



Australian Government



Consumer
Data Right

Nominated representatives of non- individuals and partnerships in CDR

Fact sheet

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Version Control

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December 2022	Version 2	Editorial changes and additional information on sole traders, dashboards, notifications and vulnerable customers
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1. Introduction

1.1. Consumer Data Right

The Consumer Data Right (CDR) gives consumers greater control over their data, enabling them to access and share their data with accredited third parties to access better deals on everyday products and services.

A glossary of common terms is published on the [CDR website](#).

1.2. Nominated representatives

Entities that are non-individuals (for example, corporations) and partners in a partnership can participate in the CDR. Non-individuals and partners in a partnership can appoint nominated representatives to give, amend and manage authorisations on their behalf. Nominated representatives' participation in CDR is regulated under the [Competition and Consumer \(Consumer Data Right\) Rules 2020](#) (CDR Rules).

The nominated representative provisions are principles-based and non-prescriptive. They aim to provide flexibility for data holders dealing with a diverse range of non-individuals and partnerships. Data holders may have existing processes and systems which authorise an individual to transact on behalf of a non-individual or partnership. The CDR Rules intend to accommodate these existing practices to the extent possible.

1.3. This fact sheet

This fact sheet assists data holders to deal with non-individuals and partnerships under the CDR Rules. This fact sheet is intended to apply to all sectors subject to CDR - currently banking and energy. Participants should read this fact sheet in conjunction with the CDR Rules.

This fact sheet does not cover:

- businesses that are supplied products in their capacity as individuals (for example, a natural person who is a sole trader and holds a bank account in their own name). Data holders must deal with these consumers as individuals under the CDR Rules.¹
- accredited data recipients (ADRs). The CDR Rules do not prescribe how ADRs must facilitate data sharing for non-individuals and partnerships.²

This is general guidance only. It does not constitute legal or other professional advice and should not be relied on as a statement of the law. This fact sheet may contain generalisations. We welcome feedback on sector specific issues that may necessitate further guidance. We encourage participants to obtain their own professional advice regarding individual compliance matters to ensure they understand their obligations under the CDR framework.

1.4. Implementation timeframes

1.4.1. Banking sector

All data holders in the banking sector must now support consumer data sharing functionality for non-individuals and partnerships.

¹ However, a data holder must enable consumer data sharing under the nominated representative provisions if a sole trader's account is held by a non-individual (that is, the business rather than an individual is the account holder).

² However, we note particular provisions enable CDR business consumers to give business consumer disclosure consents and certain consents for a duration of up to 7 years (for example, see rules 4.12(1A(a)) and 4.14(2)(a)).

1.4.2. Energy sector

Data holders must have implemented consumer data sharing functionality by the compliance dates shown in Table 1.³

Table 1 Compliance dates for consumer data sharing for non-individuals and partnerships in the energy sector

Nature of sharing obligations	Affected participants	Compliance date
Consumer data requests on behalf of non-individuals that are not large customers (as defined in clause 8.1 of Schedule 4 to the CDR Rules) (non-complex requests)	Initial retailer	15 November 2022
	Larger retailer	1 November 2023
	Accredited small retailer	The later of: <ul style="list-style-type: none"> • 15 November 2023; and • 12 months after the day it becomes accredited
	Small retailer	May comply voluntarily from 15 November 2022
Consumer data requests on behalf of non-individuals that are large customers (as defined in clause 8.1 of Schedule 4 to the CDR Rules) or partnerships (complex requests)	Initial retailer	15 May 2023
	Larger retailer	1 May 2024
	Accredited small retailer	The later of: <ul style="list-style-type: none"> • 15 May 2024; and • 18 months after the day it becomes accredited
	Small retailer	May comply voluntarily from 15 May 2023 or later

³ CDR Rules, Schedule 4, Part 8.

2. Nominated representatives

2.1. What is a ‘nominated representative’?

A ‘nominated representative’ engages with a data holder on behalf of non-individuals and partners in a partnership.

To participate in CDR data sharing, a non-individual or partnership must nominate at least one individual as a nominated representative.

Once the non-individual or partnership has a nominated representative, the representative can give, amend and manage⁴ authorisations to disclose CDR data on behalf of the non-individual or partnership.⁵

2.2. Sole traders

Sole traders can structure their accounts in different ways. While some may hold accounts in their capacity as individuals, other sole traders may set them up using separate business profiles.

Where an individual is operating a business as a sole trader using accounts set up in their capacity as an individual, data holders are required to enable consumer data sharing for the consumer using the CDR Rules as they apply to individuals.

Where a sole trader’s account is held by a non-individual (that is, the account holder is a business, rather than an individual), the sole trader is to be treated as though it is a non-individual. In these circumstances, all the provisions relating to nominated representatives will apply to the sole trader’s account.

2.3. Who can be a nominated representative?

A nominated representative must be an individual who is 18 years or older.⁶ The CDR Rules do not otherwise restrict who can be a nominated representative.

Directors or partners are not automatically appointed as nominated representatives.⁷ No particular position within a business automatically takes the role of nominated representative. Data holders are required to provide a service that can be used to nominate (and revoke nominations for) representatives (see section 2.5).

2.4. Selecting a nominated representative

The CDR Rules do not prescribe who within a business or partnership can select a nominated representative.

Data holders can use their existing systems and processes for dealing with their non-individual and partnership customers. For example, a data holder may already have arrangements in place with their non-individual and partnership customers that identify the individuals who are authorised to act as agents for the business and make decisions, such as who can transact on behalf of the business for particular business accounts.

⁴ Being able to manage authorisations includes being able to withdraw authorisations.

⁵ CDR Rules, rules 1.13(1)(c)(i) and 1.13(1)(d)(i).

⁶ CDR Rules, rules 1.13(1)(c)(i) and 1.13(1)(d)(i).

⁷ Treasury has sought stakeholder feedback on whether account administrators of non-individuals and partnership accounts should automatically be deemed nominated representatives in relation to those accounts. See Treasury’s [Operational enhancements - CDR rules design paper \(August 2023\)](#), section 2.

2.5. Nominating a representative

Data holders must provide their non-individual and partnership customers with a service that allows the customer to:

- nominate representatives
- revoke those nominations.⁸

The data holder can provide this service as an online and/or offline service.⁹

This service should be easy to use and enable customers to nominate representatives or revoke those nominations in a timely manner. For example, a data holder may provide an entirely digital process through its online portal or mobile app that enables a customer to efficiently nominate a representative or revoke a nomination.

Data holders can incorporate a nomination process into existing processes to reduce friction for their customers. For example, while setting up a business account, a data holder may ask the business to select the permissions an individual will have for the account, this could include selecting permissions for CDR data sharing. If a data holder is using existing processes for appointing a nominated representative, the non-individual or partnership should be expressly informed about that process. It is important to note that the data holder must also provide a service to enable the non-individual or partnership to revoke the nomination and to nominate additional representatives.

2.5.1. What if a non-individual or partnership doesn't have a nominated representative?

If the non-individual or partnership does not have a nominated representative, it will not be able to authorise the sharing of CDR consumer data. In this situation, the data holder can refer to the [Consumer Experience Standards](#) (CX Standards) for scenarios they can apply. For example, they can give instructions on how to become a nominated representative and share a non-individual's or partnership's data – see the [Authorisation Standards, Unavailable Accounts: Request sharing rights](#). Examples that can be applied to these scenarios can be found in the '[Authorisation to disclose: Unavailable accounts](#)' section of the [Consumer Experience Guidelines](#) (CX Guidelines).

2.6. Nominated representatives' scope of authority

Data holders may allow account holders to set the scope of accounts for which different nominated representatives can give, amend and manage authorisations.

For example, business ABC may wish to nominate particular staff but restrict them from being able to share data from specific business accounts. In this type of scenario, data holder XYZ may offer business ABC the ability to tailor the scope of the authorisations to suit its needs. Data holder XYZ can provide this functionality alongside its existing processes for managing account permissions to reduce friction for its customers.

2.7. Approving the nomination of a representative

A nominated representative is the individual nominated by the non-individual or partnership.¹⁰ Not all partners in a partnership need necessarily approve the nomination of a representative. For example, a data holder and a business partnership customer may

⁸ CDR Rules, rules 1.13(1)(c) and 1.13(1)(d).

⁹ An offline service could be an in-writing agreement involving 'wet signatures'. See CDR Rules, rule 1.13(1)(c) and (d).

¹⁰ CDR Rules, rules 1.13(c)(i) and 1.13(d)(i).

agree that all partners, a particular subset of partners or one particular partner must approve a nomination before an individual is recognised as a nominated representative.

2.8. Is the nominated representative considered to be the ‘CDR consumer’?

A nominated representative acts *on behalf of* a non-individual or partnership.¹¹ They are not the CDR consumer. The CDR consumer will be either:

- the non-individual legal entity, or
- a partner of the partnership that the account is held by or on behalf of.

¹¹ CDR Rules, rules 1.13(1)(c) and (d).

3. Authorising consumer data sharing

3.1. Authenticating a nominated representative

Once a nominated representative has been authenticated, they can give, amend and manage authorisations to disclose CDR data on behalf of the CDR consumer.¹²

3.1.1. Authorisation flow

The CX guidelines provide [guidance](#) on how data holders may ask CDR consumers to give or amend authorisations. A data holder's processes for asking a CDR consumer to give or amend an authorisation must:

- (a) accord with the data standards; and
- (b) having regard to any consumer experience guidelines developed by the Data Standards Body, be as easy to understand as practicable, including by use of concise language and, where appropriate, visual aids.¹³

3.1.2. Authentication

Before a nominated representative can initiate an authorisation flow with a data holder and authorise data sharing, they must be authenticated. For nominated representatives, the authentication process also checks that they are entitled to act on behalf of the non-individual or partnership.

The nominated representative is authenticated against the credentials held on the data holder's systems, in the same way the authorisation flow for an individual consumer is initiated in accordance with the Consumer Data Standards. The data holder can decide what credentials it considers appropriate - for example, the credentials could relate to the individual's personal profile or their business employee/representative profile.

To be successfully authenticated, a nominated representative will need both:

- valid credentials for the business account (for example, because they are a person authorised to transact on behalf of the business); and
- current status as a nominated representative.

3.2. After a nominated representative is authenticated

3.2.1. Account selection

Once the nominated representative has been authenticated against their credentials on the data holder's system, the data holder can move the nominated representative on to the account selection step and present the relevant business accounts the nominated representative has the authority to share data from. The representative can then select an account they wish to share CDR data from.

3.2.2. Profile selection

If the nominated representative's credentials or identifier gives them access to different customer accounts, the data holder may also choose to add a 'profile selection' step or equivalent before providing the list of available business accounts.

¹² CDR Rules, rule 1.13(1)(c) and (d).

¹³ CDR Rules, rule 4.22.

For example, a single customer ID may give them access to their personal bank accounts as well as the business accounts of their employer.

According to the CX Standards, the ‘profile selection’ step should only be considered if it is an existing customer experience, and it should be as minimal as possible to avoid introducing unwarranted friction. Implementation examples can be found in the [‘Profile selection’](#) section of the CX Guidelines.¹⁴

3.2.3. Unavailable accounts

The [CX standards for the authorisation flow](#) also give options to use where a nominated representative is unable to access accounts for any reason. In those cases, a data holder may provide instructions or an explanation. Examples of these scenarios can be found in the [‘Authorisation to disclose: Unavailable accounts’](#) section of the CX Guidelines.

¹⁴ [Authorisation Standards](#), Authorisation: Profile selection.

4. Managing authorisations

4.1. Consumer dashboard

Data holders are required to provide a consumer dashboard to customers that are non-individuals or partners in a partnership. The customer's nominated representatives will use the dashboard to access and manage data sharing.¹⁵

For a non-individual CDR consumer or partners in the partnership, only nominated representatives will be able to use the dashboard to manage authorisations. Hence, we consider that providing the dashboard to the nominated representatives will satisfy the requirement of providing a dashboard to the CDR consumer as stated in rule 1.15. Where the CDR Rules require a notification or information to be provided to a non-individual CDR consumer or partner in a partnership, we consider this could in some cases also be satisfied by providing the relevant information to the nominated representative.

While a data holder may provide 'view only' dashboards to non-individuals or partners in a partnership who are not nominated representatives to enable them to obtain an overarching view of authorisations, our view is this is not required to satisfy rule 1.15.

4.1.1. Tailoring the dashboard view

The CDR Rules leave it open for a data holder to decide how it will present the consumer dashboard to nominated representatives. For example, the data holder may choose to provide:

- one identical dashboard view for all nominated representatives to view, give, amend or withdraw an authorisation given on behalf of the non-individual or partnership¹⁶; or
- each nominated representative with a dashboard view of all the accounts for which the nominated representative can view, give, amend or withdraw an authorisation for CDR data sharing on behalf of the non-individual or partnership.¹⁷

4.2. Withdrawing an authorisation

Data holders must offer CDR consumers two options for withdrawing an authorisation to disclose CDR data:¹⁸

- through the data holder's consumer dashboard; or
- by using a simple alternative method of communication that the data holder makes available to CDR consumers to withdraw an authorisation.

As set out at 4.1.1, a data holder may decide to provide one identical dashboard for all nominated representatives. A data holder may allow a nominated representative to use

¹⁵ CDR Rules, rule 1.15(1) and (2A).

¹⁶ A nominated representative may amend an authorisation it has given, but it is generally unable to amend an authorisation given by another nominated representative because authorisations are tied to a single Pairwise Pseudonymous Identifier (see section 4.3 for further information). However, a nominated representative may view and withdraw an authorisation given by another nominated representative on behalf of the relevant CDR consumer.

¹⁷ This example represents a desirable solution where a data holder enables a non-individual or partnership to tailor the scope of the authorisations that different nominated representatives can give.

¹⁸ CDR Rules, rule 4.25(1).

the dashboard to withdraw their own authorisations, as well as authorisations given by other current or previous nominated representatives.

4.2.1. Status of existing authorisations when nominated representative status is revoked

Non-individuals and partnerships may have authorisations in place that last beyond the time that the individual who gave the authorisation is a nominated representative. This is because nominated representatives act *on behalf of* the CDR consumer, and where a nominated representative has given an authorisation, it is for the business, not the individual representative.

As such, a data holder cannot decide to end an authorisation on the basis that a nominated representative's status has been revoked.

This means that in circumstances where a non-individual or partnership no longer has any nominated representatives, a data holder will continue to have data sharing obligations where an authorisation continues to exist.

A data holder may choose to have a default arrangement where any nominated representative or a select group of nominated representatives can view and withdraw all existing authorisations through the data holder consumer dashboard. This would mean that, if a nominated representative has had their status revoked, any remaining nominated representatives could withdraw the authorisations made by the former nominated representative.

Where a non-individual or partnership no longer has any nominated representatives, the CDR consumer could appoint a new nominated representative to manage the authorisations. However, if a new nominated representative has not been appointed, the CDR consumer could withdraw an authorisation using an alternative means of communication.¹⁹

4.3. Transferring an authorisation

The data standards tie an authorisation to a Pairwise Pseudonymous Identifier (PPID) which is associated with the specific individual that established the authorisation. Where the authenticated user is a nominated representative, the PPID represents that nominated representative, not the entity they are representing. This means the identifier is specific to the nominated representative that established the authorisation.

While authorisations made by a nominated representative can be withdrawn by other nominated representatives, it is not possible to transfer the authorisation to an existing nominated representative that already has a PPID. This is because an authenticated user cannot have more than one PPID.

However, the data holder may be able to support the transfer of a former nominated representative's PPID to a new nominated representative for the same business who does not have an existing PPID. This would also transfer authorisations given by the former nominated representative.

The specific mechanisms used for the transfer are up to the data holder. This is because existing authorisation and permission structures for business customers vary

¹⁹ CDR Rules, rule 4.25(1)(b); The CDR rules do not prescribe who within a business or partnership can withdraw an authorisation in these circumstances. For more information on individuals who may act on behalf of the CDR consumer, see section 2.4 of this guidance.

significantly between data holders and these differences are sometimes a competitive differentiator.

It is important to note that, when deciding how to implement authorisations for nominated representatives, an ADR may not be aware that an authorisation was given by a particular nominated representative. They may not have the same structures around transferring consents and may not have provided equivalent mechanisms for the transfer of account ownership in their solution.

4.4. Vulnerable customers

If a data holder determines that any person, including a nominated representative is at risk of harm or abuse, it may refuse to:

- make a disclosure²⁰
- ask for an authorisation or an amendment to an authorisation²¹

These provisions apply where the data holder considers it necessary to prevent physical, psychological or financial harm or abuse. Information relating to a consumer's vulnerability can be very sensitive. In determining whether a particular act or omission would be necessary to prevent physical, psychological or financial harm or abuse, data holders should consider the risk of harm or abuse to an individual and whether the individual is currently identified as vulnerable. Please refer to our knowledge article on [Vulnerable customers](#) for more information.

²⁰ CDR Rules, rule 3.5 and rule 4.7.

²¹ CDR Rules, rule 4.7.