

## **EXPOSURE DRAFT EXPLANATORY MATERIALS**

### **Issued by authority of the Assistant Treasurer and Minister for Financial Services**

#### *Competition and Consumer Act 2010*

#### *Competition and Consumer (Consumer Data Right) Amendment Rules (No. 1) 2022*

Section 56BA of the *Competition and Consumer Act 2010* (the Act) provides that the Minister may, by legislative instrument, make consumer data rules for designated sectors in accordance with Division 2 of Part IVD of the Act.

The Consumer Data Right (CDR) is an economy-wide regime that gives consumers access to and control over their data (CDR data). The regime also enables consumers to obtain products and services from accredited persons using CDR data.

The *Competition and Consumer (Consumer Data Right) Amendment Rules (No. 1) 2022* (the Amending Rules) amend the *Competition and Consumer (Consumer Data Right) Rules 2020* (the CDR Rules) to give effect to the Government's intention to implement the CDR in the telecommunications sector, support business consumer participation in the CDR and introduce a number of other operational enhancements to the CDR Rules.

#### ***Rules to extend the CDR to the telecommunications sector***

On 1 March 2022, the Treasury and Data Standards Body released for consultation a design paper on rules to extend the CDR to the telecommunications sector. Views expressed by stakeholders during the design process have been taken into account in developing this exposure draft of the Amending Rules.

The Amending Rules implement CDR in the telecommunications sector by means of sector-specific rules. These include eligibility requirements to determine which telecommunications-sector consumers may make requests for CDR data; specification of the telecommunications data sets that must and may be shared; internal and external dispute resolution requirements for the telecommunications sector; and rules providing for the staged implementation of CDR in the telecommunications sector.

Consequential amendments to the Act are currently being progressed that affect obligations under the *Telecommunications Act 1997* to ensure that using and disclosing telecommunications-sector information under the CDR regime are not impeded by use and disclosure restrictions in Part 13 of that Act, and to disapply the record-keeping requirements under that Part of that Act in respect of the CDR. These amendments will be exposed at a later date.

#### ***Operational Enhancements to the CDR Rules***

The Amending Rules give effect to the Government's intention to reduce barriers to participation in the CDR, enable services to be more efficiently provided to consumers, and allow consumers to have more choice over who they can consent to share their data with. In particular, the Amending Rules make changes to better facilitate participation by business consumers.

In addition to the key measures set out below, the package makes a number of minor amendments and clarifications.

#### *Allowing business consumers to share their data with more third parties*

Through the creation of a “business consumer disclosure consent”, businesses will be able to consent to their CDR data being shared with specified persons (such as unaccredited third parties), like bookkeepers, consultants and other advisers who are not classified as trusted advisers under the current CDR Rules. It will also allow disclosures to the wide range of software providers that offer important services to small businesses in Australia.

Before disclosing the consumer’s CDR data, accredited data recipients (ADRs) will need to take reasonable steps to confirm that the consumer is either not an individual or that they have an active ABN. The business consumer will also need to declare to the ADR that the data is being shared for a business purpose.

Under the current CDR Rules, CDR consumers have a narrow range of unaccredited parties to which they can ask their ADRs to disclose CDR data. Stakeholder feedback has indicated that the current CDR Rules do not cover the range of advisers or services typically used by businesses. This amendment is intended to provide a more comprehensive solution to support the participation of business consumers (particularly small businesses) and accounting platforms in the CDR.

#### *Extend business consumer use and disclosure consents from 12 months to 7 years*

The maximum duration of certain use and disclosure consents given by a CDR business consumer will be extended from 12 months to 7 years. The Amending Rules only set the maximum duration, so it would be possible for a shorter consent period to be selected, and it would be possible for the CDR business consumer to withdraw their consent at any time.

Stakeholder feedback has indicated that the current consent durations do not reflect the reality of business requirements, such as record-keeping and the need to maintain operational continuity. In addition, business consumers often have ongoing relationships with a particular ADR, so it is an unnecessary burden to limit these consents to a 12 month duration.

Responding to this feedback, the amendments allow these consumers to choose a consent duration that reflects their business needs. These amendments could also help to reduce the risk of an ADR being required to delete all of a business consumer’s data because the consumer inadvertently failed to renew the relevant use consent, an outcome which would be disruptive for the consumer’s business operations.

#### *Enhancements to CDR representative arrangements and CDR outsourcing arrangements*

The Amending Rules make a number of changes around CDR representative arrangements and CDR outsourcing arrangements, including organising key obligations for CDR representatives into a consolidated Division 4.3A of the CDR Rules.

The Amending Rules change obligations around CDR representative arrangements and CDR outsourcing arrangements (which ADRs can currently use to engage

outsourced service providers (OSPs) in order to assist them to provide goods and services to CDR consumers).

Stakeholder feedback suggests that entities that rely on third parties to help them manage data currently have difficulty functioning in the CDR due to the prohibition on CDR representatives in engaging OSPs. The proposed measures remove this prohibition and clarify the circumstances in which OSPs can disclose CDR data.

In addition, the amendments clarify and strengthen the provisions dealing with ADRs' liability for the actions of their CDR representatives and OSPs, including the actions of any OSPs engaged under further CDR outsourcing arrangements and OSPs engaged by CDR representatives.

#### *Delay reciprocal data sharing obligations for newly accredited entities holding banking data sets*

The Amending Rules delay the commencement of reciprocal data sharing obligations for ADRs who hold banking data sets until 12 months after they become an ADR.

Current banking sector rules require newly accredited persons to respond to consumer data requests as data holders once they become an ADR. This adds to the cost and complexity of accreditation requirements. Delaying these data sharing obligations should remove a barrier to participation without removing the longer-term benefits of reciprocity to the CDR.

#### *Exemption from data sharing obligations for small-scale, publicly offered pilot products*

Data holders in the banking sector will be able to publicly offer small scale pilot products (for up to 1,000 customers and for a 6-month maximum duration) without being subject to data sharing obligations. This measure addresses possible disincentives under the CDR for data holders to introduce innovative new products. This applies particularly to smaller data holders, which do not have the scale to pilot products internally. If the pilot product exceeds its customer or duration thresholds, the data becomes subject to data sharing obligations. Consideration is being given to options to extend this to the energy and telecommunications sectors. In future, as additional sectors are designated, it will be possible to expand the application of these rules as appropriate.

Further details of the Amending Rules are set out in Attachment A.

Before making consumer data rules, section 56BP of the Act requires the Minister to have regard to certain matters outlined in section 56AD. These include the effect of the rules on the interests of consumers, the efficiency of relevant markets, the privacy and confidentiality of consumers' information, and the regulatory impact of the rules. The Minister will consider each of the factors required by the legislation when making the Amending Rules.

Treasury seeks views from stakeholders in relation to these matters, or any additional factors (including possible implementation constraints for CDR participants) that should be considered in timing the commencement of the operational enhancements proposed in the Amending Rules.

Treasury will also consider the findings and recommendations of the independent Statutory Review of the CDR in proposing enhancements to the Amending Rules.

Section 56BP also requires the Minister to wait at least 60 days after the day public consultation begins before making consumer data rules. With public consultation having commenced on 15 September 2022 with publication of draft exposure rules on the Treasury website, this requirement will be met, noting the rules will not commence prior to 15 November 2022.

In citations of provisions in this explanatory material, unless otherwise specified references to rules are to the *Competition and Consumer (Consumer Data Right) Rules 2020* (the CDR Rules).

**Details of the Competition and Consumer (Consumer Data Right) Amendment Rules (No. 1) 2022**

***Rules to extend the CDR to the telecommunications sector***

*Background*

1. Expanding the CDR to the telecommunications sector will allow consumers to access consolidated information about their internet and mobile bills, facilitating their ability to choose products and bundle solutions that best suit their needs, and encouraging more competition in the sector. By augmenting the existing opportunities for data sharing in the banking and energy sectors, the expansion will also encourage the creation of new tech companies and innovative products and services, boosting Australia's economy.
2. The sector-specific requirements are intended to align with existing industry regulations where possible, avoiding additional, unnecessary layers of regulatory burden and minimising implementation costs for data holders. In the interests of this alignment, the requirements apply to carriage service providers but not to carriers, although the latter are also specified as data holders in the designation instrument.
3. A de minimis threshold of 30,000 services in operation is used so that smaller carriage service providers are excluded from mandatory obligations under the CDR. However, they can opt to participate on a voluntary basis in relation to product or consumer data or both. Smaller carriage service providers that are also accredited persons would also be captured by mandatory obligations and these obligations would take effect 12 months after accreditation.
4. The Amending Rules insert Schedule 5 to the CDR Rules. Schedule 5 contains a number of definitions relevant to the telecommunications sector and sets out rules relating to the following:
  - the circumstances in which CDR consumers are eligible to make requests, or cause requests to be made, for their telecommunications-sector CDR data;
  - the CDR data sets that may be accessed in the telecommunications sector (as set out below, this data is characterised as either required or voluntary product or consumer data);
  - internal and external dispute resolution requirements for the telecommunications sector; and
  - the staged application of the CDR Rules to the telecommunications sector.

*Meaning of 'relevant product'*

5. The *Consumer Data Right (Telecommunications) Designation 2022* (the designation instrument) defines 'product' as a carriage service, or a good or a service offered or supplied in connection with supplying a carriage

service. To provide more specificity for the telecommunications sector, the Amending Rules confine the operation of the CDR Rules to ‘relevant products’, defined as follows:

**relevant product** means a product that includes:

- (a) a public mobile telecommunications service; or
- (b) a fixed internet service.

*[definition of relevant product in clause 1.2 of Schedule 5]*

6. ‘Public mobile telecommunications service’ has the same meaning as in the *Telecommunications Act 1997*. ‘Fixed internet services’ are typical home internet services (other than dial-up services), and include ADSL, VDSL, fixed wireless and satellite. The foregoing modalities are covered regardless of the network infrastructure or the technology used to deliver the service. The inclusive nature of the definition of ‘relevant product’ means it can cover bundled products as well as handsets and other associated hardware.  
*[clause 1.2 of Schedule 5]*

#### *Eligible CDR consumers in the telecommunications sector*

7. Rule 1.10B of the CDR Rules sets out economy-wide eligibility criteria that consumers must meet in order to participate in the CDR regime. In addition, individual sector Schedules may set out further criteria pertaining to that sector. The economy-wide elements of eligibility contained in rule 1.10B are that the CDR consumer:
  - must be an individual who is 18 years or older, or a person who is not an individual; and
  - must be an account holder or secondary user of an open account with a data holder, or a partner in a partnership for which there is an open account with a data holder.
8. The Amending Rules set out additional consumer eligibility requirements for the telecommunications sector. The account mentioned in rule 1.10B:
  - must relate to a relevant product; and
  - must be set up in such a way that it can be accessed online; and
  - must not be a large-scale commercial account.*[clause 2.1 of Schedule 5]*
9. The phrase ‘account is set up in such a way that it can be accessed online’ has the same meaning as the consumer being able to access the account online. Online access to the account may cover a range of modes, including access via an online portal (whether by logging in or using a one-time password) or an app. It follows that the consumers who are excluded from eligibility, being ‘offline consumers’ are not consumers who do not have internet access, but rather consumers who do not have access to, or have not created, an online account.
10. An account is a large-scale commercial account if the account holder had a genuine or reasonable opportunity to negotiate its terms, or if the spend associated with the account (on relevant products) is more than \$40,000 over a 12-month period. Where the account has been in existence for less

than 12 months, the account would be a large-scale commercial account if the estimated annual spend, as estimated by the data holder, is more than \$40,000. *[clause 2.1 of Schedule 5]*

### *Secondary users*

11. On the basis of stakeholder consultation, Schedule 5 of the Amending Rules does not make use of the concept of a secondary user. Unlike other sectors such as energy, a data holder in the telecommunications sector (who will generally be a carriage service provider) has a relationship only with an account holder, rather than with all end users of the products it supplies. Absent an existing commercial relationship, a carriage service provider would be unable to authenticate end users of its products other than account holders.

### *Consumer dashboard*

12. If a data holder receives a consumer data request on behalf of a CDR consumer, the data holder must provide the consumer with the consumer dashboard. *[clause 2.2 of Schedule 5]*

### *Telecommunications sector data that may be accessed under the CDR Rules*

13. The Amending Rules define telecommunications data sets by means of broad descriptors, combined with minimum inclusions of key data. This approach allows flexibility for further refinement and specification of data sets in the data standards.
14. The Amending Rules provide details of the data sets covered by the terms ‘customer data’, ‘account data’, ‘billing data’, ‘product specific data’ and ‘usage data’. Of particular note, ‘product specific data’ includes data for legacy products (where a relevant account relates to a legacy product) and covers bundles, landlines (if included in a bundle), handsets and other hardware. *[clause 1.3 of Schedule 5]*
15. ‘Required product data’ means CDR data for which there are no CDR consumers that:
  - falls within a class of information specified in section 8 of the designation instrument; and
  - is about certain characteristics of the product (such as the product’s eligibility criteria, price, terms and conditions, availability or performance) and that the relevant product is publicly offered; and
  - is product specific data.

*[clause 3.1 of Schedule 5]*

16. ‘Voluntary product data’ means CDR data for which there are no CDR consumers that:
  - falls within a class of information specified in section 8 of the designation instrument; and
  - is product specific data; and
  - is not ‘required product data’.

*[clause 3.1 of Schedule 5]*

17. ‘Required consumer data’ means CDR data for which there are one or more CDR consumers that:
- is telecommunications sector data; and
  - is specified customer data, account data, billing data, product specific data or usage data; and
  - is held by the data holder in a digital form.

*[clause 3.2 of Schedule 5]*

18. ‘Voluntary consumer data’ in the telecommunications sector means CDR data for which there are one or more CDR consumers that is telecommunications sector data and is not ‘required consumer data’.

*[clause 3.2 of Schedule 5]*

19. Some data is explicitly excluded from the CDR regime under the CDR Rules. For the purposes of the telecommunications sector, the Amending Rules set out circumstances in which data is neither required nor voluntary consumer data. Key exclusions relate to types of accounts (for example, accounts other than those held by a CDR consumer alone or joint or partnership accounts) and to data that is metadata in relation to communications. *[subclauses 3.2(1) and (4) of Schedule 5]*
20. Further, data is not required consumer data if it relates to a closed account (except in certain limited circumstances), or if it is historical data relating to transactions or other events occurring more than 12 months before the time a data request is made. *[subclauses 3.2(5)-(6) of Schedule 5]*
21. As an example of telecommunications data which could be requested, if a consumer closed one account with a carriage service provider and opened another account with the same provider, the consumer could request usage data relating to the closed account, within the limits of the 12-month restriction mentioned above. An additional restriction, set out in the designation instrument, relates to the ‘earliest holding day’ of 1 January 2022. Data held by telecommunications-sector data holders before that day is outside the scope of the CDR.

#### *Dispute resolution processes in the telecommunications sector*

22. The Amending Rules set out requirements that accredited persons and data holders in the telecommunications sector must meet in relation to their internal and external dispute resolution processes. *[Part 4 of Schedule 5]*
23. Internal dispute resolution processes must:
- for accredited persons, other than an accredited person that is also a carriage service provider, comply with the Australian Securities & Investments Commission’s Regulatory Guide 271 dealing with specified matters such as commitment and culture, the enabling of complaints, resourcing, responsiveness, objectivity and fairness, complaint data collection or recording, and internal reporting and analysis of complaint data; and



- for data holders and accredited persons that are also carriage service providers, satisfy the applicable requirements under the *Telecommunications (Consumer Complaints Handling) Industry Standard 2018*.

*[clause 4.1 of Schedule 5]*

24. For external dispute resolution:

- accredited persons must be members of the Australian Financial Complaints Authority; and
- data holders must be members of the Telecommunications Industry Ombudsman.

*[subclauses 4.2(1)-(2) of Schedule 5]*

25. A carriage service provider that is also an accredited person need not be a member of the Australian Financial Complaints Authority if it uses any CDR data that it collects (whether or not telecommunications sector data) only in order to provide goods or services within the telecommunications sector. A carriage service provider that is also an accredited person will need to be a member of the Telecommunications Industry Ombudsman and the Australian Financial Complaints Authority if it uses non-telecommunications sector CDR data to provide services outside of the telecommunications sector. *[subclause 4.2(3) of Schedule 5]*

26. The multiple dispute resolution body structure minimises disturbance to the existing jurisdiction of the external dispute resolution providers and ensures appropriate expertise is brought to bear on disputes. This ‘no wrong door’ approach reflects the one taken in both the banking and energy sectors, so that disputes can be triaged to the appropriate body with a simple, consumer-centric experience. This is intended to offer clarity and simplicity to consumers, so that if they are dealing with a carriage service provider in any capacity there is a recognised dispute resolution channel, and if they are dealing with an accredited data recipient, there is also a recognised dispute resolution channel.

#### *Staged application of the CDR Rules to the telecommunications sector*

27. The Amending Rules set out a two-phase application of the CDR to the telecommunications sector. *[Part 5 of Schedule 5]*

28. Certain participants must comply with CDR obligations from the tranche 1 date, which is to be determined following consultations on the Amending Rules and is intended to provide data holders with at least 12 months from the making of the rules and the development of data standards by the Data Standards Chair. Those participants are Telstra, Optus and TPG Telecom. *[clauses 5.1, 5.2, 5.4(2) and 5.6(2) of Schedule 5]*

29. Other participants who are ‘large CSPs’ must comply with CDR obligations from the tranche 2 date, which is proposed to be 12 months after the commencement of tranche 1. A ‘large CSP’ is:

- a carriage service provider that had 30,000 or more services in operation for the financial year ending immediately before the commencement of Schedule 5; or

- a carriage service provider that has 30,000 or more services in operation for a financial year beginning on or after the commencement of Schedule 5.

*[clauses 5.1, 5.3, 5.4(3) and 5.6(3) of Schedule 5]*

30. In the second case, the carriage service provider does not become a large CSP until 12 months after the end of the relevant financial year.

*[paragraph 5.3(1)(b) of Schedule 5]*

31. A ‘service in operation’ is defined as a carriage service:

- provided during a financial year; and
- invoiced or paid for at a time that may be before, but is no later than the end of, that financial year.

*[subclause 5.3(2) of Schedule 5]*

32. Once a carriage service provider becomes a ‘large CSP’, it must comply with all relevant CDR obligations even if it falls below the threshold of 30,000 services in operation.

33. Carriage service providers with fewer than 30,000 services in operation are exempt from mandatory provision of product and consumer data but can participate voluntarily. (Note, however, that obligations do apply to smaller carriage service providers that are also accredited persons). Smaller providers can voluntarily participate in product data sharing *only* or in both product and consumer data sharing. If a smaller provider chooses to be a part of the CDR, it must comply with all relevant CDR obligations. *[clauses 5.1 and 5.7 of Schedule 5]*

34. Carriage service providers may disclose data in accordance with the CDR Rules before their compliance date, including, for example, for testing purposes. *[clause 5.8 of Schedule 5]*

35. Consistent with settings for the banking and energy sectors, direct-to-consumer data sharing is not enabled for the telecommunications sector at this time. *[clause 5.5 of Schedule 5]*

### *Civil penalties*

36. Under section 56BL of the Act, the CDR Rules may specify that certain provisions of the rules are civil penalty provisions (within the meaning of the *Regulatory Powers (Standard Provisions) Act 2014*).

37. The Act provides that where a civil penalty applies to a breach of the CDR Rules, the CDR Rules may specify a maximum amount that must be lower than the default maximum.

38. If the CDR Rules do not specify an amount, then the maximum civil penalty is as per the amount worked out under paragraphs 76(1A)(b) and (1B)(ab) of the Act. For an individual, the maximum is \$500,000. For a body corporate, the maximum is the greatest of the following:

- \$10 million;
- if the court can determine the value of the benefit obtained and that is reasonably attributable to the act or omission – 3 times the value of that benefit;

- if the court cannot determine the value of that benefit – 10% of annual turnover during the period of 12 months ending at the end of the month in which the act or omission occurred.
39. The obligations in the CDR Rules that are fundamental to the CDR regime and the protection of CDR consumers are subject to the maximum penalty. These include obligations relating to seeking consent, disclosing data and complying with the data standards, as well as the requirement to comply with the Accreditation Registrar’s request to do a specific thing in order to ensure the security, integrity and stability of the Register of Accredited Persons or the associated database. This level of penalty reflects the seriousness of a contravention of these obligations. A lower maximum penalty level has been set for other provisions, such as those relating to recordkeeping, notifications and a failure to comply with the Accreditation Registrar’s request to provide information for the associated database or updates to that information.
  40. Schedule 5, the telecommunications sector-specific Schedule introduced by the Amending Rules, does not contain any new civil penalty provisions. However, the effect of expanding the CDR to the telecommunications sector will be to increase the number of entities subject to civil penalties under the CDR regime.

## *Operational enhancements to the CDR Rules*

### *Business consumers*

41. While take-up of the CDR to date has primarily been by individual consumers, there is also scope for small businesses benefit from CDR goods and services. Examples of business consumers who might use the CDR include an incorporated small business or an individual carrying on a business as a sole trader. The Amending Rules make changes to the CDR Rules to support participation in the CDR by business consumers.

### Business consumer disclosure consent

42. The Amending Rules introduce a new type of consent called a ***business consumer disclosure consent***. This allows a CDR business consumer to consent to an ADR or CDR representative disclosing the consumer's CDR data to a person specified in the consent, including non-accredited persons. A business consumer disclosure consent must also include a ***business consumer statement*** from the CDR business consumer, certifying that the consent is given for the purpose of enabling the accredited person or CDR representative to provide goods or services to the CDR business consumer in its capacity as a business (and not as an individual). [*subparagraph 1.10A(1)(c)(v), paragraph 1.10A(2)(h) and subrules 1.10A(7) and (8)*]
43. CDR business consumers can also give business consumer statements in relation to use consents relating to the goods or services they have requested, and trusted adviser disclosure consents and insight disclosure consents (see paragraph 48 below in relation to extended maximum consent durations for business consumers). [*subrule 1.10A(7)*]
44. When asking a CDR business consumer for a consent mentioned in paragraphs 42 and 43 above, an accredited person or CDR representative must invite the consumer to provide a business consumer statement. An accredited person cannot make the giving of a business consumer disclosure consent or specification of a particular person for the purposes of such a consent a condition for the supply of goods or services requested by a CDR business consumer. [*subrule 1.10A(9) and paragraphs 4.11(1)(bb) and 4.20E(1)(d)*]
45. A CDR consumer will be a ***CDR business consumer*** in relation to a consumer data request made by an accredited person if the accredited person has taken reasonable steps to confirm that the consumer either has an active ABN or is not an individual. Depending on the circumstances, an example of 'reasonable steps' for the purpose of this requirement may be that the accredited person has conducted a search on the Australian Business Register to confirm that the CDR business consumer's ABN is active. [*definition of 'CDR business consumer' in subrule 1.7(1) and subrule 1.10A(6)*]
46. This new type of disclosure consent recognises that business consumers operate under different circumstances than individual consumers in relation to their data. In particular, many businesses have existing relationships with a range of service providers (including software platforms), which they rely on to run their operations and with whom they need to share their information. In addition, business consumers are generally more likely to

have existing data security and sharing procedures in place, as well as systems for managing data disclosed outside the CDR.

47. The Amending Rules provide that disclosure of CDR data in accordance with a business consumer disclosure consent is not a permitted use or disclosure under the CDR Rules until the earlier of:
- the date specified in the Rules (this date is currently yet to be determined); or
  - the Data Standards Chair makes the data standard about disclosure of CDR data to a person under a business consumer disclosure consent.

*[subrule 7.5A(5) and paragraph 8.11(1)(c)(vi)]*

#### Extended maximum consent duration for business consumers

48. The Amending Rules also extend the maximum duration a consent may be given for from 12 months to 7 years for certain consents given by CDR business consumers for which a business consumer statement was given. These are use consents, trusted adviser disclosure consents, insight disclosure consents and business consumer disclosure consents. *[note 1 to subrule 1.14(3), note 2 to subrule 4.11(1), paragraph 4.12(1)(a), paragraph 4.14(1)(d), note 2 to subrule 4.20E(1), subrules 4.20F(1) and 4.20K(1)]*
49. The Amending Rules do not make changes to authorisations, which have a maximum duration of 12 months before they need to be renewed under rule 4.23. *[note to subrule 4.23(1)]*.
50. This extended duration for certain consents given by CDR business consumers reflects the fact that business consumers have different needs to individual consumers and must, for example, comply with record-keeping obligations in relation to their business. In this context, business consumers can choose a longer consent duration to protect against their CDR data automatically becoming redundant and subject to deletion by the ADR after 12 months (for example, if the associated consent is inadvertently not renewed).
51. This reform excludes collection, AP disclosure, direct marketing and de-identification consents because:
- there is limited utility in extending the duration of a collection consent when the consumer would still need to give an authorisation to the relevant data holder every 12 months;
  - AP disclosure consents operate like authorisations, which will retain the 12-month maximum duration;
  - extending the duration of direct marketing consents does not offer a clear benefit to consumers and could cause them to receive unwanted marketing materials; and
  - an extended duration for de-identification consents is not needed for provision of a service and it is important for CDR consumers to regularly consider whether it continues to be appropriate that their CDR data is de-identified.

### *Outsourced service providers*

52. The Amending Rules allow CDR representatives of accredited persons to outsource CDR functions by engaging OSPs where this is allowed under the CDR representative arrangement. As before, CDR representatives are not permitted to enter into another CDR representative arrangement. *[rule 1.10 and subrule 1.10AA(3)]*
53. As a consequential change, the Amending Rules now allow ADRs to disclose CDR data to a CDR representative for the purposes of disclosing that data to a direct or indirect OSP of the CDR representative. *[paragraph 7.5(1)(h)]*
54. However, CDR representatives are still prevented from conducting collection activities or engaging outsourced service providers to do so. *[paragraph 1.10AA(1)(b) and note to paragraph 1.10AA(3)(b)]*
55. ADRs (and now CDR representatives) may engage multiple OSPs via different CDR outsourcing arrangements. The Amending Rules allow an ADR or CDR representative in multiple CDR outsourcing arrangements to authorise their OSPs to disclose CDR data directly to one another, which is more efficient than requiring the CDR data to be disclosed back to the ADR or CDR representative by one OSP in order to be on-disclosed to the second OSP.
56. The Amending Rules, explicitly permit the following disclosures:
  - between any OSPs under the same ADR to help the ADR provide goods and services;
  - between any OSPs under the same CDR representative to help the CDR representative provide goods and services;
  - in circumstances where the disclosure of the data by the chain principal would be permitted under the CDR Rules.
57. To remove doubt, the Amending Rules amend rule 1.10 to provide that accredited persons or CDR representatives may be the principal (“chain principal”) in one or more CDR outsourcing arrangements, and providers in such arrangements are direct outsourced service providers (“direct OSPs”). A direct OSP may also be the principal in a further CDR outsourcing arrangement, in which case, the provider is an indirect outsourced service provider (“indirect OSP”). *[subrule 1.10(1)]*
58. A CDR outsourcing arrangement is a written contract between a principal and a provider under which:
  - the provider will collect data (called “service data”) in accordance with the CDR Rules on behalf of a chain principal that is an accredited person and/or use or disclose the data to provide goods or services to the principal;
  - the provider must not use or disclose service data other than in accordance with a contract with the principal;
  - the provider can only disclose service data to the chain principal or another direct or indirect OSP of the chain principal, or where the

disclosure by the chain principal would be permitted under the CDR Rules; and

- where the provider is the principal in a further CDR outsourcing arrangement, the provider must ensure the other person in such an arrangement complies with the requirements of the arrangement.

*[subrules 1.10(2) and (4)]*

59. The goods or services provided must be:

- where the principal is the chain principal, for the purpose of enabling the chain principal to provide CDR consumers for the service data with the goods or services for which collection of the data was consented to; or
- otherwise, for the purpose of enabling the principal to provide the goods or services under the CDR outsourcing arrangement in which it is the provider.

*[subrule 1.10(3)]*

60. The CDR Rules already provided that an ADR can disclose CDR data to their OSPs for the purpose of doing the things referred to in paragraphs 7.5(1)(a) to (c). The Amending Rules clarify that an ADR is permitted to disclose CDR data to their direct or indirect OSPs in order to do those things. In addition, an ADR is permitted to disclose CDR data to their direct or indirect OSPs for the purpose of disclosing the CDR consumer's CDR data in accordance with a current disclosure consent (subject to certain limitations in rule 7.5A). *[paragraph 7.5(1)(d)]*

61. Likewise, the CDR Rules already provided that where an ADR has collected CDR data as a provider in a CDR outsourcing arrangement, disclosing that data to the principal is a permitted use or disclosure. The Amending Rules clarify that where the ADR has collected CDR data on behalf of another accredited person in its capacity as a direct or indirect OSP of that person, using or disclosing the data in accordance with the relevant CDR outsourcing arrangement is a permitted use or disclosure. *[paragraph 7.5(1)(f)]*

62. The Amending Rules add definitions of 'direct OSP' and 'indirect OSP', and repeal the definition of 'outsourced service provider', to reflect the amendments in relation to CDR outsourcing arrangements. *[definitions of 'direct OSP' and 'indirect OSP' in subrule 1.7(1)]*

63. The Amending Rules also update the terminology in the provision that clarifies that certain references to an accredited person's actions do not include references to an accredited person doing those things in their capacity as a direct or indirect OSP under a CDR outsourcing arrangement. *[subrule 1.7(5)]*

64. An accredited person's CDR policy must list all direct and indirect OSPs of the accredited person and those of any CDR representative. *[paragraph 7.2(4)(f)]*

65. In addition, if an accredited person is likely to disclose CDR data to a direct or indirect OSP that is based overseas and is not itself an accredited person, the accredited person's CDR policy must specify (if practicable) the countries in which such OSPs are likely to be based. If such an OSP is an

accredited person their CDR policy will need to contain similar information. *[paragraph 7.2(4)(i) and note 1 to subrule 7.2(4)]*

66. The Amending Rules make an accredited person liable where a direct or indirect OSP of the accredited person or their CDR representative fails to comply with privacy safeguards 4 (destruction of unsolicited data), 8 (overseas disclosure) and 9 (government related identifiers) as if it were an accredited person that had collected the data, or an ADR of the service data. *[rules 7.3B and 7.8B]*
67. Under subrules 7.6(2) and (5), any use, disclosure or collection of service data by the provider in a CDR outsourcing arrangement is taken to have been by the principal under the arrangement. The Amending Rules provide that any use or disclosure of service data by a direct or indirect OSP of an ADR or its CDR representative is taken to have been by the ADR, and that any collection of service data by a direct or indirect OSP of an accredited person is taken to have been by the accredited person. In both cases, it is irrelevant whether the use, disclosure or collection is in accordance with the relevant CDR outsourcing arrangement. *[subrules 7.6(2) and (5)]*
68. ADRs must update consumer dashboards with details about the accredited persons and trusted advisers they have disclosed CDR data to and insights and business consumer disclosure consents under which CDR data has been disclosed. Where the ADR is a CDR principal, disclosure by its CDR representative is taken to be disclosure by the CDR principal. The Amending Rules clarify that disclosure by a CDR representative in this circumstance includes disclosure by a direct or indirect OSP of the CDR representative. *[subrule 7.9(5)]*
69. **Consideration is being given to whether:**
  - **the CDR Rules should be further amended to ensure that, under a CDR outsourcing arrangement, OSPs are required to comply with relevant privacy safeguards; and**
  - **a similar requirement to the one set out in paragraph 65 above should apply to an accredited person if one or more of their CDR representatives is likely to disclose CDR data to a direct or indirect OSP that is based overseas and is not itself an accredited person. If this change is not made, the information will be available in an ADR's CDR policy in relation to their own OSPs but not in relation to the OSPs of their CDR representative(s) (noting that CDR representatives do not have their own CDR policy, but are required to provide CDR consumers with the link to their ADR's CDR policy).**
70. **Treasury seeks views from interested parties in relation to these issues.**

*Privacy safeguard 12 — direct and indirect OSPs and CDR representatives*

71. ADRs are required to comply with the steps set out in Schedule 2 to the CDR Rules relating to the security of CDR data. The Amending Rules clarify that:



- where the ADR is a chain principal, failure by a direct or indirect OSP to comply with these steps in relation to service data is taken to be a failure by the ADR; and
- where the ADR is a CDR principal, failure by the CDR representative or its direct or indirect OSP to comply with these steps in relation to service data is taken to be a failure by the CDR principal.

*[subrules 7.11(2) and (3)]*

72. ADRs are also required to apply the CDR de-identification process to CDR data that is “redundant data” under subsection 56EO(2) of the Act and that is not deleted in the circumstances set out in subrule 7.12(1). The Amending Rules clarify that:

- the ADR must also direct any of its direct OSPs or CDR representatives that have copies of the redundant data to delete it and notify the ADR when they have done so; and
- if the direct OSP or CDR representative has provided a copy of the redundant data to another person, the direct OSP or CDR representative must direct that person to take the same steps in relation to the data.

*[subrule 7.12(2)]*

73. In addition, the Amending Rules provide that where an ADR is a CDR principal, a failure by the CDR representative to either de-identify or delete redundant data in accordance with subsection 56EO(2) of the Act (applied as if the CDR representative were an ADR and references in subrule 7.12(1) to Division 4.3 were to Division 4.3A), is taken to be a failure by the CDR principal. *[subrule 7.12(3)]*

#### *CDR principals and representatives*

74. In addition to the amendments described at paragraph 52 above that allow CDR representatives to engage OSPs, the Amending Rules make changes to the rules about CDR principals and representatives for clarity, and to ensure the CDR Rules operate as intended in relation to CDR representative arrangements.
75. The Amending Rules repeal rule 4.3C, which modified Division 4.3 about giving and amending consents as it applied in relation to CDR representatives and CDR principals. Instead, the Amending Rules replicate that Division in full, with the previous modifications reflected in the replicated text. The intention is to improve readability and assist CDR representatives and their principals to understand their obligations. *[rule 4.3C and Division 4.3A]*
76. The previous modifications (per repealed rule 4.3C) had the consequence that consumers could only withdraw their consent by notifying CDR principals. The replicated Division provides that CDR consumers can withdraw their consent either by notifying the CDR principal or the CDR representative. *[rule 4.20J]*
77. The data minimisation principle that restricts an accredited person’s collection and use of CDR data to only what is reasonably needed in order to provide the goods or services requested by a CDR consumer, is extended

to apply to CDR representatives providing goods or services to CDR consumers. *[rule 1.8]*

78. The accredited person must ensure its CDR representatives comply with the requirements of the CDR representative arrangement and Division 4.3A of the CDR Rules and will be liable for any failure by their CDR representatives to do so. *[rule 1.16A]*
79. For a CDR representative, the permitted uses or disclosures are those that would be permitted if the CDR representative were an ADR that had collected the CDR data under a consumer data request. *[paragraph 1.10AA(4)(d) and note 2 to subrule 1.10AA(4)]*
80. CDR representatives must comply with several of the CDR privacy safeguards in holding, using or disclosing service data, as if they were the CDR principal. The Amending Rules ensure CDR representatives must comply in this way with all elements of privacy safeguards 2, 4, 12 and 13, and the data quality elements of privacy safeguard 11 that are capable of applying to ADRs. *[paragraph 1.10AA(4)(a)]*
81. The Amending Rules introduce a definition of ‘CDR principal’ and ‘CDR representative’ and make consequential amendments throughout the CDR Rules so that these terms are used consistently. This resolves ambiguity arising from rule 1.7 defining ‘CDR principal’ and ‘CDR representative’ as having the meanings given by rule 1.10AA, while rule 1.10AA previously only defined ‘principal’ and ‘representative’. *[subrules 1.10AA(1) and 5.14(3) and (5)].*
82. The definition of ‘service data’ in relation to CDR representatives is also revised for clarity of expression and consistency with the Act. *[subrule 1.10AA(5)]*
83. The Amending Rules update the definition of ‘current’ to account for the rule about duration of consent being replicated for CDR representatives. *[definition of ‘current’ in subrule 1.7(1)]*
- 84. Consideration is being given to whether references to CDR representatives and CDR principals in new Division 4.3A clearly identify which party is responsible for undertaking required actions, such as providing notifications to the consumer. Consideration is also being given to whether data deletion requirements under privacy safeguard 12 appropriately apply to data held CDR representatives. Treasury seeks feedback from interested parties as to whether further clarification of the CDR Rules in relation to these issues is desirable.**

#### *Pilot or trial products*

85. The Amending Rules address possible disincentives under the CDR for data holders to introduce innovative new products, particularly for smaller data holders, which do not have the scale to pilot products internally.
86. The Amending Rules achieve this by introducing the concept of a trial or pilot product in relation to designated sectors, then allowing the sector Schedules to set out how the trial product concept applies in the relevant sector. The purpose of this change is to allow data holders to test the

viability and scalability of their offerings without being subject to CDR data sharing obligations. A **trial product** is a product:

- that is specified in the relevant sector Schedule to the CDR Rules; and
  - that is offered with the description “pilot” or “trial”, specifying a period of no more than 6 months, on the basis that it will be offered to no more than 1,000 customers, and with a statement that it may be terminated before the end of the trial period in which case CDR data in relation to the product may not be available.
87. A product ceases to be a trial product if it continues to be offered after the end of the 6-month trial period or is supplied to more than 1,000 customers. *[definition of “trial product” in subrule 1.7(1) and rule 1.10E]*
88. The Amending Rules provide that, in the banking sector, phase 1, phase 2 and phase 3 products can be offered as trial products, and Part 3 of Schedule 3 to the CDR Rules (about accessing CDR data in the banking sector) does not apply in relation to a product while it is a trial product. *[clauses 1.5 and 3.1A of Schedule 3]*
- 89. Treasury seeks feedback from interested parties, as to whether a similar measure would be beneficial for the energy and telecommunications sectors.**

#### *Notifications of expired consents and authorisations*

90. The Amending Rules relocate the existing requirement on accredited persons to notify data holders or ADRs when a consumer withdraws a collection consent, while extending this requirement to apply where a collection consent expires for any other reason. *[rules 4.13 and 4.18AA]*
91. Similarly, the Amending Rules relocate the existing requirement on data holders to notify accredited persons when a consumer withdraws an authorisation to disclose particular data, while extending this to apply where an authorisation expires for any other reason. *[rules 4.25 and 4.26A]*
92. Rule 4.18B (notification if a collection consent or AP disclosure consent expires), is amended to provide that where a consumer data request made by an accredited person to an ADR on behalf of a CDR representative has not been completely resolved and the ADR has an AP disclosure consent relating to the relevant CDR data:
- if the collection consent expires under the CDR Rules, the accredited person must notify the ADR; and
  - if the AP disclosure consent expires under the CDR Rules, the ADR must notify the accredited person.
93. In each case, the consent expires when the ADR or accredited person receives the respective notification. *[rule 4.18B]*

#### *Displaying authorisation amendments on dashboard*

94. Data holders must now include details about amendments to authorisations on a consumer’s dashboard. This accords with the existing obligation in rule 1.14 for accredited persons to include details about amendments to consents on a consumer’s dashboard. *[paragraph 1.15(3)(h)]*

### *Additional consumer dashboard functionality*

95. Accredited persons may now include, as features of the consumer dashboards they provide, the ability for consumers to amend current consents and request disclosure of corrected CDR data, and data holders may now include the ability for consumers to request disclosure of corrected CDR data, on the consumer dashboards they provide. *[subrules 1.14(2A) and 1.15(2AA)]*
- 96. Treasury seeks feedback from interested parties, as to whether it would be helpful if data holders could also allow consumers to make requests for the purposes of privacy safeguard 13 on their consumer dashboards.**

### *Refusal to disclose required consumer data*

97. A data holder may now refuse to ask for an authorisation to disclose relevant CDR data (or an amendment to such an authorisation) or to disclose requested data if another provision of the CDR Rules would not permit disclosure of the relevant CDR data. *[paragraph 4.7(1)(e)]*

### *Data standards that must be made*

98. The Amending Rules require data standards to be made about the disclosure of CDR under a business consumer disclosure consent. *[subparagraph 8.11(1)(c)(vi)]*
99. In addition, the data standards about obtaining trusted adviser disclosure consents and business consumer disclosure consents must also include provisions about ensuring the CDR consumer is made aware that their data will leave the CDR system when it is disclosed. *[subrule 8.11(1B)]*

### *Record keeping and reporting*

100. The Amending Rules create a new requirement for data holders and ADRs (including in the capacity of CDR principal) to keep CDR complaints, in addition to CDR complaint data. The Amending Rules will also clarify that CDR consumers are able to request copies of CDR consumer complaints they have made, as well as statistical or other data relating to CDR complaints kept by the data holder or ADR. *[paragraphs 9.3(1)(fa), (2)(da) and (2A)(ga) and subrules 9.5(1) and (2)]*
101. ADRs that are CDR principals are required to prepare reports on various matters set out in subrule 9.4(2A) in relation to their CDR representatives. The Amending Rules update this to include:
- the number of consents the CDR representative received to disclose CDR data to trusted advisers;
  - for each class of trusted adviser—the number of trusted advisers to whom CDR data was disclosed by the CDR representative during the reporting period;
  - the number of insight disclosure consents and business consumer disclosure consents the CDR representative received.

*[subparagraphs 9.4(2A)(3)(v) to (viii)]*

- 102. Treasury seeks feedback from interested parties as to what other record keeping and reporting requirements would ensure that appropriate records are kept, and are accessible to consumers, the Commission, and the Information Commissioner, particularly given the changes made by the Amending Rules to CDR representative arrangements and CDR outsourcing arrangements.**

*Reciprocity for non-ADIs*

103. Previously, banking sector reciprocal data holder obligations began to apply to non-ADI entities immediately after the entity became an ADR. The Amending Rules provide that these reciprocal obligations will not apply until 12 months after the non-ADI entity has become a CDR data holder as a result of the operation of subsection 56AJ(3) of the Act (that is, until 12 months after they become an ADR). *[table item 5 in clause 6.2 of Schedule 3]*
104. This will alleviate some of the cost and complexity of regulatory compliance that smaller entities face in building both data holder and ADR capabilities at the same time. It also aligns with the compliance window currently allowed in the energy sector where data holder obligations do not start to apply to small retailers until 12 months after they become accredited (see clause 8.6 of Schedule 4 to the CDR Rules).

*Energy sector rule amendments*

105. The Amending Rules correct a reference in clause 2.2 of Schedule 4 to the CDR Rules so that it refers to Chapter 7 of the National Electricity Rules, which is the substantive chapter about metering. *[paragraph 2.2(2)(b) of Schedule 4]*
106. The Amending Rules clarify the effect of clause 5.2 of Schedule 4 to the CDR Rules on complaints arising outside the energy sector, and requirements for external dispute resolution (EDR) scheme membership by energy retailers that are also accredited persons dealing with both energy sector and non-energy sector CDR data. The intention is that:
- accredited persons should be members of the Australian Financial Complaints Authority (AFCA);
  - retailer data holders must be members of the relevant energy and water ombudsman (or equivalent dispute resolution process) (EWO);
  - where a retailer data holder also is, or later becomes, an accredited person:
    - it does not also need to become a member of AFCA provided it only uses energy sector CDR data to provide goods or services in the energy sector and does not use non-energy sector CDR data to provide goods or services outside the energy sector;
    - otherwise, it will need to be a member of both AFCA and the relevant EWO.

*[clause 5.2 of Schedule 4]*

107. The definition of ‘large customer’ in Part 8 of Schedule 4 to the CDR Rules is corrected to refer to a customer in Victoria that is *not* a relevant customer

for the purposes of the *Electricity Industry Act 2000* (Vic). *[definition of ‘large customer’ in clause 8.1 of Schedule 4]*

108. The Amending Rules remove a barrier to sharing data for testing and proving use cases prior to the tranche 1 application date for the energy sector of 15 November 2022. This brings energy into line with the approach taken for banking. *[subclause 8.7(1) of Schedule 4]*

#### *Clarifications and corrections*

109. For clarity, the Amending Rules include a definition of **ABN** in rule 1.7 that sets out the defined terms that have general application across the CDR Rules. *[definition of ‘ABN’ in subrule 1.7(1)]*
110. Rule 1.7 is also updated to include certain defined terms already being used in the CDR Rules but that were not included in the general definitions provision. *[definitions of ‘AP disclosure consent’, ‘permitted use or disclosure’ and ‘relates to direct marketing’ in subrule 1.7(1)]*
111. The Amending Rules also correct a typographical error in the definition of ‘secondary user’. *[definition of ‘secondary user’ in subrule 1.7(1)]*
112. To reflect the fact that because CDR data is only held electronically, not in hard copy, it is not practically possible to “return” it, the provisions in the CDR Rules that referred to CDR data being returned have been removed. *[subrules 1.10(2) and 7.12(2)]*
113. The Amending Rules clarify that rule 1.10C about trusted advisers applies to CDR representatives, as well as accredited persons. *[subrules 1.10C(1), (3) and (4)]*
114. Subrule 1.10C(4) prohibits a supply of goods or services by an accredited person or CDR representative to a consumer being made conditional on the consumer nominating a trusted adviser or giving a TA disclosure consent. However, where the sole purpose of a consumer’s contract with an accredited person or CDR representative is to collect data from a data holder to be disclosed to a trusted adviser, the contract is essentially dependent on the consumer nominating a trusted adviser and providing a TA disclosure consent for the data to be disclosed to the nominated trusted adviser. The Amending Rules clarify that the prohibition on conditional supply does not apply to this scenario, to avoid doubt. *[subrule 1.10C(5)]*
115. A cross reference has been corrected in note 2 to subrule 1.15(5) about an account holder indicating they no longer approve disclosure in response to requests made by a secondary user. *[Schedule #, note 2 to subrule 1.15(5)]*
116. The Amending Rules correct an omission by referring to a ‘CDR representative arrangement’, in the rule about obligations relating to such arrangements. *[subrule 1.16A(3)]*
117. Rule 4.3B that applies rule 4.7B to CDR representatives is amended to correctly refer to “CDR representative” rather than “CDR participant”, and to refer to the new Division about CDR representatives following the amendments described in paragraph 73 above. *[subrule 4.3B(2)]*
118. Rule 4.6A prevents a disclosure being made in relation to an account without the account holder’s approval. Paragraph (b) had allowed for

sector-specific provisions to prevent disclosure. The Amending Rules broaden this to allow any provision of the CDR Rules to prevent disclosure, whether in a sector Schedule or not. This follows the creation of Part 4A in 2021, which contains rules about joint accounts that apply across all sectors. A note under rule 4.6A is updated to refer to provisions in that Part which set out circumstances where joint account CDR data must not be disclosed. *[paragraph 4.6A(b) and note 2 to rule 4.6A]*

119. The headings to Division 4.3 and rule 4.8 about the purpose of the Division are amended to clarify Division 4.3 only applies to giving and amending consents for accredited persons. These amendments follow the creation of new Division 4.3A that deals with giving and amending consents for CDR representatives. *[heading to Division 4.3 and rule 4.8]*
120. The Amending Rules amend the rule about accredited persons' processes for seeking consent, to refer to consumers giving 'or' amending a consent. This clarifies that consumers may be asked to give a consent or amend a consent, but not both at the same time. *[subrule 4.10(1)]*
121. The requirement that an accredited person's processes for asking CDR consumers to give or amend consents be in accordance with consumer experience data standards has been corrected to require they be in accordance with data standards that are relevant to the consent processes. *[subparagraph 4.10(1)(a)(i)]*
122. Currently, when asking a CDR consumer to give a consent, accredited persons and CDR representatives must clearly indicate data for which they intend to pass on a fee for disclosure charged by a data holder, and allow the consumer to indicate whether they consent to the collection or disclosure of that data. This is amended to refer to data for which an accredited person, as well as a data holder, charges a fee that will be passed on. *[paragraphs 4.11(1)(d) and 4.20E(1)(f)]*
123. The pre-selected options accredited persons may present when a consent is being amended under rule 4.12C are amended to include an invitation to provide a business consumer statement in relation to the consents that may be given by CDR business consumers mentioned in paragraph 1.10A(7)(a). *[paragraph 4.12C(2)(a)]*
124. Minor amendments to rule 4.14:
  - correcting cross-references to the relevant Division for amending consents for accredited persons;
  - repealing a note made redundant by the prior repeal of clause 7.2(3)(a) of Schedule 3 to the CDR Rules;
  - deleting reference to repealed paragraph 4.25(2)(b) following reorganisation of notification provisions (see paragraph 89 above);
  - adding a note referring to the requirements for notification when a collection consent or AP disclosure consent expires.*[subrules 4.14(1), (1A),(1B) and (1C)]*
125. Under rule 4.16, CDR consumers that give consents relating to particular CDR data, may elect that such data be deleted when it becomes redundant data. This rule is amended to clarify that this election can be made by the

consumer when giving the consent or at any time before it expires. However, this rule will not apply where the accredited person has a general policy of deleting redundant data and has informed the consumer when seeking the consent that their data will be deleted when it becomes redundant. [subrules 4.16(1) and (3)]

126. Accredited persons must notify data holders and ADRs when a collection consent has been amended. The Amending Rules clarify that this requirement applies when an accredited person makes a consumer data request based on a collection consent given under Division 4.3, the request has not been completely resolved, and the CDR consumer amends the consent. [subrule 4.18C(1)]
127. A cross reference in the simplified outline of Part 7 (about the privacy safeguards) is corrected to refer to Part IVD of the Act. [rule 7.1]
128. The Amending Rules remove two duplicate paragraphs in rule 7.2, while correcting a typographical error and making various other corrections to numbering and cross-references. [paragraphs 7.2(4)(aa)-(ab), 7.2(4)(e), subparagraph 7.2(4)(h)(ii) and subrule 7.2(5)]
129. The duplicate paragraphs arose because of a sequencing error. The *Competition and Consumer (Consumer Data Right) Amendment Rules (No. 2) 2021*, made in November 2021, replaced the whole of rule 7.2 with the intended final drafting. However, an amendment to rule 7.2 made by an older instrument – the *Competition and Consumer (Consumer Data Right) Amendment Rules (No. 1) 2021* – did not commence until February 2022.
130. A cross reference has been corrected in subrule 7.3A(2) about destruction of unsolicited data by CDR representatives. [subrule 7.3A(2)]
131. The Amending Rules clarify that where CDR data is collected by a sponsor on behalf of an affiliate, the sponsor is not required to provide the consumer dashboard. Instead, the affiliate, being an accredited person that makes the consumer data request through the sponsor, is required to provide the dashboard under subrule 1.14(1). [subrule 7.4(2)]
132. The Amending Rules amend the specifications in rule 9.4 of what an ADR that is a CDR principal must include in its reporting, to correctly refer to the notification CDR principals give the Data Recipient Accreditor of termination of CDR representative arrangements. This corrects a reference to an ‘application to be a CDR representative’, which is not a type of application in the CDR regime. [subparagraph 9.4(2A)(b)(i)]
133. The list of civil penalty provisions in rule 9.8 has been updated to reflect changes to these provisions made by the Amending Rules. [rule 9.8]
134. The commencement table set out in clause 6.6 of Schedule 3 is modified by regulation 28RB of the *Competition and Consumer Regulations 2010* (added by the *Competition and Consumer Amendment (Consumer Data Right Measures No. 1) Regulations 2022*) so that the commencement table is to be read as if replaced by a new table set out in that regulation. The effect of the replacement table is to delay the start of Part 4 obligations for non-major ADIs from 1 July 2022 to 1 October 2022. The Amending Rules amend clause 6.6 by adding a note explaining this. [clause 6.6 of Schedule 3, note to heading]