



Accreditation guidelines

Version 3: Draft

29 October 2021

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Glossary

Shortened form	Extended form
accredited person	an accredited person means a person who has satisfied the Data Recipient Accreditor that it meets the criteria for accreditation specified in the CDR Rules and has been accredited by the Data Recipient Accreditor
Accreditor	Data Recipient Accreditor - currently the ACCC
ACCC	Australian Competition and Consumer Commission
ADI	authorised deposit-taking institution
AFCA	Australian Financial Complaints Authority
Applicant	a person who makes an application for accreditation to be an accredited person
ASIC	Australian Securities and Investments Commission
associated person	a person involved, or who would be involved if accredited, in decision making by the applicant or accredited person or who has the ability to significantly impact another person's management of CDR data. For a body corporate - also includes an associate of another person or associated entity of another person within the meaning of the <i>Corporations Act 2001</i>
CDR	Consumer Data Right
CDR consumer	CDR consumer is defined in the Act, see section 56AI(3)
CDR data	CDR data is specific information for the relevant designated sector. See section 56AI(1) of the Act. For the banking sector this is set out in Schedule 3 of the CDR Rules
Participant Portal	the CDR Participant Portal which serves as the online mechanism to create a CDR account, complete and submit an accreditation application, manage and update a participant's information
CDR Register	register of accredited persons
CDR Rules	<i>Competition and Consumer (Consumer Data Right) Rules 2020</i>
Data Holder	a holder of CDR data
designation instrument	before a sector of the economy is subject to the CDR, the sector must be designated by the Minister in a legislative instrument known as a designation instrument
EDR	external dispute resolution
IDR	internal dispute resolution
OAIC	Office of the Australian Information Commissioner
Registrar	Accreditation Registrar - currently the ACCC
Restricted ADI	is an ADI that has an authority under section 9 of the <i>Banking Act 1959</i> to carry on a banking business in Australia for a limited time in accordance with section 9D of the Act
the Act	<i>Competition and Consumer Act 2010 (Cth)</i>
the Tribunal	Administrative Appeals Tribunal

1. Introduction

Under Part IVD of the *Competition and Consumer Act 2010* (Cth)¹ (the Act), the Consumer Data Right (CDR) regime allows consumers to require data holders to share their data with accredited persons.

The *Competition and Consumer (Consumer Data Right) Rules 2020* (CDR Rules) set out how the CDR is to operate including the criteria that the Data Recipient Accreditor (Accreditor) (currently the Australian Competition and Consumer Commission (ACCC)) will apply when considering an application for accreditation.

This guide aims to provide information and guidance on accreditation and other participation pathways provided by the CDR Rules and to assist applicants with lodging a valid application to become an accredited person.

This guide may be updated from time to time and is not intended to be exhaustive on all aspects of accreditation or the accreditation process. This guide should be read in conjunction with the two supplementary accreditation guidelines on insurance and information security and the CDR Rules.

Answers to [frequently asked questions](#) (FAQs) about accreditation and applications for accreditation can be found on the CDR Support Portal. If a query is not addressed in the FAQs, prospective applicants should submit an enquiry via email to ACCC-CDR@acc.gov.au.

2. Who needs accreditation?

The CDR aims to give consumers more access to and control over their personal data. Being able to share data easily and efficiently will improve consumers' ability to compare and switch between products and services and encourage competition between service providers, leading to more innovative products and services for consumers and the potential for lower prices. Banking was the first sector to be brought into the CDR, to be followed by the energy sector.

Accredited persons may receive a CDR consumer's data from a data holder at the request and consent of the consumer to provide them with goods or services.² There are 2 levels of accreditation available to participants - unrestricted or sponsored. However, the CDR Rules also provide for alternative pathways to enable a person to participate in the CDR without accreditation, subject to certain requirements being satisfied.

For example, the CDR representative model provides for an 'agency-like' arrangement that allows unaccredited persons to partner with an unrestricted accredited person to provide goods and services using CDR data. Another change is that outsourced service providers may now be used by to collect CDR data on behalf of an accredited person and to provide goods and services to an accredited person.

Table 1 below sets out the participation pathways provided by the CDR Rules, including whether accreditation is required, and any other requirements to be satisfied. Further information on specific participation pathways is also set out in section 11 of this guide.

If a person intends to seek accreditation, the Act provides that the Accreditor may accredit persons if it is satisfied that they meet the criteria specified in the CDR Rules.³

¹ The Act sets out the CDR framework including the subject matter that the CDR Rules may cover

² CDR Rules, rule 4.3

³ The Act, section 56CA(1)

Table 1: CDR Participation Pathways

Pathway	Description	Accreditation required?	Data collection allowed?	When can participate
Unrestricted accreditation	<p>Persons accredited at the unrestricted level:</p> <ul style="list-style-type: none"> • highest level of accreditation • can act as sponsor to an affiliate • can engage a CDR representative/outsourced service provider 	<p>Yes</p> <p>Accreditation criteria outlined in section 5 below</p>	<p>Yes</p> <p>Both data holders and other accredited data recipients</p>	<p>Upon accreditation and completion of onboarding</p>
Sponsored accreditation	<p>Persons with sponsored accreditation:</p> <ul style="list-style-type: none"> • must have a sponsor to collect CDR data/provide goods or services to CDR consumers • must only collect CDR data through sponsor/other accredited person/sponsor's outsourced service provider • must not engage an outsourced service provider to collect data or engage a CDR representative 	<p>Yes</p> <p>However, applicants able to self-assess and attest to information security requirements</p>	<p>Not directly from data holders</p> <p>May request its sponsor collect data from data holder and pass it on</p> <p>May collect from another accredited person who is not sponsor</p>	<p>Must be accredited, completed onboarding, and in a sponsorship arrangement with unrestricted accredited person</p>
CDR representative model	<p>Provides an 'agency-like' model that allows unaccredited persons (CDR representative) to partner with an unrestricted accredited person (the principal) to provide goods and services using CDR data. A CDR representative may only have one principal</p>	<p>No</p>	<p>No</p>	<p>Must have CDR representative arrangement in place, and have that represented on CDR Register</p>
Outsourced service provider	<p>Outsourced service providers may:</p> <ul style="list-style-type: none"> • collect CDR data on behalf of an accredited person • use CDR data to provide goods and services to an accredited person 	<p>No</p>	<p>Yes</p>	<p>Must have CDR outsourcing arrangement in place</p>

Once accredited, an accredited person must comply with ongoing obligations in order to maintain accreditation.⁴ For further information about ongoing obligations please refer to the CDR Rules.

3. Levels of accreditation

There are two levels of accreditation:

- unrestricted
- sponsored.

Both levels of accreditation apply across sectors (i.e. they apply to banking and will apply to energy and other future sectors added to the CDR regime) and allow access to all data sets (subject to consumer request and consent).

3.1. Unrestricted accreditation

The unrestricted level of accreditation is the highest level of accreditation for participation in the CDR.

A person accredited at the unrestricted level may collect CDR data from data holders, at the request and consent of the consumer, to provide goods or services to the CDR consumer. A person accredited at the unrestricted level may collect CDR data directly or by using the services of an outsourced service provider.

In addition, a person accredited at the unrestricted level can sponsor another accredited person in the CDR regime in a sponsorship arrangement and/or enter into a CDR representative arrangement.

The criteria for accreditation at the unrestricted level are set out in section 6 below.

3.2. Sponsored accreditation

From 1 February 2022, prospective applicants will be able to apply for the sponsored level of accreditation. This new accreditation level is designed to reduce barriers to entry for parties who wish to participate in the CDR regime as accredited persons.

The sponsored level of accreditation is for persons with or who intend to have an arrangement with an unrestricted accredited person who is willing to act as their sponsor in the CDR regime.

A person accredited to the sponsored level and in a sponsorship arrangement will be known as an affiliate of its sponsor.

The criteria for sponsored accreditation will be the same as for accreditation at the unrestricted level. However, the evidence which an applicant for sponsored accreditation must provide to satisfy the Accrerator that it complies with Schedule 2 of the CDR Rules is different from the evidence required of an applicant at the unrestricted level. A sponsored accreditation applicant will be able to self-assess and attest to the information security obligations rather than provide an independent third-party assurance report as required for unrestricted accreditation.

Further details on how to apply for accreditation at the sponsored level, including the evidence required to be submitted to the Accrerator, will be provided in a further update to this guide by early 2022.

⁴ CDR Rules, Schedule 1, clause 2.1

Restrictions on an affiliate (i.e. a person with a sponsored accreditation)

An affiliate cannot collect data directly from a data holder but may request its sponsor to collect data on its behalf. An affiliate may also collect data from another accredited person who is not their sponsor.⁵

An affiliate may also use its sponsor's outsourced service provider to collect CDR data but cannot enter into its own CDR outsourcing arrangement to collect CDR data via an outsourced service provider. However, an affiliate may disclose data to an outsourced service provider under a CDR outsourcing arrangement.

An affiliate cannot enter into a CDR representative arrangement (see section 11 of this guide).

Before an affiliate can access CDR data, or provide goods or services to a CDR consumer, the affiliate must have both sponsored accreditation and a sponsorship arrangement with a sponsor in place. An affiliate's accreditation will lapse if it is not in a sponsorship arrangement for four months.⁶

Obligations on a sponsor

A sponsor must comply with specific obligations set out in the CDR Rules⁷, including undertaking due diligence into its affiliate, providing appropriate training and assistance to its affiliate on technical and compliance matters and using reasonable steps to ensure the affiliate complies with its obligations as an accredited person. A sponsor must also inform the Accreditor when it becomes a sponsor and of changes to its sponsorship arrangements. Further details of how this should be done will be provided in a further update to this guide by early 2022.

4. How to apply for accreditation

4.1. Establishing an account

To apply for accreditation at either level, an applicant must first set up an account through the [Participant Portal](#). The Participant Portal is the online mechanism through which an applicant must complete and submit an accreditation application. It is also the place for CDR participants to update and manage their information and view the CDR Register of Accredited Persons (CDR Register).

The person who first sets up an account for the applicant must be a person who is listed on the applicant's Australian Securities and Investments Commission (ASIC) business record, or the equivalent foreign business record if the applicant is a foreign entity, as confirmation that the person creating the account has the requisite authority to act on behalf of the applicant. For example, director, company secretary, authorised contact etc.

As part of creating this account, the person must verify their identity using an online identification verification platform. Detailed information about creating an account and verifying the person's identity is provided in the [CDR Participant Portal User Guide](#) which is available on the CDR website.

Once the account creation form is completed and the person's identity has been verified, an activation code will be sent to the person to confirm the account. This will then allow the person to log into the Participant Portal. This person will be the applicant's initial

⁵ Relying on the AP disclosure rules in rule 1.10A of the CDR Rules.

⁶ CDR Rules, rule 5.1B(5).

⁷ CDR Rules, Schedule 1, clause 2.2

primary business contact who may then invite additional users to the Participant Portal as required.

Creating an applicant's Participant Portal account also creates a business record in the Participant Portal for the applicant. This requires certain information to be provided about the applicant including the applicant's addresses for service (both physical and electronic).⁸ If the applicant is a foreign entity this information must include the applicant's local agent and the local agent's addresses for service (both physical and electronic).⁹ For applicants that are corporations the physical address for service will be the registered office. For other business types this could be the principal place of business or place where business is carried on. The physical address for service cannot be a post office box and must be in Australia. Generally, the electronic address for service is an email address where the applicant wishes to receive official communication and notices.

4.2. How to lodge a valid application for accreditation

The electronic accreditation forms are available in the Participant Portal.

Once logged in to the Participant Portal select 'New Application' and choose the relevant approved application form. Currently, there are two approved application forms, a standard approved form at the unrestricted level (standard form) and a streamlined approved form at the unrestricted level for persons eligible for streamlined accreditation (streamlined form).

Sample application forms incorporating all the questions and required documentation that will be in the electronic application forms are available on the CDR website.

Please note, the sample application forms are for information only and accreditation applications must be made via the electronic forms in the Participant Portal.

Standard form

All applicants that are not an authorised deposit-taking institution (ADI) must complete the standard form for accreditation.

The standard form seeks information about the applicant that will be used to assess the application, populate the CDR Register or otherwise administer the CDR system.

Fulsome responses and all documents are required to enable efficient consideration of applications. Responses can be saved and revisited later. Please note we are unable to assess incomplete applications.

Any documents that are not in English must be accompanied by a translation. The original foreign language document must also be provided. Translations should be undertaken by a [National Accreditation Authority for Translators and Interpreters](#) (NAATI) accredited translator.

Once all mandatory fields have been completed and all required documents uploaded the applicant will be able to submit the application for accreditation to be assessed by the Accreditor.

⁸ CDR Rules, rule 5.2(2)(c)(i)

⁹ CDR Rules, rule 5.2(2)(c)(ii)

Streamlined form

For the banking sector an applicant who is an ADI (but not a restricted ADI) meets the criteria for streamlined accreditation and may complete the streamlined version of the approved accreditation form.¹⁰

The streamlined approved form will require an ADI to provide its policy on how it will manage CDR data and details of its Australian Financial Complaints Authority (AFCA) membership (the recognised external dispute resolution (EDR) scheme for banking).¹¹ Where an ADI has more than one AFCA membership, to accommodate multiple brands, please provide membership details for the legal entity seeking accreditation. Details for additional brands can be provided as relevant further information.

4.3. Amending an application

Once an application has been submitted it can be viewed but not amended. However, an applicant may request a change or submit additional information to accompany an application through the Participant Portal. The additional information submitted will be considered by the Accreditor alongside the original information contained in the application.

For example, additional information would have to be submitted when a person who is included as a fit and proper person in the original application is no longer fit and proper or is no longer associated with the applicant.

4.4. Withdrawing an application

An application can be withdrawn at any stage of the application process.

To withdraw an application after it has been submitted, the applicant must log into the Participant Portal and submit a request to withdraw the application. The request to withdraw an application will be acknowledged when received.

4.5. Providing false or misleading information

It is a serious criminal offence under the Commonwealth Criminal Code to provide false or misleading information. False or misleading information in an application (including a material omission) may also be grounds to revoke any accreditation granted based on that information.¹²

5. Steps in the accreditation process

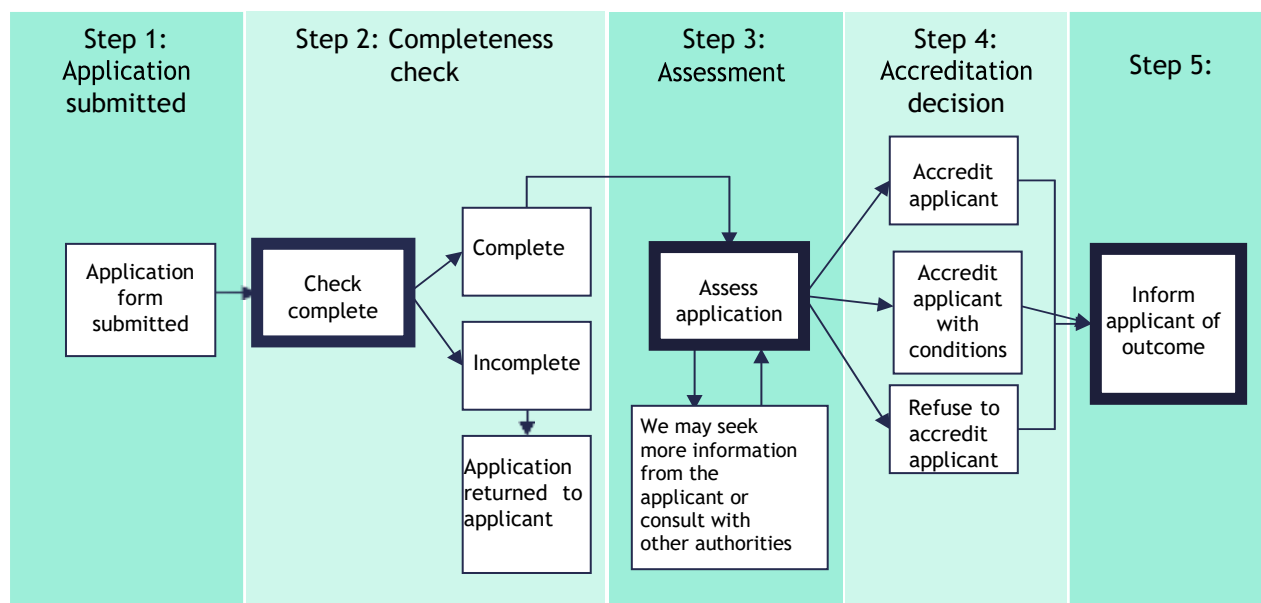
This section outlines the steps the Accreditor will take in assessing applications for accreditation. These steps apply to both levels of accreditation.

¹⁰ CDR Rules, rule 5.5 and Schedule 3, clause 7.3

¹¹ CDR Rules, rule 5.12 and Schedule 3, clause 7.1

¹² CDR Rules, rule 5.17(1)

Figure 1: Accreditation process



We aim to complete Step 2 (completeness check) within 1-2 weeks. Steps 3 and 4 (assessment and decision) may take approximately 3 months but the timing is dependent on several factors, such as level of detail provided in response to questions, whether further information is required and the complexity of any issues that arise during assessment. We will engage with the applicant during the assessment period, including to meet with, or seek further information if needed.

5.1. Check for completeness

The first step in the accreditation process is for the Accreditor to determine if the application is complete.

We are unable to assess incomplete applications. If the application is incomplete, the Accreditor will return the application to the applicant in the Participant Portal and notify the applicant indicating where missing information is required.

The applicant will then be able to complete the relevant section of the application and resubmit it at a later date.

The Accreditor will consider an application to be incomplete when required fields on the approved form have not been answered or required documents are missing.

5.2. Further information and consultation

If the Accreditor considers the application is complete but that further information is needed to assess the application and decide whether to accredit a person, it may:

- request additional information from the applicant¹³:
 - by way of an interview
 - in writing, by phone or other electronic means.

¹³ CDR Rules, rule 5.3

- consult with Australian government authorities, such as the Information Commissioner, the Australian Prudential Regulation Authority and ASIC, as well as similar authorities overseas.¹⁴

5.3. Accreditation decisions

The Accreditor will notify the applicant, and the Accreditation Registrar (Registrar), in writing, after accreditation is granted. The Registrar will also be informed of the accredited person's name, any conditions of accreditation, and the effect of any conditions where appropriate.¹⁵

If the Accreditor has decided not to grant accreditation, the Accreditor will advise the applicant in writing and provide information about the applicant's rights to have the decision reviewed.¹⁶ Further information is provided below at section 10.

5.4. Commencement of accreditation

Accreditation will take effect when the Accreditor's decision to accredit the applicant is included in the CDR Register.¹⁷ However, an accredited person will need to complete the on-boarding process to commence active participation in the ecosystem.

5.5. Inclusion in the CDR Register

The Registrar (currently the ACCC) maintains the CDR Register and may require an accredited person to provide information to it for requests under the CDR Rules to be processed.

Following accreditation, the Registrar will initiate the on-boarding process. On-boarding is the process of a participant new to the CDR ecosystem preparing to commence active participation in the ecosystem. The goal of the on-boarding process is to satisfy the Registrar that the accredited person can be activated as a participant in the system. As part of the on-boarding process, accredited persons will need to successfully complete testing and meet other requirements.

Following accreditation the ACCC will contact newly accredited persons to help initiate the on-boarding process.

Detailed information about the on-boarding process is provided in the [On-Boarding Guide](#).

6. The criteria for accreditation

The criteria for accreditation are that the applicant:

- would, if accredited, be able to comply with the obligations of a person who is accredited at that level,¹⁸ or
- meets the criteria for streamlined accreditation as set out in the CDR Rules for the relevant designated sector.¹⁹

The relevant assessment criteria are outlined below.

¹⁴ CDR Rules, rule 5.4

¹⁵ CDR Rules, rule 5.15

¹⁶ CDR Rules, rule 5.7(3)(b)

¹⁷ CDR Rules, rule 5.8

¹⁸ CDR Rules, rule 5.5(a)

¹⁹ CDR Rules, rule 5.5(b)

Streamlined accreditation

For the banking sector the criterion for streamlined accreditation is that the applicant is an ADI (but not a restricted ADI).

While ADIs (other than restricted ADIs) meet the criterion for the streamlined accreditation process, once accredited ADIs must also complete the on-boarding process and comply with the ongoing obligations of an accredited person (excluding the insurance obligation).²⁰

Obligations of accredited persons

The below section details the obligations of accredited persons (both unrestricted and sponsored) including the information required to be provided by applicants as part of their accreditation application.

6.1. Fit and proper person

An applicant and any associated person of the applicant must be a fit and proper person to manage CDR data.

In assessing the fit and proper criterion set out in section 1.9 of the CDR Rules, the Accreditor will consider whether an applicant, or any associated person, has been:

- convicted of a serious criminal offence or offence of dishonesty within the past 10 years in Australia or a foreign jurisdiction
- found to be in contravention of any law relating to the management of CDR data²¹ in Australia or a similar law in another country. The contravention is not required to be in respect of CDR data
- subject to a determination relating to interfering with the privacy of an individual under the *Privacy Act 1988*, or similar finding or determination under a similar law in another country
- insolvent or bankrupt
- subject to a determination made under an EDR scheme recognised under the *Privacy Act 1988*, or a recognised EDR scheme²² that included a requirement to pay financial compensation.

The Accreditor will also consider any other relevant matter, including but not limited to the objects of Part IVD of the Act.²³ Broadly, the object of Part IVD of the Act is to enable consumers in certain sectors (currently banking) to require information about them to be shared safely, efficiently and conveniently to:

- themselves, or
- accredited persons (subject to privacy safeguards) and
- enable any person to efficiently and conveniently access information about goods and services that do not relate to identifiable consumers and as a result create more choice and competition.

²⁰ CDR Rules, rule 5.12 and Schedule 3, clause 7.4

²¹ CDR Rules, rule 1.7 (1) defines a 'law relevant to the management of CDR data' as any of the following: (a) the Act; (b) any regulation made for the purposes of the Act; (c) these rules; (d) *the Corporations Act 2001* and the Corporations Regulations 2001; (e) the *Privacy Act 1988*; (f) in relation to a particular designated sector—any law that is specified for the purposes of this paragraph in a Schedule to these rules that relates to that designated sector. For the banking sector this includes the *Australian Securities and Investments Commission Act 2001*, as per clause 7.1 of Schedule 3 to the CDR Rules.

²² A recognised EDR scheme. For the banking sector this is AFCA.

²³ CDR Rules, rule 1.9(g)

Additional information, in relation to either the applicant or an associated person, which may be relevant to whether an applicant is a fit and proper person includes, but is not limited to, any criminal investigations, investigation or disciplinary action by a professional body, inquiry or investigations by a government agency, or any court proceedings initiated by a government agency.

For a body corporate, the Accreditor will also consider whether any of its directors have ever been disqualified or banned from managing a company.²⁴

The Accreditor will undertake relevant checks to verify an applicant's answers to the fit and proper person criterion. This may include criminal background checks.

Associated Persons

An associated person is a person involved, or who would be involved if accredited, in decision making by the applicant or someone who can significantly impact the applicant's management of CDR data. If the applicant is a body corporate - it also includes associates or associated entities of the applicant within the meaning of the *Corporations Act 2001 (Cth)*.²⁵

When determining who an associated person or entity is within the applicant's organisation applicants should refer to the *Corporations Act 2001 (Cth)* which sets out the definition of associate²⁶ and associated entity.²⁷ The definitions include a wide group of individual and corporate persons that are associated with the applicant. They also include persons who belong to overseas related entities.

Applicants need to consider and further identify which persons within their organisation make decisions that affect the management of CDR data. These persons may include a director or secretary, including directors or secretaries of a subsidiary or holding company, operations managers and any other staff who have influence over the work that is undertaken that can affect or influence the management of CDR data.

From 1 November 2021, applicants must provide signed declarations addressing the fit and proper person criteria from each of their associated persons (natural or body corporate) as part of their application. The declaration template can be found on the CDR website on the [Resources page](#). Until the accreditation form is updated in the Participant Portal to allow for upload of declarations, applicants should send signed declarations to ACCC-CDR@acc.gov.au at the time of submitting their accreditation application.

To assist the Accreditor to assess the fit and proper person criterion the applicant is required to provide a current corporate structure chart which identifies the applicant, its subsidiaries and related bodies corporate, as well as a current organisational chart that identifies the key roles within the organisation and who performs them. The organisational chart should identify the relevant individuals who are associated persons of the applicant by providing their full name and position title. Individuals who are not associated persons of the applicant do not need to be identified by name on the organisational chart.

The following example is provided for illustrative purposes only.

²⁴ CDR Rules, rule 1.9(1)(d)

²⁵ CDR Rules, rule 1.7(1)

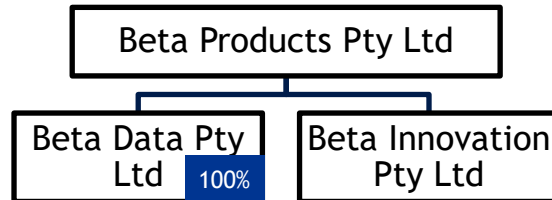
²⁶ *Corporations Act 2001 (Cth)*, Section 11

²⁷ *Corporations Act 2001 (Cth)*, Section 50AAA

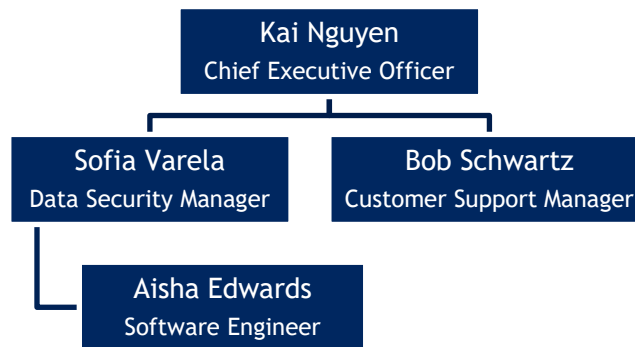
Example: Beta Data Pty Ltd

Beta Data Pty Ltd (Beta Data) is a company in the Beta Products Pty Ltd (Beta Products) Group. Beta Data is 100% owned by Beta Products. Beta Data's sole director is Amy Lin. Beta Products has two directors, Amy Lin and Ali Hassan.

This is Beta Data's corporate structure chart:



This is Beta Data's organisational chart:



Who are Beta Data's associated persons?

In this example:

- Beta Products is Beta Data's parent company and controls Beta Data's operations. As such, Beta Products is an associated person of Beta Data
- Amy, as director of both Beta Data and Beta Products, is an associated person of Beta Data
- Ali, as director of Beta Products, is an associated person of Beta Data
- Kai, Beta Data's CEO, provides senior management oversight and is responsible across the organisation for making decisions that affect the management of Beta Data's CDR data. Kai is an associated person of Beta Data
- as Beta Data's Data Security Manager, Sofia influences decisions that affect the management of Beta Data's CDR data. Sofia is one of Beta Data's associated persons.

As Beta Data's Software Engineer, Aisha develops software solutions for Beta Data following Kai's and Sofia's direction but does not make or influence decisions affecting the management of Beta Data's CDR data. As such, Aisha is not an associated person of Beta Data for the purposes of this application.

Bob works in an area that does not manage or handle CDR data. He is not an associated person of Beta Data for the purposes of this application.

6.2. Information security

The Act and CDR Rules contain a number of privacy safeguards to increase the protection of consumer data.

An applicant must take the steps set out in Schedule 2 of the CDR Rules for the purposes of 'Privacy Safeguard 12 to protect CDR data from misuse, interference, loss, unauthorised access, modification or disclosure'.²⁸

When applying for accreditation, an applicant must provide evidence, in the form set out in the Supplementary accreditation guidelines: information security²⁹, to demonstrate that it is able to take these steps.

6.3. Dispute resolution processes

Internal dispute resolution

Applicants must have internal dispute resolution (IDR) processes that meet the requirements set out in the CDR Rules for the relevant designated sector.

For applicants in relation to the banking sector, Schedule 3, Part 5 of the CDR Rules requires that applicants must have IDR processes that comply with provisions of [ASIC's Regulatory Guide 165 Licensing: Internal and external dispute resolution](#) as in force from time to time.

The relevant provisions deal with matters set out in the table below.

Table 2: Relevant provisions of ASIC's Regulatory Guide 165

Matters to be dealt with	Relevant paragraphs of RG 165 current as at July 2020	Further guidance
Guiding principles or standards the applicant's IDR procedures must meet	165.75, 165.79 - 165.82	An applicant's IDR procedures should include a definition of 'complaint' which extends to cover CDR consumer complaints as defined in the CDR Rules.
Outsourcing IDR procedures	165.73 - 165.74	An applicant that outsources its IDR procedures to a third-party service provider remains responsible for ensuring that its IDR procedures comply with the requirements of Regulatory Guide 165.
Responding to complaints (including maximum timeframes for a response)	165.83 - 165.91	An applicant's IDR procedures should set out time periods associated with various stages in the CDR consumer complaint process.
Multi-tiered IDR procedures	165.118 - 165.120	An applicant's own internal appeals or escalation mechanisms for resolving complaints.
Tailoring IDR procedures to the applicant's business	165.65	

²⁸ CDR Rules, rule 5.12(1)(a) and Schedule 2

²⁹ Note these guidelines will be updated in late 2021 to include the requirements for sponsored accreditation.

Matters to be dealt with	Relevant paragraphs of RG 165 current as at July 2020	Further guidance
Documenting internal facing IDR processes, policies and procedures	165.123 - 165.126	<p>An applicant should set out written processes, policies and procedures for:</p> <ul style="list-style-type: none"> • receiving complaints • investigating complaints • responding to complaints within appropriate time limits • referring unresolved complaints to AFCA • recording information about complaints • identifying and recording systemic issues • internal structures and reporting requirements for complaint handling • the types of remedies available for resolving complaints • internal structures and reporting requirements for complaint handling.
Establishing links between IDR procedures and external dispute resolution	165.127	

An applicant’s internal facing IDR processes will also be relevant to their obligation as an accredited person to have and maintain a stand-alone CDR policy³⁰ about how it will manage CDR data.

An applicant’s CDR policy must include the following information in relation to its IDR processes³¹ about how the applicant will manage complaints relating to the management of CDR data:

- when, where and how a CDR consumer can lodge a complaint
- the information a CDR consumer must provide in a complaint
- when a CDR consumer can expect their complaint will be acknowledged
- the applicant’s process for handling CDR consumer complaints
- time periods associated with various stages in the CDR consumer complaint process
- options for redress
- options for review, both internally and externally.³²

The applicant’s CDR Policy must be available to consumers free of charge in a readily accessible location such as the applicant’s website or on a mobile application.³³ If a

³⁰ CDR Rules, rule 7.2

³¹ See subsection 56ED(3) of the Act and CDR Rule 7.2(6)

³² CDR Rules, rule 7.2(6)

³³ CDR Rules, rule 7.2(8)

consumer requests, the applicant must also provide an electronic or hard copy of the policy depending on the consumer's preference.³⁴

External dispute resolution

An applicant must be a member of a recognised EDR scheme in relation to CDR consumer complaints.³⁵ As evidence of their membership, applicants will be required to provide their membership details including membership number and date of commencement.

For the banking sector an applicant (including non-financial services providers) must be a member of AFCA.

The process for applying for AFCA membership as a non-financial services provider in the banking sector is to:

- apply for membership via the [AFCA Licensee membership form](#)
- when the AFCA application form is completed it will generate a unique 'application pending' number. This number and the date membership was sought must be included in the accreditation application
- advise AFCA via email that the application relates to the CDR and provide application number.

The applicant's AFCA membership will be pending until accreditation is confirmed. The accredited applicant must then notify AFCA to activate its membership by way of an email to membership@afca.org.au and provide the applicant's accreditation number.

Applicants that would not normally be required to hold AFCA membership will only be subject to AFCA's rules to the extent these relate to the CDR regulatory framework.

6.4. Insurance

An applicant must have adequate insurance, or a comparable guarantee, relevant to the nature and extent of their management of CDR data.³⁶ The object of this requirement is to reduce the risk of CDR consumers not being properly compensated due to an accredited person's lack of financial resources.

The insurance arrangements an accredited person must meet to maintain adequate insurance or a comparable guarantee are not prescribed because what will be adequate will depend on a range of factors which may be unique to the insured.

An applicant must provide a written statement, signed by an authorised representative, explaining the basis on which it has determined that the comparable guarantee or insurance policy or policies it holds are adequate to cover risks it may be exposed to in connection with the management of CDR data.

A list of matters an applicant should consider when considering adequate insurance arrangements is set out in the [Supplementary Accreditation Guidelines - Insurance](#).

³⁴ CDR Rules, rule 7.2(9)

³⁵ CDR Rules, rule 5.12(1)(c)

³⁶ CDR Rules, rule 5.12(2)(b)

6.5. Related applications

An applicant may wish to have two or more related applications (for example, applications by related bodies corporate) considered by the Accreditor at the same time. Some related entities interested in applying for accreditation may also wish to consider whether alternative participation pathways may be more suitable to their business model(s) or use case(s) (see section 2 above).

In circumstances where an applicant wishes to have two or more applications assessed simultaneously it may be appropriate for certain information to be considered in support of more than one application. For example, two related entities in a corporate group may both wish to rely on insurance which is held by their holding company on behalf of its subsidiaries in support of their applications. There may also be scope for applicants to demonstrate that IDR processes and information security obligations are satisfied across a corporate group. The available options may be different for related entities of an ADI applicant seeking accreditation through the streamlined accreditation process.

We encourage applicants to discuss the types of information that may be used to support related applications with us prior to submission of their accreditation application.

7. Conditions on accreditation

7.1. Conditions

The Accreditor may impose any conditions on accreditation at the time of accreditation or at any time after accreditation.³⁷ It may also vary or remove any condition at any time after a condition is imposed.³⁸ Conditions could relate to testing requirements or specify that the accreditation is limited to the operation of particular websites or software products or alternatively mandate that certain websites or software products cannot be used. A condition, for example, may be to suspend the use or operation of an application. Any use of that application by the accredited person, including any attempt to seek to collect CDR data via that application would be a breach of its condition of accreditation. The imposition of a condition must be published on the CDR Register. The Accreditor also has the discretion to issue a public notice.³⁹

7.2. Condition lifespan and removal

The Accreditor will set a time or date at which a condition takes effect.⁴⁰ The Accreditor will also specify the period the condition will apply. This could be a specified date or in perpetuity.

A condition of accreditation may be removed by the Accreditor at any time if it considers the condition is no longer necessary.

7.3. Notification of imposition, variation or removal of condition

The Accreditor must write to an applicant or accredited person to advise it is proposing to impose, vary or remove a condition and give the applicant or accredited person a reasonable opportunity to be heard about the proposal.⁴¹

³⁷ CDR Rules, rule 5.10(1)(a)

³⁸ CDR Rules, rule 5.10(1)(b)

³⁹ CDR Rules, rule 5.10(5)

⁴⁰ CDR Rules, rule 5.10(4)

⁴¹ CDR Rules, rule 5.10(2)(b)

The Accreditor will then make a decision based on any additional evidence an applicant or accredited person may provide as to whether the condition should remain, be modified, or removed.

The Accreditor is not required to give an accredited person notice prior to imposing or varying a condition where to do so would create a real risk of harm or abuse to an individual, or have an adverse impact on the security, integrity or stability of the Register or CDR system. However, the Accreditor must provide an accredited person with an opportunity to be heard about the imposition or variation of a condition as soon as practicable.⁴²

The Accreditor must also notify an applicant or accredited person, in writing, as soon as practicable after imposing, varying or removing a condition.⁴³

The Accreditor will notify the Accreditation Registrar as soon as practicable after the imposition, variation or removal of a condition, and if appropriate provide further description of its effect.⁴⁴

8. Reciprocal data holder obligations

Upon accreditation, an accredited person may be subject to reciprocal data holder obligations. Reciprocal data holder obligations require an accredited person to share certain CDR data, at the direction of a consumer, in accordance with the obligations of a data holder.

Reciprocity under the CDR Rules applies in respect of CDR data that is:

- generated and held by or on behalf of an accredited person and
- where the data is generated in respect of a product that is publicly offered by the accredited person to consumers and generally known as one of the types of products in Phase 1, Phase 2 or Phase 3 products.

For example, a non-bank lender that is accredited may become a reciprocal data holder in respect of data they generate for their personal loan products. A non-bank accredited person that provides a budgeting app but does not offer any of the banking-like products listed in Phase 1, Phase 2 or Phase 3, will not be a reciprocal data holder.

For non-major ADIs, reciprocity has the effect of bringing forward the ADI's obligations to share consumer data relevant to the phase 1, phase 2 and phase 3 products by triggering these obligations immediately upon accreditation.

The ACCC has recently heard feedback that some prospective applicants have decided to defer seeking accreditation because of concerns that seeking accreditation now would immediately trigger certain reciprocal data holder obligations. The principle of reciprocity is intended to import elements of fairness into the CDR regime by encouraging eligible entities to participate fully. However, the ACCC considers there may be benefit to the CDR regime, by way of increased competition and earlier participation, from providing some short-term flexibility in relation to the timing of reciprocal data holder obligations in appropriate circumstances.

Specifically, the ACCC may consider granting a temporary exemption (under section 56GD of the Act) to an accredited person, delaying its reciprocal data holder obligations. For non-major ADIs the ACCC will consider granting an exemption in the period prior to February 2022, provided they are otherwise compliant with their existing data sharing obligations. This would

⁴² CDR Rules, rule 5.10(3)

⁴³ CDR Rules, rule 5.11(1)

⁴⁴ CDR Rules, rule 5.15(a)(ii)

mean that seeking accreditation would no longer have the effect of bringing forward that entity's reciprocal data holder obligations.

Exemption applications should be made to ACCC-CDR@acc.gov.au and will be considered concurrently with the applicant's accreditation application.

[Guidance for applicants seeking exemption under section 56GD](#) of the Act is available on the ACCC website.

We encourage applicants with questions or wanting to discuss how these obligations may apply to them to contact the ACCC at ACCC-CDR@acc.gov.au.

9. Transfer, suspension, surrender and revocation of accreditation

9.1. Transfer

An accreditation cannot be transferred, even between related bodies corporate.⁴⁵ Change in control of an accredited person will not affect accredited status, however, accredited persons are required to notify the Accreditor of any material changes in circumstances that are relevant to compliance with their obligations, including the fit and proper person obligation.⁴⁶

9.2. Surrender

If an accredited person no longer wishes to be accredited it may apply to the Accreditor to surrender accreditation. Applications to surrender accreditation must be in writing.⁴⁷

The Accreditor will advise the applicant in writing of its acceptance of the application to surrender the accredited person's accreditation.⁴⁸

9.3. Suspension and revocation of accreditation

The Accreditor may suspend or revoke accreditation in certain circumstances, including if:

- it is satisfied that accreditation was granted based on false or misleading information
- it is satisfied that an associated person of the accredited person has contravened a law relevant to the management of CDR data
- it reasonably believes this step is necessary to protect consumers or to protect the security, integrity or stability of the Register or other information technology systems used to disclose or collect CDR data
- the accredited person who is an ADI ceases to be an ADI
- the accredited person has, or the Accreditor reasonably believes the accredited person may have, contravened an offence of the Act, a civil penalty provision of the Act or CDR Rules, a data standard, or any condition of its accreditation
- it is no longer satisfied the accredited person is a fit and proper person to manage CDR data.⁴⁹

⁴⁵ CDR Rules, rule 5.16

⁴⁶ CDR Rules, rule 5.14

⁴⁷ CDR Rules, rule 5.1

⁴⁸ CDR Rules, rule 5.17(1)

⁴⁹ CDR Rules, rule 5.17(1)

Before the Accreditor suspends or revokes an accreditation, the Accreditor will inform the accredited person of:

- the proposed suspension or revocation
- when it will commence
- for suspension, the duration.⁵⁰

The Accreditor will then provide a reasonable opportunity for the accredited person to be heard about proposed suspension or revocation before making its decision.⁵¹

Accreditation may also be suspended without notice if there is a need for urgency.⁵² In these circumstances the Accreditor will inform the accredited person as per the steps above as soon as practicable.⁵³ Accreditation may be suspended for a specific period or until the occurrence of a specified event. Suspension of accreditation may also be extended. In these circumstances, the Accreditor will inform the accredited person of this fact.⁵⁴

10. Review of decisions

There are several avenues of review or legal appeal available from decisions of the Accreditor and these options are outlined below. Applicants or accredited persons who are considering pursuing these options should seek appropriate professional advice.

10.1. Administrative Appeals Tribunal

Applicants or accredited persons may apply to the Administrative Appeals Tribunal (the Tribunal) for review of decisions made by the Accreditor. In these circumstances the Tribunal can affirm, vary or set aside the original decision and may substitute its own decision for that of the Accreditor.⁵⁵ Tribunal proceedings are conducted with as little formality and technicality, and with as much expedition, as possible and the Tribunal is not bound by the rules of evidence but may inform itself on any matter in such manner as it thinks appropriate.⁵⁶

Refusal to accredit

An applicant may seek to have a decision by the Accreditor to refuse to accredit the applicant reviewed by the Tribunal.⁵⁷

Imposing or varying conditions

An applicant may make an application to the Tribunal to review the Accreditor's decision when the Accreditor has notified an applicant that it has decided to impose or vary condition/s on an accreditation and has provided the applicant with an opportunity to be heard about the decision.⁵⁸

⁵⁰ CDR Rules, rule 5.18, 5.19

⁵¹ CDR Rules, rules 5.18(1)(b), 5.20(2)(b)

⁵² CDR Rules, rule 5.21

⁵³ CDR Rules, rule 5.21(3)(a)

⁵⁴ CDR Rules, rule 5.20 (4)

⁵⁵ *Administrative Appeals Tribunal Act 1975 (Cth)*, section 43(1)

⁵⁶ *Administrative Appeals Tribunal Act 1975 (Cth)*, section 33(1)

⁵⁷ The Act, section 56CB

⁵⁸ CDR Rules, rule 9.2(a)

Revocation, suspension or extension of suspension

If the Accreditor moves to revoke, suspend or extend a suspension of accreditation it will initially inform an accredited person of that fact.⁵⁹ The accredited person will have a reasonable amount of time to respond to the proposal and the Accreditor will review any response, if provided, to the proposal. The Accreditor will then make a decision based on any additional evidence an accredited person may provide as to whether the revocation, suspension or extension of suspension stands, or will not be applied.

If accreditation is revoked, suspended, or the suspension extended an accredited person may then make an application to the Tribunal to review the decision to revoke accreditation.⁶⁰

10.2. Federal Court

Judicial review of Accreditor decision

Review of Accreditor decisions can be sought in the Federal Court under the *Administrative Decisions (Judicial Review) Act 1977* or in the original jurisdiction of the Federal Court under section 39B of the *Judiciary Act 1903* on a question of law (judicial review).

Judicial review is concerned only with the legality of the decision, for example, whether the Accreditor had the power to make the decision, whether it has taken into account an irrelevant consideration or failed to take into account a relevant consideration, or whether the decision was so unreasonable that no reasonable decision maker could have made it.

The Federal Court cannot determine the merits of the case. In the event an applicant wishes to obtain a review of the merits of a decision by the Accreditor, the Tribunal is the appropriate avenue for review.

Appealing decisions of the Tribunal

An applicant or accredited person may appeal to the Federal Court on a question of law from any decision of the Tribunal, but not questions of fact or the merits of the decision.

11. Other CDR participation pathways and data sharing options

11.1. CDR representative model

Persons who wish to use CDR data to provide goods or services to consumers, but who do not wish to participate in the CDR as an accredited person, may enter a CDR representative arrangement with a person accredited at the unrestricted level (the principal). For example, an accredited fintech could provide packaged CDR services that are designed to be sold by representatives on the condition that the CDR data will remain within the fintech's CDR data environment.

In this 'agency-like' relationship the principal will collect CDR data on behalf of the CDR representative. A CDR representative may only have one principal.

The principal is fully liable under the CDR Rules for the actions of the CDR representative in relation to the use and disclosure of the CDR data. The relationship between the CDR

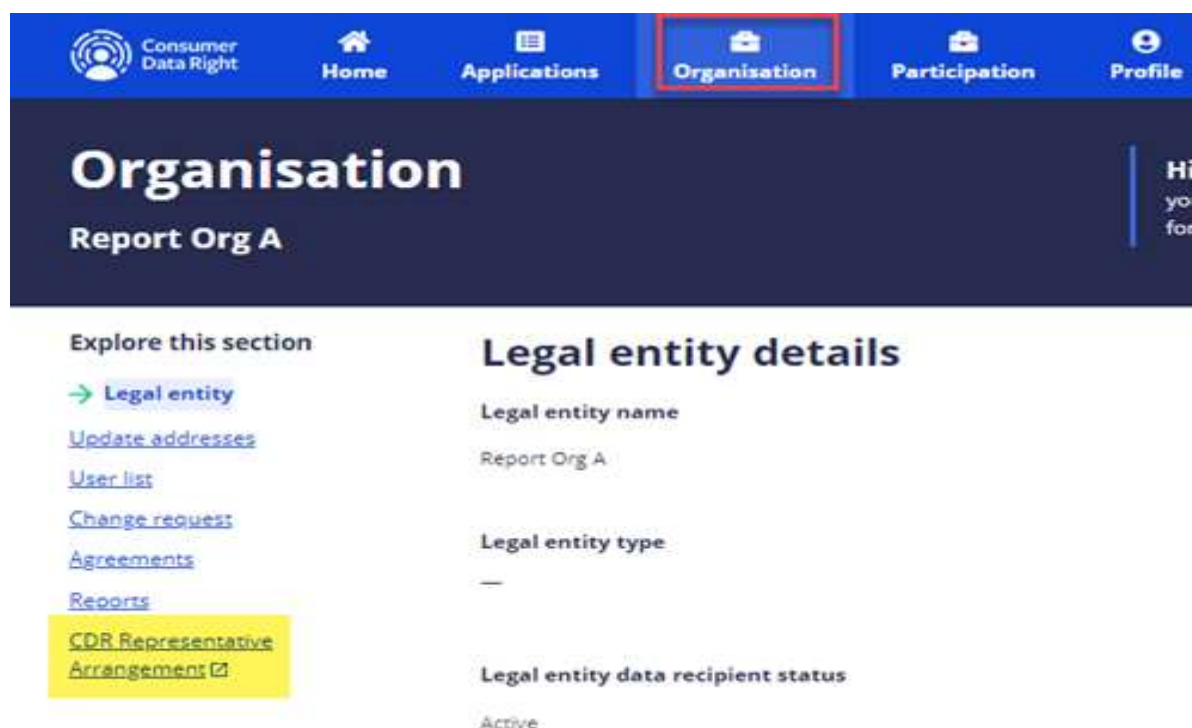
⁵⁹ CDR Rules, rules 5.18, 5.20

⁶⁰ CDR Rules, rule 9.2(b)

representative and principal is governed by the terms of a written contract known as the CDR representative arrangement.

A principal must comply with specific obligations set out in the CDR Rules. In particular, a principal is required to notify the Accreditor of a new or proposed representative arrangement within 5 business days of the event. Notification can be provided via the Participant Portal where the principal may complete and submit a CDR Representative Arrangement Notification form (located under the Organisations tab - see Figure 2 below).

Figure 2 - Participant Portal screenshot of CDR Representative Arrangement Notification form



11.2. Outsourced service provider

An accredited person may use an outsourced service provider to collect or facilitate the collection of CDR data on its behalf, or to disclose CDR data to an outsourced service provider so they can provide goods or services to the accredited person. An outsourced service provider does not need to be accredited. The goods or services provided by the outsourced service provider need to be in accordance with a CDR outsourcing arrangement (as outlined in rule 1.10 of the CDR Rules). The CDR outsourcing arrangement is a contract between the outsourced service provider and accredited person (the principal) and must include certain restrictions on how the outsourced service provider can deal with the CDR data.

Under the CDR Rules the accredited person who is the principal may be liable for the use or disclosure of CDR data by its outsourced service provider.

11.3. Other data sharing options

There are two other mechanisms in the CDR Rules that enable the sharing of CDR data by an accredited person, with a consumer's consent, without the need for the recipient of the CDR data to be accredited:

- trusted advisers model - allows the disclosure of CDR data to approved professionals such as accountants, lawyers, financial advisers, financial counsellors and mortgage brokers.⁶¹
- CDR insights model -allows the disclosure of certain limited CDR data, known as 'insights', to any person (whether accredited or not) provided the disclosure is for one of the purposes specified in the CDR Rules.

Currently there is no ability for persons to receive their own CDR data through an application programming interface without becoming accredited. Alternative options for persons wishing to access their own CDR data would be to seek access this data from a provider who is accredited or from another channel, such as directly from the person's bank.

⁶¹ Rule 1.10C of the CDR Rules provides the full list of approved professionals.

12. Related information

Specific information and guidance to assist applicants in meeting the insurance and information security obligations for accredited persons are set out in separate guidelines.

Further information and guides can be found at:

- [CDR Supplementary accreditation guidelines: insurance](#)
- [CDR Supplementary accreditation guidelines: information security](#)
- [CDR On-boarding guide](#)
- [Competition and Consumer \(Consumer Data Right\) Rules 2020 and Explanatory Statement](#)
- [OAIC CDR Privacy Safeguard Guidelines](#)
- [Consumer Data Standards](#)