

## Fit and proper person declaration

*Declarations are to be submitted as part of an applicant's accreditation application made under the Consumer Data Right regime.*

### INTRODUCTION

The Australian Competition and Consumer Commission (ACCC) is an Australian government agency and competition regulator. The ACCC regulates the Consumer Data Right (CDR) which is an economy-wide regime that gives consumers access to and control over their data, and the ability to obtain products and services from accredited persons using CDR data.

Under Part IVD of the Competition and Consumer Act 2010 (Cth), the ACCC as Data Recipient Accreditor may accredit a person if satisfied that they meet the accreditation criteria as specified in the Competition and Consumer (Consumer Data Right) Rules 2020 (CDR Rules).

When deciding whether to accredit a person, the ACCC must be satisfied that the person, if accredited, would be able to comply with the fit and proper person obligation having regard to the matters in rule 1.9 of the CDR Rules. The ACCC considers the matters in rule 1.9 against both the applicant and any of their associated persons.

### PURPOSE OF THIS DECLARATION

To assist the ACCC in assessing an applicant's ability to comply with the fit and proper person obligation, applicants must ensure each associated person signs this Declaration form separately and provides this to the ACCC when applying for accreditation.

If the ACCC is not satisfied that an applicant would be able to comply with the fit and proper person obligation, the ACCC may refuse to accredit the applicant.

Personal information collected as part of this Declaration will be handled in accordance with this [Privacy Notice](#) and the [ACCC/AER Privacy Policy](#).

### ASSOCIATED PERSON

#### **Rule 1.7(1) of the CDR Rules**

***associated person***, of another person, means any of the following:

- (a) a person who:
  - (i) makes or participates in making, or would (if the other person were an accredited person) make or participate in making, decisions that affect the management of CDR data by the other person; or
  - (ii) has, or would have (if the other person were an accredited person), the capacity to significantly affect the other person's management of CDR data;
- (b) if the other person is a body corporate—a person who:
  - (i) is an associate (within the meaning of the *Corporations Act 2001*) of the other person; or
  - (ii) is an associated entity (within the meaning of the *Corporations Act 2001*) of the other person.

If required, appropriate professional advice should be sought before providing this declaration.

# Fit and proper person declaration

## SECTION A

If you are an individual (i.e. a natural person) and are completing this declaration in relation to yourself, complete table A below.

If you are making this declaration on behalf of a body corporate, complete table B below. You must be authorised by the relevant body corporate to sign on its behalf and hold the role of a company director, company secretary, chief executive officer, chief operating officer, chief financial officer or managing director.

**Table A (associated person - individual)**

Your personal details	
Given names:	
Last name:	
Any other name you have previously been known by (if applicable):	
Date of birth:	
Residential address:	
Email address:	
Applicant's name:	
Relationship to the applicant (e.g. company director, company secretary, manager):	

**Table B (associated person – body corporate)**

Your organisation's details	
Your name:	
Name of legal entity:	
Australian Company Number, or registered business number for non-Australian entities	Number: Country:
Your position title (must be a company director, company secretary, chief executive officer, chief operating officer, chief financial officer or managing director):	
Your email address as assigned by your organisation (i.e. not your personal email address):	
Registered business address:	
Applicant's name:	
Relationship to the applicant (e.g. holding company, subsidiary, other type of associated entity):	

## SECTION B

If you completed Table A, references to “you” in this section refer to you.

If you completed Table B, references to “you” in this section refer to the entity on whose behalf you are making this declaration.

If there is insufficient space for your answer, please provide on a separate page and combine that with this declaration.

Fit and proper questions		
1	<p>In the previous 10 years, have you been convicted of a serious criminal offence against any law of the Commonwealth, or of a State or Territory, or a law of a foreign jurisdiction?</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>A ‘serious criminal offence’ is defined in Rule 1.9 (2) of the <a href="#">CDR Rules</a>.</p> </div>	<input type="checkbox"/> No <input type="checkbox"/> Yes (Provide details below)
2	<p>In the previous 10 years, have you been convicted of an offence of dishonesty against any law of the Commonwealth, or of a State or Territory, or a law of a foreign jurisdiction?</p>	<input type="checkbox"/> No <input type="checkbox"/> Yes (Provide details below)
3	<p>Have you been found to have contravened a law relevant to the management of CDR data or a similar law of a foreign jurisdiction?</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>A ‘law relevant to the management of CDR data’ includes, but is not limited to, any of the following:</p> <ul style="list-style-type: none"> <li>• the <i>Competition and Consumer Act 2010 (Cth)</i></li> <li>• any regulations made for the purposes of the <i>Competition and Consumer Act 2010 (Cth)</i></li> <li>• the <i>Competition and Consumer (Consumer Data) Rules 2020</i></li> <li>• the <i>Corporations Act 2001 (Cth)</i></li> <li>• the <i>Corporations Regulations 2001</i></li> <li>• the <i>Privacy Act 1988 (Cth)</i></li> <li>• the <i>Australian Securities and Investment Commission Act 2001 (Cth)</i>.</li> </ul> <p>See Rule 1.7(1), CDR Rules.</p> </div>	<input type="checkbox"/> No <input type="checkbox"/> Yes (Provide details below)

4	<p>Have you been subject to a determination under paragraph 52(1)(b) or any of paragraphs 52(1A)(a), (b), (c) or (d) of the <a href="#">Privacy Act 1988 (Cth)</a>?</p>	<input type="checkbox"/> No <input type="checkbox"/> Yes (Provide details below)
5	<p>Have you ever been disqualified from managing corporations?</p>	<input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/> Yes (Provide details below)
6	<p>Are you subject to a banning order within the meaning of the <a href="#">Corporations Act 2001 (Cth)</a>?</p>	<input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/> Yes (Provide details below)
7	<p>Do you have a history of insolvency either in Australia or another jurisdiction?</p> <div data-bbox="264 1554 871 1767" style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>For example, have you ever entered into liquidation, voluntary administration, or receivership? Insolvency is defined in section 95A of the <i>Corporations Act 2001 (Cth)</i> to mean an inability of a person to pay all of their debts as and when they become due.</p> </div>	<input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/> Yes (Provide details below)

8	<p>Do you have a history of bankruptcy either in Australia or another jurisdiction?</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>For example, have you ever been declared bankrupt, presented a debtor's petition pursuant to section 55 of the <i>Bankruptcy Act 1966 (Cth)</i> or had a creditor's petition presented against you pursuant to the <i>Bankruptcy Act 1966 (Cth)</i>?</p> </div>	<p><input type="checkbox"/> No</p> <p><input type="checkbox"/> N/A</p> <p><input type="checkbox"/> Yes (Provide details below)</p>
9	<p>Have you been subject to a determination made under an external dispute resolution scheme that included a requirement to pay monetary compensation and was at the time the determination was made recognised under the <i>Privacy Act 1988 (Cth)</i> or a recognised external dispute resolution scheme?</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>The Australian Financial Complaints Authority is the recognised external dispute resolution scheme for the banking sector.</p> <p>In addition to the Australian Financial Complaints Authority the following external dispute resolution schemes are also currently recognised under the <i>Privacy Act 1988 (Cth)</i>:</p> <ul style="list-style-type: none"> <li>▪ Energy &amp; Water Ombudsman (NSW) Limited</li> <li>▪ Energy and Water Ombudsman Queensland</li> <li>▪ Energy and Water Ombudsman (SA)</li> <li>▪ Energy and Water Ombudsman (Victoria) Limited</li> <li>▪ Energy and Water Ombudsman Western Australia</li> <li>▪ Public Transport Ombudsman Limited (Victoria)</li> <li>▪ Telecommunications Industry Ombudsman Limited</li> <li>▪ Tolling Customer Ombudsman</li> <li>▪ Credit and Investments Ombudsman</li> <li>▪ Financial Ombudsman Service.</li> </ul> </div>	<p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes (Provide details below)</p>

10	<p>Are there any other matters relevant to our assessment of whether the applicant would be able to comply with the fit and proper person obligation?</p> <p>For example but not limited to, whether in Australia or overseas:</p> <ul style="list-style-type: none"><li>○ any criminal investigation or proceedings that you are currently the subject of</li><li>○ any investigation or disciplinary action by a professional association where you:<ul style="list-style-type: none"><li>○ are the subject, or</li><li>○ have been the subject, and an adverse finding was made against you.</li></ul></li><li>○ any inquiry or investigation initiated by a government agency where you:<ul style="list-style-type: none"><li>○ are the subject, or</li><li>○ were the subject and an adverse finding was made against you.</li></ul></li><li>○ any court proceedings initiated by a government agency where you:<ul style="list-style-type: none"><li>○ are the subject, or</li><li>○ have been the subject of and an adverse finding was made against you.</li></ul></li></ul>	<p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes (Provide details below)</p>
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## Declaration

**Providing false or misleading information to the ACCC is a serious offence under the *Criminal Code Act 1995 (Cth)*. This includes omitting any matter or thing without which the information you provide is misleading.**

By signing this declaration:

1. you authorise the ACCC to seek further information from any party, whether in Australia or overseas, as it thinks appropriate in order to verify the information given in this declaration (this includes but is not limited to criminal background checks)
2. you consent to the ACCC handling your personal information in accordance with this [Privacy Notice](#)
3. you confirm that the information you have provided is accurate and complete to the best of your knowledge and belief
4. (if you are providing this declaration on behalf of a body corporate) – you confirm you have the authority to sign and provide this declaration on behalf of the body corporate outlined in Table B of this declaration.

Your full name

Position

Signature

Please either 1) print, sign and scan a hard copy of the declaration or 2) insert a high-resolution scanned image of your signature in the box above.

Date (dd/mm/yyyy)

<input type="text"/>	<input type="text"/>	/	<input type="text"/>	<input type="text"/>	/	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
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## Privacy Notice

Please note that some of the information you provide in your application is 'Personal Information'. This Privacy Notice should be read in conjunction with the [ACCC/AER Privacy Policy](#).

By submitting your application, you acknowledge and accept the following:

- Why we are collecting the information

Information in this application is being collected by us for two purposes:

- as the Data Recipient Accreditor, to assess whether your application satisfies the accreditation criteria in the CDR Rules and
- to facilitate the proper functioning of the CDR system. This may include (but is not limited to) ensuring that the correct information is available through the Register of Accredited Persons and for compliance and enforcement of the CDR regime.

- How we will use the information collected

The information may be shared from time-to-time with other regulators (for example, the Australian Prudential Regulatory Authority, the Australian Securities and Investments Commission, the Australian Financial Complaints Authority and the Information Commissioner) or external consultants engaged by us to assist us with our two purposes stated above.

The information you provide regarding the applicant and the applicant's associated persons will be used to verify the information provided in your application. This could include conducting a police check.

Some of the information will be displayed on a public facing section of the Register of Accredited Persons (such as the company name and Australian Business Name of all CDR participants) while other information will only be available to other CDR participants or only available to us.

- What happens if you do not provide some of the information

All information requested is mandatory, unless otherwise stated. If all mandatory information is not provided, we will not be able to assess your application and your application will be returned to you for completion.

- In general, your information is stored in Australia and will not be disclosed to overseas recipients. However, there are exceptions.

We use an external provider to store and collect this information, on servers in Australia, in a secure environment.

The information you provide regarding the applicant and the applicant's associated persons may be shared with overseas regulators and law enforcement to verify the information provided in your application.