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## Legislative Instrument

# National Consumer Credit Protection—Transitional Registry Operations Data Standard 2022

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I, Chris Jordan, Commissioner of Taxation in my capacity as the Registrar, make this instrument under subsection 212H(1) of the *National Consumer Credit Protection Act 2009* for the purpose of providing data standards on matters relating to the functions and powers of the Registrar under the *National Consumer Credit Protection Act 2009*.

**Chris Jordan**

Registrar

16 June 2022

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### 1 Name

This instrument is the *National Consumer Credit Protection—Transitional Registry Operations Data Standard 2022*.

### 2 Commencement

This instrument commences immediately after the commencement of item 20 of Schedule 1 to the *Treasury Laws Amendment (Registries Modernisation and Other Measures Act 2020)*.

### 3 Authority

This instrument is made under the *National Consumer Credit Protection Act 2009*.

### 4 Definitions

Note: A number of terms used in this instrument are defined in the *National Consumer Credit Protection Act 2009*, including the following:

- (a) person;
- (b) Registrar.

In this instrument:

**action** includes an act that consists of:

- (a) deciding, notifying, issuing, publishing, giving; or
- (b) asking, requesting, requiring, directing; or
- (c) applying, responding, providing, lodging; or
- (d) accepting, recording, holding, maintaining; or
- (e) certifying, providing extracts; or

- (f) accepting payment or making payment.

Note: the actions mentioned in (a) to (f) are not an exhaustive list.

**NCCP Act** means the *National Consumer Credit Protection Act 2009*.

**NCCP instrument provision** means:

- (a) a provision of an instrument made under the NCCP Act; or
- (b) a provision of an old NCCP instrument that:
  - (i) has been repealed (including impliedly repealed); or
  - (ii) otherwise does not apply to an action,

because of the *Treasury Laws Amendment (Registries Modernisation and Other Measures Act 2020*, as if that Act did not have that effect.

**old NCCP Act** means the *National Consumer Credit Protection Act 2009* as in force immediately before the commencement of this instrument.

**old NCCP instrument** means an instrument or approved form made under the old NCCP Act.

**registry provision** means:

- (a) a provision of the NCCP Act that requires or permits:
  - (i) the Registrar to take an action; or
  - (ii) another person to take an action in relation to the Registrar; or
- (b) a NCCP instrument provision made for the purposes of a provision of the kind mentioned in paragraph (a) that requires or permits:
  - (i) ASIC to take an action; or
  - (ii) another person to take an action in relation to ASIC.

## 5 Actions relating to matters relating to functions and powers of the Registrar

- (1) The Registrar may take an action under a registry provision by taking the action in accordance with the requirements (if any) of the old NCCP Act or an old NCCP instrument that would have applied to ASIC taking the action.
- (2) Another person may take an action in relation to the Registrar by taking the action in accordance with the requirements (if any) of the old NCCP Act or an old NCCP instrument that would have applied to a person taking the action in relation to ASIC if the action:
  - (a) relates to a registry provision; and
  - (b) relates to the performance of the Registrar's functions or the exercise of the Registrar's powers under the NCCP Act.
- (3) Without limiting subsections (1) and (2):
  - (a) an action may be taken using notices, forms or systems or any other means available to or in relation to ASIC under the old NCCP Act or an old NCCP instrument; and
  - (b) section 212F of the NCCP Act applies to an action that consists of making a decision using a computer system maintained by or on behalf of ASIC where the Registrar has control over the processes to assist decision making in the computer system.

- (4) If the Registrar or another person omits to take an action in relation to a registry provision in accordance with a requirement of the old NCCP Act or an old NCCP instrument, the Registrar or other person is taken to have omitted to take the action for the purposes of the NCCP Act or an instrument made under it.
- (5) For the purposes of this section, taking an action in accordance with a requirement includes taking an action in accordance with the manner, form or practice in which such a requirement could be complied with.

## **6 How the Registrar will hold, record and store registry information**

The Registrar may take an action in relation to a registry provision by holding, recording or storing information on a computer system maintained by or on behalf of ASIC.

Note 1: Records Authorities may be issued by the National Archives of Australia in accordance with the *Archives Act 1983*.

Note 2: A document or a copy of a document that purports to be an extract of information held by ASIC in relation to a registry provision will be an extract of information held by the Registrar for the purpose of section 212S of the NCCP Act.

## **7 How the Registrar uses registry information**

- (1) The Registrar may use information provided, generated or held in accordance with this instrument:
  - (a) to make a record of the information collected or generated; or
  - (b) to maintain the accuracy of information held by the Registrar; or
  - (c) for the performance of the Registrar's functions and the exercise of the Registrar's powers.
- (2) For the avoidance of doubt, the Registrar may use a system maintained by or on behalf of ASIC for the purpose of subsection (1).

Note: Information collected under this instrument is 'protected information' within the meaning of subsection 5(1) of the NCCP Act and is subject to the secrecy and disclosure provisions in Division 1A, Subdivision C of the NCCP Act.