a product	<ul style="list-style-type: none">• Customer data, including a consumer’s name and contact details• Account data, including a consumer’s account and energy plan details• Billing data, including information about a consumer’s billing payments• Tailored tariff data, including details of the consumer’s energy plan• Metering data, including the consumer’s electricity usage• National Metering Identifier (NMI) standing data, including information about the consumer’s electricity connection and meter• Distributed Energy Resources (DER) register data about a consumer’s consumer energy resources such as solar panels and batteries• Product reference data, including about electricity, gas and dual fuel plans offered by retailers in the energy market
