



ASIC
Australian Securities &
Investments Commission

Financial Innovation: Regulator Meet-up

Friday, 27 November 2020



Opening Address

Cathie Armour, Commissioner, ASIC

ASIC Update

Mark Adams, Senior Executive Leader, Strategic
Intelligence and Co-Ordinator, Innovation Hub



Topics



- ASIC's Innovation Hub – informal assistance
- The Government's enhanced regulatory sandbox – now in operation
- Crypto products and services – ASIC's approach
- Global Financial Innovation Network – cross border test opportunities



Innovation Hub



Why have an Innovation Hub?

- Help innovative businesses navigate the regulatory system
- Help fintechs understand how regulation affects their business
- Help ASIC understand innovative developments
- Ongoing BAU engagements and working with existing licensees

ASIC's 5 point approach

- **Engagement** – ASIC events, fintech meet-ups, industry conferences
- **Digital Finance Advisory Panel** – fintech community, academia, other regulators
- **Coordination** – senior committee, internal working groups, staff and external network
- **Enhanced communication** – designated website and tailored resources and guidance
- **Streamlined approach** – provision of assistance to entities with innovative business models

Engaging the Innovation Hub



1. Have Information about you and your business prepared – do some regulatory fact finding

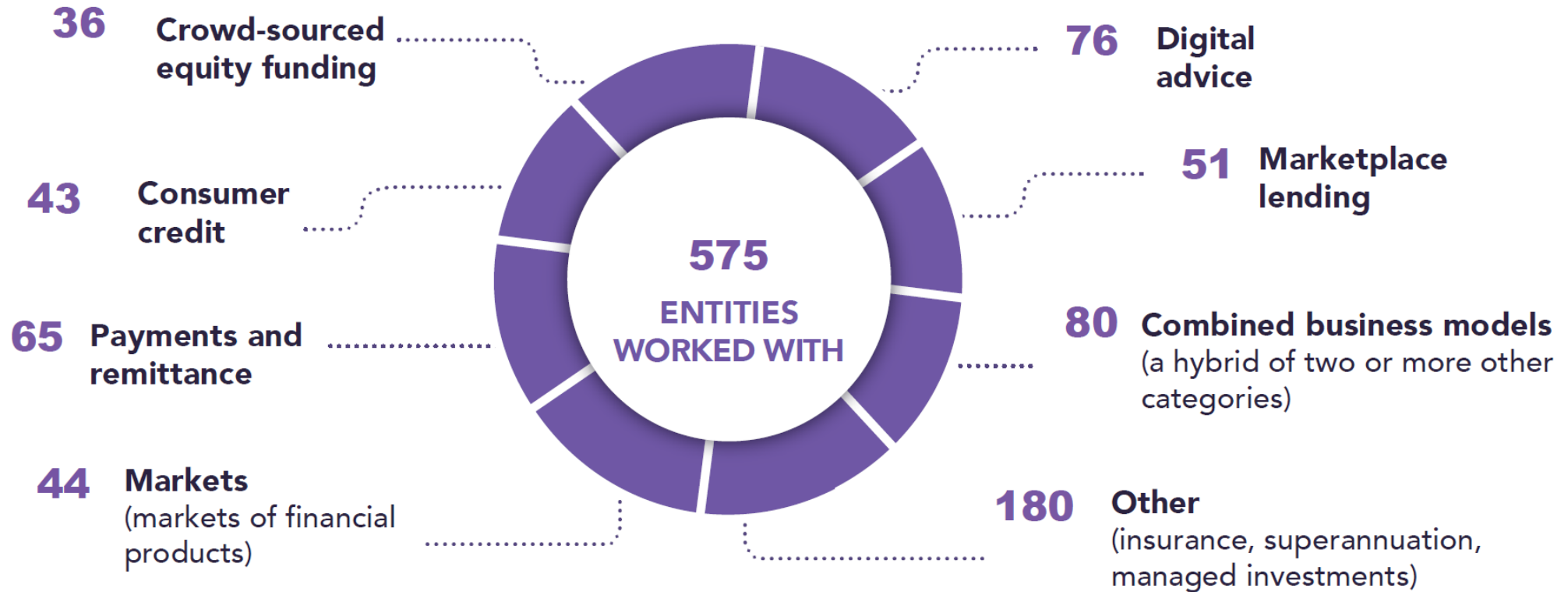


2. Contact us – using the simple form – make use of your summary material



3. Inform us about:

- Are you a start-up or scale-up?
- What is your innovation?
- How are you benefiting consumers or markets?
- What regulatory issues do you think you'll be facing?

**551**Entities requested
and received
informal assistance**186**Meetings
with regtech
entities**84**New
AFS/credit
licences granted**19**Variations
of existing
licences**1**Sandbox
entities

ERS is a licensing exemption available now



ERS available since 1 September 2020 – it supersedes the previous ASIC Sandbox



Provides exemption from the AFSL and ACL licensing regimes for testing certain eligible financial services/products and credit activities for up to 24 months



ERS is a 'class waiver' sandbox – it differs from the bespoke sandboxes available in some comparable overseas jurisdictions (e.g. FCA and MAS)



Purpose is to facilitate innovation by fintechs while also enabling consumer / investor protection, trust and confidence – balanced approach to risk



Who can rely on the enhanced sandbox exemption

- Eligible businesses – includes licensed businesses
- Eligible services – includes dealing, advising and some issuing
- Eligible products – includes superannuation, life insurance and international listed securities
- What limits – overall \$5M; some products have limits per client
- What conditions – conduct of business; dispute resolution
- How long – up to 2 years
- More than once – yes, subject to limits
- Meet the notification requirements

Notification requirements

- Must notify ASIC of intent to use the ERS in the prescribed notification form
- Satisfy ASIC of a range of matters including:
 - Fit and proper (probity) requirements
 - ‘net public benefit’ test
 - ‘innovation’ test
 - membership of the Australian Financial Complaints Authority (AFCA)
 - minimum professional indemnity (PI) requirements
- ASIC will adopt a pragmatic approach to assessing the notification – will rely on information provided (ordinarily we will not requisition)
- Assessment by Licensing, Hub and specialist business teams depending on proposed business model
- ASIC has 30 days to assess a notification and provide a decision in writing

ERS status so far



One entity currently testing in ERS – recorded on ASIC's ERS Public Register



One rejection – incomplete notification



Two ERS applications currently under assessment



Hub receiving and managing regular stream of ERS enquiries / potential interest

More information



Enhanced regulatory sandbox

The Australian Government's enhanced regulatory sandbox is now available to entities that wish to test their innovative financial services or credit activities. Using the sandbox, you can test your service or activity without an Australian financial services (AFS) licence or Australian credit licence for up to 24 months.

Check that you meet the general conditions that apply, and that the financial service and product, or credit activity, you plan to test are eligible.

You must meet entry requirements

You must:

- › not be licensed for, or have previously tested, the proposed financial service or credit activity
- › satisfy minimum requirements on probity, net public benefit and innovation
- › plan to test for no more than 24 months.

You must comply with ongoing conditions

You must:

- › provide only eligible financial services and products or engage in only eligible credit activities
- › have total customer exposure of no more than \$5 million
- › limit individual retail client exposure to \$10,000 for certain products
- › have adequate compensation arrangements (such as professional indemnity insurance)
- › be a member of the Australian Financial Complaints Authority
- › meet disclosure and conduct requirements.

You must only test eligible financial services and credit activities

Eligible

- › Providing personal or general advice
- › Dealing in or distributing eligible financial products
- › Issuing non-cash payment facilities
- › Issuing insurance (including as an agent)
- › Providing a crowd-funding service
- › Lending money to consumers

Not eligible

- › Issuing other financial products
- › Operating your own managed investment scheme

The type of client determines what are eligible products

Wholesale clients

- › All products except derivatives and margin lending facilities

Retail clients and credit consumers

- › Deposit products
- › Non-cash payment facilities
- › General insurance (except consumer credit insurance)
- › Life insurance
- › Superannuation
- › Simple managed investment schemes
- › Commonwealth debentures, stocks or bonds
- › Listed domestic or recognised international securities
- › Company securities under a crowd-sourced funding offer
- › Consumer credit contracts which have certain features including a term of no more than 4 years, and a credit limit of between \$2,001 and \$25,000.

What to do if you are eligible to use the enhanced regulatory sandbox

Next steps:

You should read Information Sheet 248 Enhanced regulatory sandbox (INFO 248) for more details on exemption conditions and obligations, and how to apply.

What to do if you are not eligible to use the enhanced regulatory sandbox

Other options:

- › Rely on an existing statutory exemption to test the financial service or credit activity
- › Request individual relief from ASIC
- › Act on behalf of an AFS or credit licensee
- › Apply for an AFS or credit licence from ASIC.

- Innovation Hub ERS webpage
- Information Sheet INFO 248
- ERS Infographic

Crypto and ASIC

What are crypto assets?

Why does it matter to ASIC? (i.e. how does it fit within our remit)

What are we doing in relation to crypto assets? (i.e. understand, assist and intervene on misleading or illegal conduct)

Monitoring and engaged in international developments – including stablecoins and DeFi





Global financial innovation network

- What is GFIN?
- Cross border testing opportunity – fintech and regtech
- Form and assessment
- GFIN guidance & FAQs

Austrade Update

Gaurav Johri, Senior Adviser, Trade & Investment,
Austrade



AUSTRALIA

Financial Innovation: Regulator Meetup

Gaurav Johri, Senior Investment Adviser, Australian
Trade and Investment Commission



Australian Government

Australian Trade and Investment Commission

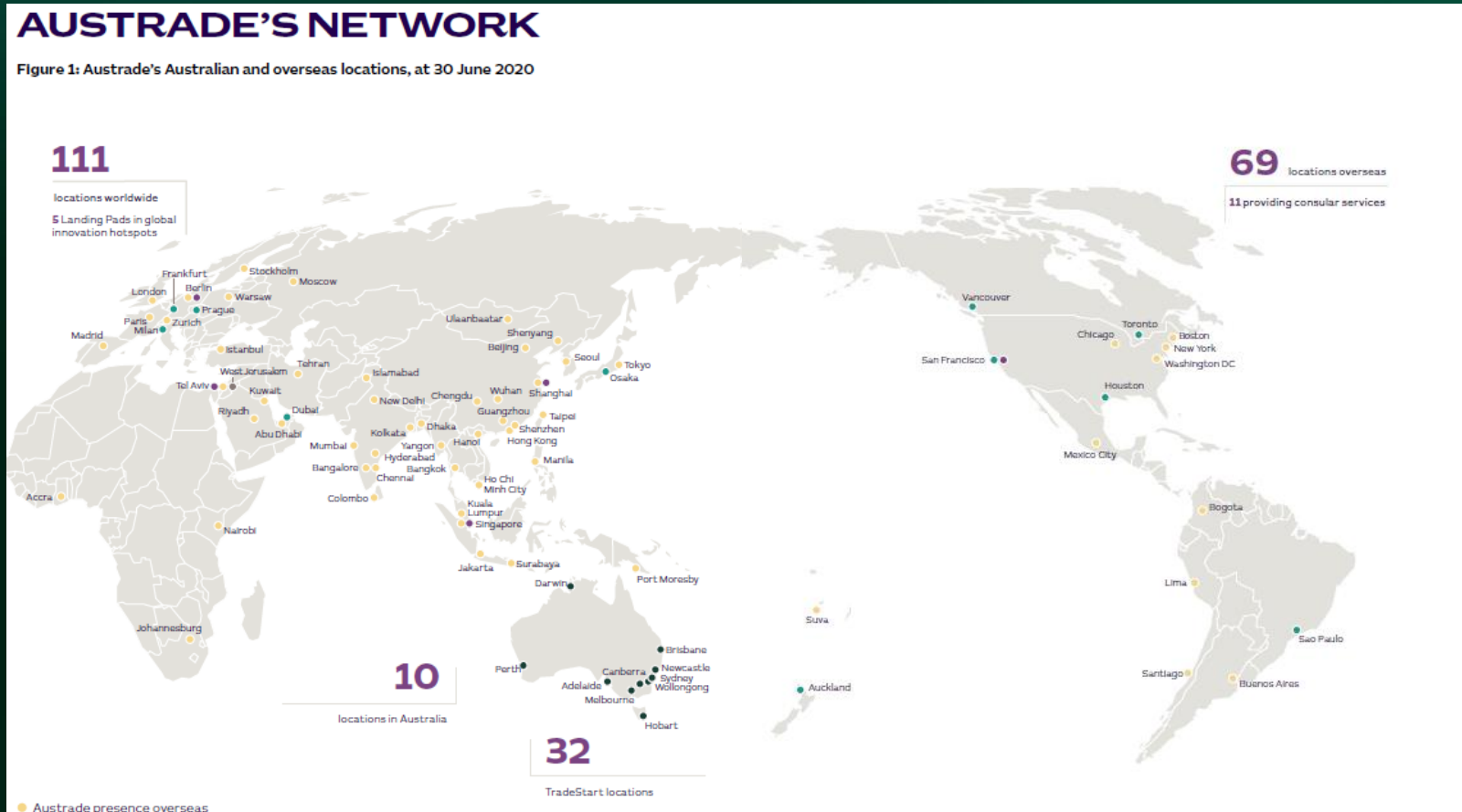


Austrade

Who is Austrade

- Federal government's trade and investment agency
- Austrade is not a regulator or a policy agency
- Austrade's role is to promote Australian exports and attract productive investment into Australia
- International network – 69 offices in 47 markets

International Network



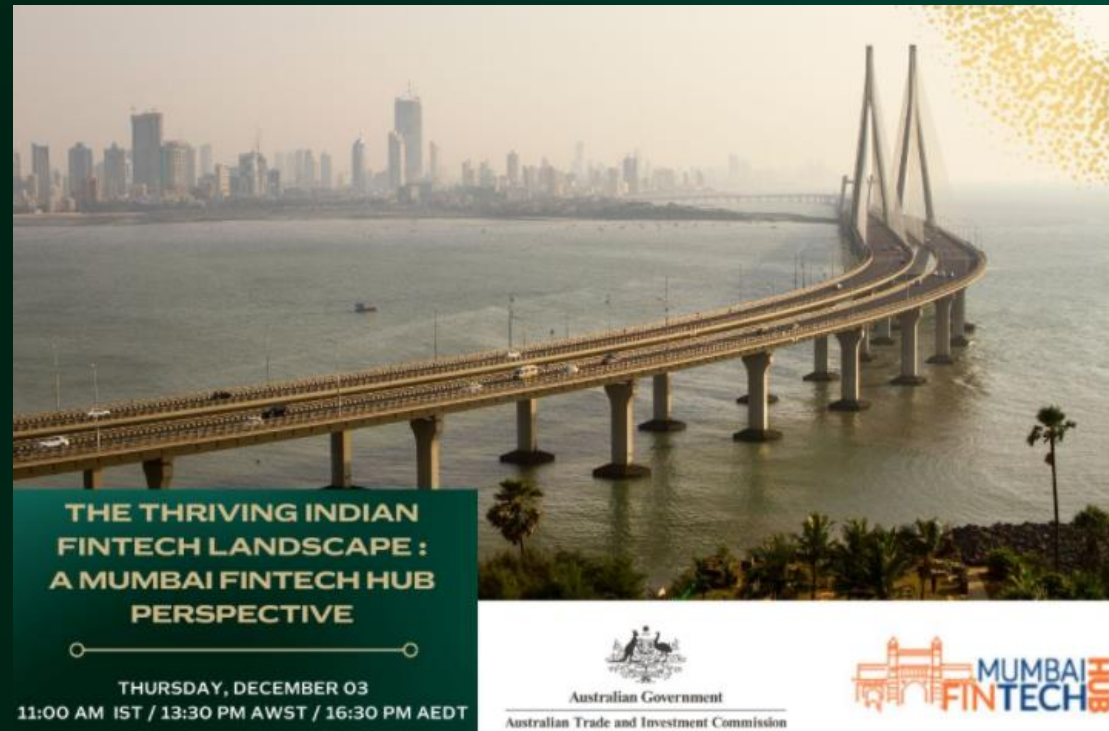


Engagement with the sector

- Working with Australian companies in international markets
- Promoting Australian capability and innovation
- Tell the story of regulatory developments: RADI, CDR, ERS
- Work with international companies setting up in Australia

Engagement with the sector

- Virtual bootcamp with Blockchain Australia
- Upcoming webinar on fintech opportunities in India





Fintech Initiative

- Recent budget provided resources to Austrade to promote trade and investment flows in fintech
- Engaging with stakeholders to determine operational plan
- Supporting Australian companies at Fintech Abu Dhabi
- Hosting virtual pavilion at Singapore Fintech Festival



Global Business and Talent Attraction Taskforce

- Whole of government initiative – led by Home Affairs
- Seek to attract global best talent – easier visa processes
- Financial Services and Fintech is one of the 3 target sectors
- Focused on large investment projects

APRA Update

Daniel Chippeck, Advisor, Licensing, Regulatory
Affairs & Licensing, APRA

Stephanie Bampton, Senior Manager, Licensing,
Regulatory Affairs & Licensing APRA



Reforming the regulatory framework for Stored Value Facilities (SVF)

Presented by: Stephanie and Daniel

Date: 27 November 2020



Today's presentation

- What are Stored-Value Facilities?
- Existing regulatory framework
- Future regulatory framework
- Why reform is important



Refresher: What are Stored Value Facilities (SVFs)?

- SVFs are facilities that enable customers to store funds for the purpose of making future payments
- SVFs do not engage in financial intermediation and the accounts are not protected under the Financial Claims Scheme
- Purchase Payment Facilities (PPFs) are a type of SVF. APRA is currently responsible for authorising PPFs that conduct 'banking business', if the facility is:
 - *Repayable on demand in AUD; and*
 - *Widely available for use as a means of payment*
- PayPal Australia is the only APRA-authorised PPF
- Pre-paid cards, travel cards, gift cards, toll accounts, and some types of digital wallet are all SVFs

Existing regulatory framework

- Complex
 - RBA – *Payments System (Regulation) Act*
 - ASIC – *Corporations Act*
 - APRA – *Banking Act*
- Ageing framework out of step with the modern financial system, with grey areas and conflicting interpretations
- The complexity, uncertainty and ambiguous definitions has made it difficult for each regulator to clearly manage its objectives
- Complexity also a barrier to entry, hindering competition and innovation
- Out of line with comparable international jurisdictions

The future regulatory framework

- The term 'PPF' will no longer be used – to align terminology with international jurisdictions
- Federal Government support:
 - SVF reform included in the Digital Business Package (2020 federal budget)
 - Minister for Financial Services endorsed the CFR recommendations
- Future regulatory responsibilities within an activity based framework
 - APRA
 - large SVF providers that offer a 'deposit like' product
 - ASIC
 - small SVFs and all other regulation and licensing of payments service providers, in a tiered framework dependant on the activity
 - RBA
 - Responsible only for oversight payment systems

Why this reform is important

- Responds to developments in the financial services industry
- Demonstrates understanding of financial disruption, deregulation and facilitates innovation and competition
- Reform will provide sound prudential framework in which disruptors can innovate and competition can thrive
- Facebook's Libra and Novi (Calibra) proposals
- Alignment with comparable international jurisdictions
 - Watching implications arising from the Wirecard scandal on European regulation
 - Noting recent changes to People's Bank of China regulations for large SVF/payments providers



Thank you

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CDR: OAIC Update

Alexandra Conlon, Director, CDR Compliance and Enforcement, OAIC

Stephanie Otorepec, Director, CDR Policy, OAIC



Consumer Data Right

ASIC Financial Innovation: Regulator Meet-up CDR Background and Overview

Alex Conlon, Director (CDR Section)
Regulation & Strategy Branch, OAIC
November 2020

Agenda

- Overview of CDR
- The OAIC's role
- The CDR Privacy Safeguards
- Key privacy obligations and how to meet them

Overview of CDR

- CDR is a data portability right, which aims to provide greater choice and control for Australians over how their data is used and disclosed
- The CDR allows consumers to direct a business to securely transfer that data to parties that are 'accredited' to receive it
- Individuals and businesses of all sizes can exercise the right in respect of their own data
- The CDR is being rolled out gradually, sector by sector, first in banking and then in energy
- The legislative basis for the CDR is Part IVD of the *Competition and Consumer Act 2010* (Cth), supplemented by the *Competition and Consumer (Consumer Data Right) Rules 2020*.
- The ACCC regulates the broader CDR scheme, while the OAIC is responsible for regulating the privacy aspects of the CDR scheme

The OAIC's role

- The OAIC enforces the Privacy Safeguards, and privacy or confidentiality related CDR Rules
- The OAIC can use a range of investigative and enforcement powers under the Competition and Consumer Act and the Privacy Act
- The OAIC is the complaint handler of the scheme, and can investigate a CDR complaint from individuals and small business consumers, or commence investigations on the Commissioner's own initiative
- The OAIC can also make public determinations, conduct audits and assessments, and apply for injunctions or civil penalty orders – see the OAICs [CDR Regulatory Action Policy](#) for more detail.

The CDR Privacy Safeguards

- The Privacy Safeguard obligations are contained in the Competition and Consumer Act and are supplemented by the CDR Rules
- The Privacy Safeguards aim to protect CDR data throughout the information lifecycle
- The 13 privacy safeguards broadly reflect the 13 Australian Privacy Principles contained in the Privacy Act
- The OAIC has published the [CDR Privacy Safeguard Guidelines](#) which outline how we will interpret and apply the Safeguards

Key privacy obligations and how to meet them

- Privacy obligations are contained in the Consumer and Competition Act and the CDR Rules. There are also requirements in the Data Standards and Data61's Consumer Experience Guidelines.
- The OAIC has developed comprehensive guidance and web content for participants on the privacy safeguards, privacy obligations more generally, the consent and authorisation processes, and the consumer complaints process. There is also information on the law of the CDR scheme.

Key privacy obligations and how to meet them cont.

- Data holders and ADRs must have internal dispute resolution (IDR) processes that meet the IDR requirements in the ASIC Regulatory Guide 165
- Consumers should first complain to the relevant entity, and can then make a complaint via the CDR website
- The CDR scheme applies a ‘no wrong door approach’ to complaints, whereby if the OAIC or ACCC, as co-regulators of the scheme, receive a matter that is best dealt with by the other regulator, or by an External Dispute Resolution (EDR) scheme, the matter will be transferred across to that body.

Key Resources

Safeguards, Rules and Standards

- [Competition and Consumer Act](#)
- [CDR Rules](#)
- [Consumer Data Standards and CX Guidelines](#)

Policies

- [ACCC and OAIC Joint Compliance & Enforcement Policy](#)
- [OAIC CDR Regulatory Action Policy](#)

Additional OAIC Guidance

- [CDR Privacy Safeguard Guidelines](#)
- [Guide to developing a CDR Policy](#)
- [Guide to privacy for data holders](#)
- [Additional web guidance for participants and consumers](#)

CDR: ACCC Update

Natalie Plumridge, Director, Accreditation, ACCC

Emma Joy, Participant On-boarding Manager, ACCC

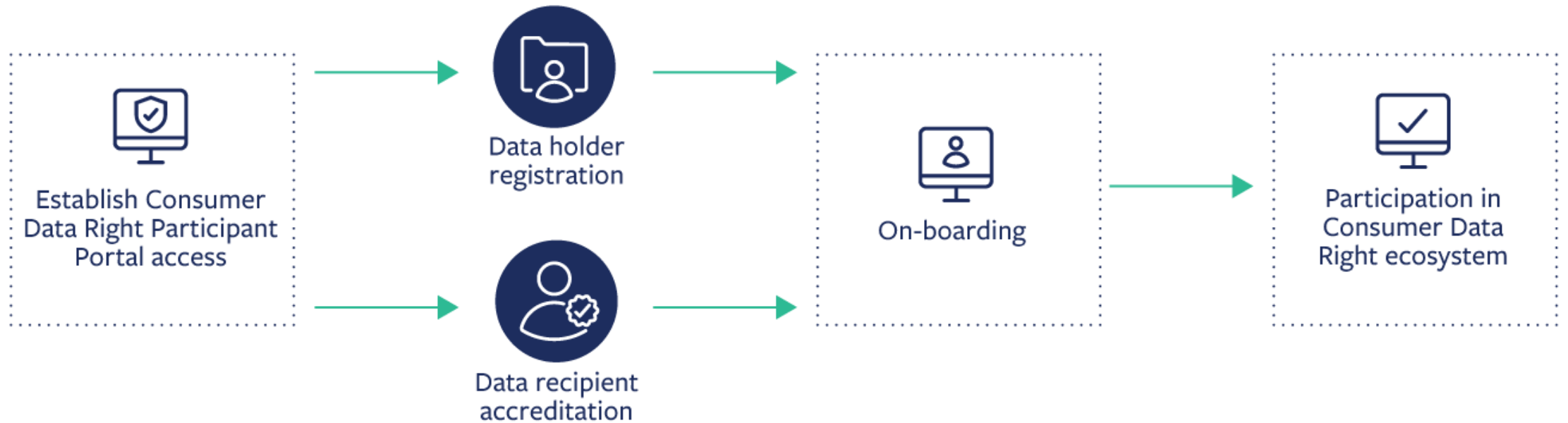


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ACCC/OAIC presentation on Consumer Data Right

27 November 2020

Overview of accreditation and on-boarding



Accreditation progress

- Six accredited data recipients
- Consultation and development of new Rules to facilitate:
 - intermediaries
 - tiered accreditation
 - transfer of CDR data between accredited data recipients
 - disclosure to non-accredited persons
 - increased flexibility for joint account holders
 - extending the framework to include more business customers

On-boarding update

- Non-major ADIs' CDR obligations commence on 1 July 2021
 - 90+ ADIs are required to meet CDR obligations by this date
- The ACCC is proactively working with participants to commence early on-boarding to meet this compliance date
- On 18 November 2020, the ACCC published the finalised on-boarding guide
- A recent focus has also been uplifting scalability of the on-boarding function to meet increased demand in 2021
- Since the initial cohort, 2 further data recipients and 1 ADI have completed on-boarding and are active in the CDR ecosystem, and others have commenced the on-boarding process

We are here to help!

- [Accreditation Guidelines](#)
 - [Supplementary Guidelines on Information Security](#)
 - [Supplementary Guidelines on Insurance](#)
- [Accreditation Checklist](#)
- [Accreditation Support Pack](#)
- Sample Application Forms
 - [Full](#)
 - [Streamlined](#)
- [Accreditation video](#)
- [On-boarding guide](#)
- [Conformance Test Suite guidance material](#)

Get in touch

[CDR Support Portal](#)

[Weekly CDR Implementation Call](#)

[CDR Newsletter](#)

Questions



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ASIC's
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