





# **Treasury Laws Amendment (Modernising Business Communications and Other Measures) Act 2023**

**No. 69, 2023**

**An Act to amend the law relating to corporations,  
consumer credit and other matters in the Treasury  
portfolio, to make miscellaneous and technical  
amendments of the law of the Commonwealth, and  
for related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation  
(<https://www.legislation.gov.au/>)



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consumer credit and other matters in the Treasury  
portfolio, to make miscellaneous and technical  
amendments of the law of the Commonwealth, and  
for related purposes**

*[Assented to 14 September 2023]*

The Parliament of Australia enacts:

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*No. 69, 2023 Treasury Laws Amendment (Modernising Business Communications  
and Other Measures) Act 2023 1*

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## 1 Short title

This Act is the *Treasury Laws Amendment (Modernising Business Communications and Other Measures) Act 2023*.

## 2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	14 September 2023
2. Schedule 1, Parts 1 to 3	The day after this Act receives the Royal Assent.	15 September 2023
3. Schedule 1, Part 4	A single day to be fixed by Proclamation. However, if the provisions do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	
4. Schedules 2 and 3	The day after this Act receives the Royal Assent.	15 September 2023
5. Schedule 4, Part 1	The day after this Act receives the Royal Assent.	15 September 2023
6. Schedule 4, Part 2	The first 1 January, 1 April, 1 July or 1 October to occur after the day this Act receives the Royal Assent.	1 October 2023
Note:	This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.	

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- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

### 3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Note: The provisions of the *National Consumer Credit Protection Regulations 2010* amended or inserted by this Act, and any other provisions of those Regulations, may be amended or repealed by regulations made under section 329 of the *National Consumer Credit Protection Act 2009* (see subsection 13(5) of the *Legislation Act 2003*).

## Schedule 1—Modernising business communications

### Part 1—Documents and meetings under the Corporations Act 2001

#### *Corporations Act 2001*

#### **1 Section 9 (definition of *sent*)**

After “has a meaning”, insert “(except in Chapters 6 and 6A)”.

#### **2 Subsection 105A(2) (note)**

Omit “Note”, substitute “Note 1”.

#### **3 At the end of subsection 105A(2)**

Add:

Note 2: The meaning of *sent* in Chapters 6 and 6A is not affected by this section: see the definition of *sent* in section 9.

#### **4 Subsections 110(1), (2) and (3)**

Repeal the subsections, substitute:

##### *Signing of documents under this Act*

- (1) This Division applies to a document (including a deed) required or permitted to be signed by a person under this Act.

Note 1: A document is any record of information: see the definition of *document* in section 9.

Note 2: This Division provides that a person may sign a document in physical form or electronic form: see subsection 110A(1).

##### *Signing of documents by or on behalf of company*

- (2) Without limiting subsection (1), this Division applies to a document (including a deed) to be signed by a person:
- (a) exercising the powers of a company under section 126 (making of contracts and execution of documents by an agent); or

(b) under section 127 (execution of documents by a company).

## **5 At the end of paragraph 110B(c)**

Add “and”.

## **6 After paragraph 110B(c)**

Insert:

(d) the signature complies with any requirements relating to that lodgement under this Act or an instrument made under this Act;

## **7 At the end of section 110B**

Add:

Note: This section does not prevent ASIC or the Registrar from refusing to receive or register the document on any other basis. For example, if the lodgement requirements mentioned in paragraph (d) (such as those under Chapter 2P) are not met, ASIC or the Registrar may refuse to receive or register the document.

## **8 Division 2 of Part 1.2AA (heading)**

Omit “to be sent to, among others, directors, members and auditors”.

## **9 Section 110C**

Repeal the section, substitute:

### **110C Documents to which this Division applies**

#### *Sending documents*

- (1) This Division applies to any document covered by subsection (3) or (4) that is required or permitted under this Act to be sent by a person or entity (the *sender*) to another person or entity (the *recipient*).
- (2) A reference in subsection (1) to an entity includes a reference to a disclosing entity.

*Covered documents*

- (3) This subsection covers a document that is required or permitted be sent by the sender to the recipient under:
- (a) this Chapter; or
  - (b) Chapters 2A to 2M; or
  - (c) Chapters 5 to 5D; or
  - (d) Chapter 6, 6A, 6B or 6C; or
  - (e) Chapter 8A or 8B; or
  - (f) Chapter 9; or
  - (g) Schedule 2; or
  - (h) any other provision of this Act, to the extent that it relates to the provisions mentioned in paragraphs (a) to (g).
- (4) This subsection covers a document that is in a class of documents specified in regulations made for the purposes of this subsection.
- (5) However, this Division does not apply to a document that is required or permitted under this Act to be sent by or to ASIC, the Registrar or the Takeovers Panel.

*References to sending documents*

- (6) This Division applies to a requirement or permission to send a document, whether the expression *send*, *give*, *serve* or *dispatch*, or any other expression, is used.
- (7) To avoid doubt, for the purposes of this Division, a document is not a document that is required or permitted under this Act to be sent merely because section 109X, 601CX or 1200R provides that the document may be served in a particular way.

**10 Paragraph 110D(3)(a)**

Repeal the paragraph, substitute:

- (a) is a report mentioned in section 314 or 314A (which deal with annual financial reporting to members); or

**11 At the end of section 110D**

Add:

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*Address for sending document*

- (5) Paragraphs (1)(a) and (b) apply only if:
- (a) where the recipient is covered by subsection (7)—the sending of the document mentioned in paragraph (1)(a), or the sending of the information mentioned in paragraph (1)(b), is to an address known to the sender because the recipient is a member or holder of securities mentioned in whichever of paragraphs (7)(a) to (f) applies; or
  - (b) the recipient is not covered by subsection (7).
- (6) Paragraphs (1)(c) and (d) apply only if:
- (a) where the recipient is covered by subsection (7):
    - (i) the sending of the document mentioned in paragraph (1)(c), or the sending of the information mentioned in paragraph (1)(d), is to an address known to the sender because the recipient is a member or holder of securities mentioned in whichever of paragraphs (7)(a) to (f) applies; and
    - (ii) that address is a nominated electronic address of the recipient; or
  - (b) where the recipient is not covered by subsection (7)—the sending of the document mentioned in paragraph (1)(c), or the sending of the information mentioned in paragraph (1)(d), is to a nominated electronic address of the recipient.
- (7) For the purposes of subsections (5) and (6), this subsection covers the recipient if:
- (a) the recipient is a member of the sender; or
  - (b) where the sender is the responsible entity of a registered scheme—the recipient is a member of the scheme; or
  - (c) where the sender is the corporate director of a CCIV—the recipient is a member of the CCIV; or
  - (d) where the sender is a disclosing entity mentioned in subsection 111AC(2)—the recipient is a member of the managed investment scheme mentioned in that subsection; or
  - (e) where the sender is the operator of a notified foreign passport fund—the recipient is an Australian member of the fund; or

- (f) where the sender is the bidder under a takeover bid—the recipient is a holder of securities in the target for the bid.

**12 Section 110E (heading)**

Omit “**Member’s election**”, substitute “**Election**”.

**13 At the end of subsection 110E(1)**

Add:

- ; or (e) where the sender is the operator of a notified foreign passport fund—the recipient is an Australian member of the fund; or  
(f) where the sender is the bidder under a takeover bid—the recipient is a holder of securities in the target for the bid; or  
(g) the recipient is of a kind specified in regulations made for the purposes of this paragraph.

**14 At the end of subsection 110E(3)**

Add:

Note: The documents in relation to which an election may be made include, for example, documents required or permitted to be sent under this Act in relation to a takeover bid: see section 648CB.

**15 Paragraph 110E(5)(a)**

Repeal the paragraph, substitute:

- (a) reports mentioned in section 314 or 314A (which deal with annual financial reporting to members);

**16 Paragraph 110F(1)(b)**

After “election”, insert “(otherwise than by way of giving it to the recipient personally)”.

**17 After subsection 110F(4)**

Insert:

*No current address for sending documents in elected manner*

(4A) Subsection (2) does not apply if:

- (a) the sender reasonably believes that none of the addresses (including any electronic addresses) for the recipient that are:

- (i) known to the sender; and
  - (ii) where the recipient is covered by subsection (4B)—so known because the recipient is a member or holder of securities mentioned in whichever of paragraphs (4B)(a) to (f) applies;
- are a current address for the recipient to be sent the document in a manner that complies with the election; and
- (b) the sender sends the document to the recipient in a manner that does not comply with the election, as mentioned in paragraph (1)(b), other than in the manner mentioned in paragraph 110D(1)(e); and
  - (c) if the document is a report mentioned in section 314A (annual reporting by notified foreign passport funds)—the requirement (if applicable) in paragraph 314A(4)(b) (about sending report in elected language) is satisfied.

Note: A defendant bears an evidential burden in relation to the matter in subsection (4A), see subsection 13.3(3) of the *Criminal Code*.

- (4B) For the purposes of subparagraph (4A)(a)(ii), this subsection covers the recipient if:
- (a) the recipient is a member of the sender; or
  - (b) where the sender is the responsible entity of a registered scheme—the recipient is a member of the scheme; or
  - (c) where the sender is the corporate director of a CCIV—the recipient is a member of the CCIV; or
  - (d) where the sender is a disclosing entity mentioned in subsection 111AC(2)—the recipient is a member of the managed investment scheme mentioned in that subsection; or
  - (e) where the sender is the operator of a notified foreign passport fund—the recipient is an Australian member of the fund; or
  - (f) where the sender is the bidder under a takeover bid—the recipient is a holder of securities in the target for the bid.

### **18 At the end of subsection 110J(3)**

Add:

- ; or (e) where the sender is the operator of a notified foreign passport fund—the recipient is an Australian member of the fund; or

- (f) where the sender is the bidder under a takeover bid—the recipient is a holder of securities in the target for the bid; or
- (g) the recipient is of a kind specified in regulations made for the purposes of this paragraph.

## 19 After section 110J

Insert:

### 110JA Sender does not need to send document if member uncontactable

*Sender taken to send document*

- (1) This section applies if:
    - (a) the sender is required or permitted to send a document to which this Division applies to the recipient under a provision of this Act; and
    - (b) the conditions in subsection (3) are satisfied; and
    - (c) any of the following apply:
      - (i) where the sender is a company—the recipient is a member of the company;
      - (ii) where the sender is the responsible entity of a registered scheme—the recipient is a member of the scheme;
      - (iii) where the sender is the corporate director of a CCIV—the recipient is a member of the CCIV;
      - (iv) where the sender is a disclosing entity mentioned in subsection 111AC(1)—the recipient is a member of the disclosing entity;
      - (v) where the sender is a disclosing entity mentioned in subsection 111AC(2)—the recipient is a member of the managed investment scheme mentioned in that subsection; and
    - (d) the sender sends the document in accordance with the provision mentioned in paragraph (a) to one or more other members of a kind mentioned in whichever of subparagraphs (c)(i) to (v) applies.
  - (2) For the purposes of the provision mentioned in paragraph (1)(a):
-

- (a) the sender is taken to send the document, as required or permitted in accordance with that provision, at the later of:
  - (i) the time all of the conditions in paragraphs (3)(a), (b) and (c) are first satisfied; and
  - (ii) the time the sender first sends the document to one or more other members as mentioned in paragraph (1)(d); and
- (b) the recipient is taken to receive the document when it is taken to be sent under paragraph (a) of this subsection.

*Conditions for relief*

- (3) For the purposes of paragraph (1)(b), the conditions are that:
  - (a) the sender has received notification in relation to each of the following addresses that indicates it is not a current address for the recipient:
    - (i) if the sender is a company, responsible entity of a registered scheme or corporate director of a CCIV—the recipient’s address in the company, scheme or CCIV’s register of members;
    - (ii) any other addresses for the recipient, including any electronic addresses for receiving electronic communications, known to the sender because the recipient is a member mentioned in whichever of subparagraphs (1)(c)(i) to (v) applies; and
  - (b) the sender reasonably believes that none of those addresses are a current address for the recipient; and
  - (c) the sender is unable, after taking reasonable steps, to ascertain a current address for the recipient.
- (4) For the purposes of paragraph (3)(c), the sender has not taken reasonable steps unless the sender has attempted to communicate with the recipient using all contact details for the recipient that are known to the sender because the recipient is a member mentioned in whichever of subparagraphs (1)(c)(i) to (v) applies.

*Sender must send notice for relief to continue to apply after period of 18 months*

- (5) Subsection (6) applies if the period of 18 months starting on the day all of the conditions in paragraphs (3)(a), (b) and (c) are first satisfied has ended.
- (6) Subsection (2) does not apply to the sending of a document mentioned in paragraph (1)(d) if, within the last 12 months of that period, the sender did not take reasonable steps to advise the recipient that:
  - (a) the sending of documents to which this Division applies to the recipient by the sender is suspended; and
  - (b) although that sending has been suspended, it will be resumed if the recipient provides a current address (which may be an electronic address) for being sent those documents.

## **20 Paragraph 110K(3)(a)**

Omit “paragraph 110E(1)(c) or (d)”, substitute “subsection (3A)”.

## **21 After subsection 110K(3)**

Insert:

- (3A) For the purposes of paragraph (3)(a), the members are:
  - (a) for a disclosing entity mentioned in subsection 111AC(1)—the members of the disclosing entity; and
  - (b) for a disclosing entity mentioned in subsection 111AC(2)—the members of the managed investment scheme mentioned in that subsection.
- (3B) The operator of a notified foreign passport fund must:
  - (a) send the Australian members of the fund, at least once in each financial year, a notice setting out the matters mentioned in subsection (4); or
  - (b) make such a notice readily available on a website.

## **22 At the end of subsection 110K(4)**

Add:

- ; and (d) for the operator of a notified foreign passport fund—Australian members’ rights to elect to be sent reports

mentioned in section 314A in English or in an official language of the home economy of the fund (see subsections 314A(3) and (4)).

## **23 Section 248D**

Repeal the section, substitute:

### **248D Use of technology**

- (1) A directors' meeting may be called or held using any technology.
- (2) Without limiting subsection (1), a directors' meeting may be held:
  - (a) at one or more physical venues; or
  - (b) at one or more physical venues and using virtual meeting technology; or
  - (c) using virtual meeting technology only.
- (3) Despite subsections (1) and (2), if technology is used to call a director's meeting, or to hold a directors' meeting (whether or not the meeting is held at one or more physical venues), the technology must be reasonable.

## **24 Subsection 254P(2)**

Omit "The notice must be sent by post."

## **25 Paragraphs 283EA(3)(b) and (c)**

Repeal the paragraphs, substitute:

- (b) in the manner mentioned in paragraph 110D(1)(a), (b), (c) or (d); or

## **26 Subsection 283EA(4) (heading)**

Omit "fax", substitute "electronic means".

## **27 Paragraph 283EA(4)(b)**

Omit "fax or other".

## **28 Subsections 314A(2), (3), (4), (5), (6), (7) and (8)**

Repeal the subsections, substitute:

- (2) A notified foreign passport fund may provide the reports by sending them to each Australian member.
- (3) If an Australian member of a notified foreign passport fund elects under subsection 110E(2) to be sent reports mentioned in this section in physical form or in electronic form, that election may also include an election to be sent the reports in English or in an official language of the home economy of the fund.
- (4) If the member makes an election to be sent the reports in a language mentioned in subsection (3) of this section:
  - (a) for the purposes of section 110F (failure to comply with member's election), such a report is not sent in a manner that complies with the election under section 110E unless it is sent in that language; and
  - (b) for the purposes of paragraph 110F(4A)(c), it is a requirement that such a report be sent in that language.
- (5) A notified foreign passport fund must provide the reports in English to the extent that:
  - (a) the reports are provided by sending them in accordance with paragraph 110D(1)(e) (sending documents by making them available on a website); or
  - (b) the reports are provided to an Australian member for whom an election in accordance with subsection (3) of this section to be sent the reports in a particular language is not in force.

**29 Subsection 314A(9)**

Omit “(1), (3) or (7)”, substitute “(1) or (5)”.

**30 Subsection 315(6)**

Repeal the subsection.

**31 Section 316AA**

Repeal the section.

**32 Subsection 316A(1)**

Omit “notice in writing to the company, elect to receive a hard copy or an electronic copy of”, substitute “notifying the company (whether or not in writing), elect to receive”.

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**33 Subsections 316A(3) and (4)**

Omit “, in accordance with the election,”.

**34 Subsection 414(2)**

Omit “as prescribed”, substitute “, in accordance with the requirements mentioned in subsection (10B) (if applicable),”.

**35 Paragraph 414(9)(a)**

Omit “as prescribed”, substitute “, in accordance with the requirements mentioned in subsection (10B) (if applicable),”.

**36 After subsection 414(10)**

Insert:

- (10A) Without limiting the manner in which a notice mentioned in subsection (2) or paragraph (9)(a) may be given to a shareholder, the notice may be given to the shareholder personally.
- (10B) If a notice mentioned in subsection (2) or paragraph (9)(a) is given to a shareholder:
- (a) by sending the notice in a physical form in accordance with paragraph 110D(1)(a); or
  - (b) by sending information in a physical form in accordance with paragraph 110D(1)(b);
- the notice or information must be sent by prepaid post to the shareholder’s address shown in the books of the transferor company.

**37 Section 600G**

Repeal the section.

**38 After paragraph 641(1)(a)**

Insert:

- (aa) where the target knows an electronic address for the person because the person holds securities in the target, and believes on reasonable grounds that it is a current electronic address for the person for receiving electronic communications—that electronic address; and

- (ab) where an election of the person to be sent documents by the target in physical form, or in electronic form, is in force under section 110E (disregarding subsection 110E(8)) in relation to a kind of documents mentioned in subsection (1C) of this section—the fact that such an election is in force; and

### 39 After subsection 641(1B)

Insert:

- (1C) For the purposes of paragraph (1)(ab), the kinds of documents are:
  - (a) all documents to which Division 2 of Part 1.2AA applies; or
  - (b) one or more classes of documents that, taken together, include the documents mentioned in subsection 648CB(3) (documents relating to takeover bids).

### 40 After section 641

Insert:

#### 641A Use or disclosure of information obtained from target

- (1) A person (the *first person*) contravenes this subsection if:
  - (a) the target gives the bidder information under section 641 in relation to another person; and
  - (b) the first person:
    - (i) is the bidder; or
    - (ii) obtains the information from the bidder (whether directly or indirectly); and
  - (c) the first person uses or discloses the information; and
  - (d) the use or disclosure is not for the purposes of sending a document, or otherwise complying with an obligation under this Act, in relation to:
    - (i) the takeover bid; or
    - (ii) a compulsory acquisition of securities under Part 6A.1 relating to the takeover bid.

Civil penalty:

- (a) for an individual—2,000 penalty units; and
- (b) for a body corporate—10,000 penalty units.

(2) Subsection (1) does not apply if the use or disclosure is required or permitted by a law of the Commonwealth or a prescribed law of a State or internal Territory.

(3) A person who contravenes subsection (1) is not guilty of an offence.

Note: Subsection (1) is a civil penalty provision (see section 1317E).

#### **41 Section 648B**

After “address”, insert “(including the electronic address, if any)”.

#### **42 Section 648C**

Repeal the section, substitute:

#### **648C Sending documents to holders of securities—general**

(1) This section applies if a document is required or permitted to be sent to a holder of securities under this Chapter.

Note 1: Division 2 of Part 1.2AA provides for technology neutral sending of documents.

Note 2: Section 109X makes general provision for service of documents.

(2) If the document is sent by sending the document in a physical form in accordance with paragraph 110D(1)(a), or by sending information in a physical form in accordance with paragraph 110D(1)(b), the document or information must be sent:

- (a) if the document or information is to be sent to the holder outside Australia—by pre-paid airmail post or by courier; or
- (b) if the document or information is to be sent to the holder in Australia—by pre-paid ordinary post or by courier.

(3) For the purposes of this Chapter, the document is taken to have been sent to the holder:

- (a) if the document is sent in a physical form in accordance with paragraph 110D(1)(a):
  - (i) when the document is posted; or
  - (ii) if the document is sent by courier—when the document is given to the courier; or

- (b) if the document is sent by sending information in accordance with paragraph 110D(1)(b) (sending information in physical form that allows electronic access):
    - (i) when the information is posted; or
    - (ii) if the information is sent by courier—when the information is given to the courier; or
  - (c) if the document is sent by sending an electronic communication in accordance with paragraph 110D(1)(c)—when the electronic communication is sent; or
  - (d) if the document is sent by sending an electronic communication in accordance with paragraph 110D(1)(d) (sending information in electronic form allowing electronic access)—when the electronic communication is sent.
- (4) This section applies to a requirement or permission to send a document, whether the expression *send*, *give*, *serve* or *dispatch*, or any other expression, is used.

**648CB Sending documents to holders of securities—effect of election by holder to be sent documents by target in particular form**

- (1) This section applies if the target for a takeover bid has informed the bidder in accordance with paragraph 641(1)(ab) that an election of a holder of securities under section 110E to be sent documents in physical form or electronic form is in force.
- (2) An election of the holder under section 110E to be sent documents by the bidder in the relevant form is taken to be in force from the time the target informs the bidder of the election.
- (3) The election is taken to be made in relation to all documents required or permitted to be sent by the bidder under:
  - (a) this Chapter; or
  - (b) Part 6A.1; or
  - (c) any other provision of this Act, to the extent that it relates to the provisions mentioned in paragraphs (a) and (b).

(4) Subsection (2) has effect subject to any notification of withdrawal of the election received by the bidder from the holder of securities in accordance with paragraph 110E(7)(b).

**43 Subsection 661B(3)**

Repeal the subsection.

**44 Subsection 661B(4)**

Repeal the subsection (including the note).

**45 Subsection 661D(1)**

After “addresses”, insert “(but not the electronic addresses)”.

**46 Subsection 662B(3)**

Repeal the subsection.

**47 Subsection 662B(4)**

Repeal the subsection (including the note).

**48 Subsection 663B(3)**

Repeal the subsection.

**49 Subsection 663B(4)**

Repeal the subsection (including the note).

**50 Subsection 664C(4)**

Repeal the subsection.

**51 Subsection 664C(5)**

Repeal the subsection.

**52 Subsection 664E(1)**

Omit “returning”, substitute “giving”.

**53 Subsection 664E(2)**

Omit “returned” (wherever occurring), substitute “given”.

**54 Subsection 665B(3)**

Repeal the subsection.

**55 Subsection 665B(4)**

Repeal the subsection (including the note).

**56 At the end of Chapter 6A**

Add:

**Part 6A.7—Miscellaneous**

**669A Sending documents**

- (1) This section applies to any document that is required or permitted to be sent to a person (the *recipient*) under this Chapter.

Note 1: Division 2 of Part 1.2AA provides for technology neutral sending of documents.

Note 2: Section 109X makes general provision for service of documents.

- (2) Without limiting the manner in which the document may be sent, the document may be sent to the recipient by giving it to the recipient personally.
- (3) For the purposes of this Chapter, the document is taken to have been sent to the recipient:
- (a) if the document is sent in a physical form in accordance with paragraph 110D(1)(a):
    - (i) 3 days after the document is posted; or
    - (ii) if the document is sent by courier—3 days after the document is given to the courier; or
  - (b) if the document is sent by sending information in accordance with paragraph 110D(1)(b) (sending information in physical form that allows electronic access):
    - (i) 3 days after the information is posted; or
    - (ii) if the information is sent by courier—3 days after the information is given to the courier; or

- (c) if the document is sent by sending an electronic communication in accordance with paragraph 110D(1)(c)—when the electronic communication is sent; or
  - (d) if the document is sent by sending an electronic communication in accordance with paragraph 110D(1)(d) (sending information in electronic form allowing electronic access)—when the electronic communication is sent.
- (4) This section does not apply to a document that is required or permitted to be sent by or to ASIC under this Chapter.
- (5) This section applies to a requirement or permission to send a document, whether the expression *send*, *give*, *serve* or *dispatch*, or any other expression, is used.

## **57 In the appropriate position in Chapter 10**

Insert:

# **Part 10.64—Application and transitional provisions relating to Schedules 1 and 4 to the Treasury Laws Amendment (Modernising Business Communications and Other Measures) Act 2023**

## **Division 1—Modernising Business Communications**

### **1694 Definitions**

In this Division:

***amending Part*** means Part 1 of Schedule 1 to the *Treasury Laws Amendment (Modernising Business Communications and Other Measures) Act 2023*.

***commencement day*** means the day the amending Part commences.

**1694A Application—signing documents**

The amendments made by the amending Part apply in relation to the signing of a document (including a deed) on or after the commencement day.

**1694B Application—sending documents**

The amendments made by the amending Part apply in relation to a document sent on or after the commencement day.

**1694C Application—uncontactable members**

Section 110JA, as inserted by the amending Part, applies in relation to documents required or permitted to be sent on or after the commencement day, if the notification under paragraph 110JA(3)(a) of this Act was received on or after that day.

**1694D Application—directors' meetings**

The amendment of section 248D made by the amending Part applies in relation to the calling or holding, on or after the commencement day, of a directors' meeting.

**1694E Transitional—elections by Australian members of notified foreign passport funds to receive annual reports in particular form etc.**

- (1) This section applies in relation to an election by an Australian member of a notified foreign passport fund, to receive reports in hard copy or as an electronic copy, that is in force under subsection 314A(3) of this Act immediately before the commencement day.
- (2) Despite the repeal of that subsection by the amending Part, the election continues in force on and after that day as if it were an election under section 110E of this Act, as amended by the amending Part:
  - (a) to be sent such reports:

- (i) for an election to receive in hard copy—in physical form; or
  - (ii) for an election to receive as an electronic copy—in electronic form; and
- (b) if the election included an election to receive the reports in English, or in an official language of the home economy of the fund—to be sent such reports in that language.

**1694F Transitional—elections by members of companies limited by guarantee to receive reports etc.**

- (1) This section applies in relation to an election by a member of a company limited by guarantee, to receive reports in hard copy or as an electronic copy, that is in force under subsection 316A(1) immediately before the commencement day.
- (2) Despite the amendment of that subsection by the amending Part:
  - (a) the election continues in force on and after the commencement day as an election under subsection 316A(1) of this Act to receive such reports (in accordance with subsection 316A(2)); and
  - (b) an election of the member is taken to be in force under section 110E on and after the commencement day to be sent such reports:
    - (i) for an election to receive in hard copy—in physical form; or
    - (ii) for an election to receive as an electronic copy—in electronic form.
- (3) Paragraph (2)(b) has effect subject to paragraph 110E(7)(b) (withdrawal of election).

**58 In the appropriate position in Schedule 3**

Insert:

Subsection 110K(3B)

30 penalty units

**Schedule 1** Modernising business communications

**Part 1** Documents and meetings under the Corporations Act 2001

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**59 Schedule 3 (table item dealing with subsections 314A(1), (3) and (7), column headed “provision”)**

Omit “Subsections 314A(1), (3) and (7)”, substitute “Subsections 314A(1) and (5)”.

**60 In the appropriate position in subsection 1317E(3) (table)**

Insert:

subsection 641A(1)	use or disclosure of information obtained from target	uncategorised
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## **Part 2—Virtual hearings and examinations**

### ***Australian Prudential Regulation Authority Act 1998***

#### **61 Subsection 3(1)**

Insert:

***virtual enquiry technology*** means any technology that allows a person to appear at all or part of a hearing, examination or other enquiry without being physically present at the hearing, examination or other enquiry.

#### **62 After section 58**

Insert:

#### **58A Proceedings at examination**

- (1) This section applies to the following:
  - (a) an examination under Division 2 of Part VIII of the *Banking Act 1959* by an investigator appointed by APRA;
  - (b) an examination under subsection 55(1), 62C(1), 62C(2) or 81(2) of the *Insurance Act 1973* by APRA or an inspector appointed by APRA;
  - (c) an investigation under Division 3 of Part 7 of the *Life Insurance Act 1995* by APRA;
  - (d) an examination under Division 3 of Part 6 of the *Private Health Insurance (Prudential Supervision) Act 2015* by an inspector appointed by APRA;
  - (e) an examination under Division 5 of Part 25 of the *Superannuation Industry (Supervision) Act 1993* by APRA or an inspector appointed by APRA;
  - (f) an examination under Division 4 of Part 10 of the *Retirement Savings Accounts Act 1997* by an inspector appointed by APRA.
- (2) For the purposes of paragraph (1)(c), treat references in the following subsections to examination as references to investigation.

- (3) APRA, the investigator or the inspector (as applicable) may decide to hold the examination:
- (a) at one or more physical venues; or
  - (b) at one or more physical venues and using virtual enquiry technology; or
  - (c) using virtual enquiry technology only.
- (4) Subsection (5) applies if the examination is held:
- (a) at one or more physical venues and using virtual enquiry technology; or
  - (b) using virtual enquiry technology only.
- (5) APRA, the investigator or the inspector (as applicable) must ensure that the use of the virtual enquiry technology is reasonable.
- (6) If the examination is held:
- (a) at more than one physical venue; or
  - (b) at one or more physical venues and using virtual enquiry technology; or
  - (c) using virtual enquiry technology only;
- APRA, the investigator or the inspector (as applicable) may appoint a single place and time at which the examination is taken to have been held.
- (7) This section applies to part of an examination in the same way that it applies to all of an examination.

## ***Australian Securities and Investments Commission Act 2001***

### **63 Subsection 5(1)**

Insert:

***virtual enquiry technology*** means any technology that allows a person to appear at all or part of a hearing, examination or other enquiry without being physically present at the hearing, examination or other enquiry.

### **64 After section 22**

Insert:

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## **22A Proceedings at examination**

- (1) The inspector may decide to hold the examination:
  - (a) at one or more physical venues; or
  - (b) at one or more physical venues and using virtual enquiry technology; or
  - (c) using virtual enquiry technology only.
- (2) Subsection (3) applies if the examination is held:
  - (a) at one or more physical venues and using virtual enquiry technology; or
  - (b) using virtual enquiry technology only.
- (3) The inspector must ensure that the use of the virtual enquiry technology is reasonable.
- (4) If the examination is held:
  - (a) at more than one physical venue; or
  - (b) at one or more physical venues and using virtual enquiry technology; or
  - (c) using virtual enquiry technology only;the inspector may appoint a single place and time at which the examination is taken to have been held.
- (5) This section applies to part of an examination in the same way that it applies to all of an examination.

## **65 After section 59**

Insert:

## **59A Proceedings at hearings**

- (1) ASIC may decide to hold a hearing:
  - (a) at one or more physical venues; or
  - (b) at one or more physical venues and using virtual enquiry technology; or
  - (c) using virtual enquiry technology only.
- (2) Subsections (3) and (4) apply if the hearing is held:

**Schedule 1** Modernising business communications

**Part 2** Virtual hearings and examinations

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- (a) at one or more physical venues and using virtual enquiry technology; or
  - (b) using virtual enquiry technology only.
- (3) ASIC must ensure that the use of the virtual enquiry technology is reasonable.
- (4) If the hearing is held in public, ASIC must ensure that:
  - (a) the virtual enquiry technology provides the public with a reasonable opportunity to observe the hearing; and
  - (b) information sufficient to allow the public to observe the hearing using the virtual enquiry technology is made publicly available in a reasonable way.
- (5) If the hearing is held:
  - (a) at more than one physical venue; or
  - (b) at one or more physical venues and using virtual enquiry technology; or
  - (c) using virtual enquiry technology only;ASIC may appoint a single place and time at which the hearing is taken to have been held.
- (6) This section applies to part of a hearing in the same way that it applies to all of a hearing.

**66 Subsections 159(3) and (4)**

Repeal the subsections.

**67 After section 159**

Insert:

**159A Proceedings at hearings**

- (1) The Chair of a Financial Services and Credit Panel may decide to hold a hearing:
    - (a) at one or more physical venues; or
    - (b) at one or more physical venues and using virtual enquiry technology; or
    - (c) using virtual enquiry technology only.
-

- (2) Subsections (3) and (4) apply if the hearing is held:
  - (a) at one or more physical venues and using virtual enquiry technology; or
  - (b) using virtual enquiry technology only.
- (3) The Chair of the Financial Services and Credit Panel must ensure that the use of the virtual enquiry technology is reasonable.
- (4) If the hearing is held in public, the Chair of the Financial Services and Credit Panel must ensure that:
  - (a) the virtual enquiry technology provides the public with a reasonable opportunity to observe the hearing; and
  - (b) information sufficient to allow the public to observe the hearing using the virtual enquiry technology is made publicly available in a reasonable way.
- (5) If the hearing is held:
  - (a) at more than one physical venue; or
  - (b) at one or more physical venues and using virtual enquiry technology; or
  - (c) using virtual enquiry technology only;the Chair of the Financial Services and Credit Panel may appoint a single place and time at which the hearing is taken to have been held.
- (6) This section applies to part of a hearing in the same way that it applies to all of a hearing.

## **68 After section 218**

Insert:

### **218A Proceedings at hearings**

- (1) The Panel may decide to hold a hearing:
    - (a) at one or more physical venues; or
    - (b) at one or more physical venues and using virtual enquiry technology; or
    - (c) using virtual enquiry technology only.
  - (2) Subsections (3) and (4) apply if the hearing is held:
-

- (a) at one or more physical venues and using virtual enquiry technology; or
  - (b) using virtual enquiry technology only.
- (3) The Panel must ensure that the use of the virtual enquiry technology is reasonable.
- (4) If the hearing is held in public, the Panel must ensure that:
  - (a) the virtual enquiry technology provides the public with a reasonable opportunity to observe the hearing; and
  - (b) information sufficient to allow the public to observe the hearing using the virtual enquiry technology is made publicly available in a reasonable way.
- (5) If the hearing is held:
  - (a) at more than one physical venue; or
  - (b) at one or more physical venues and using virtual enquiry technology; or
  - (c) using virtual enquiry technology only;the Panel may appoint a single place and time at which the hearing is taken to have been held.
- (6) This section applies to part of a hearing in the same way that it applies to all of a hearing.

## ***Competition and Consumer Act 2010***

### **69 Subsection 4(1)**

Insert:

***virtual enquiry technology*** means any technology that allows a person to appear at all or part of a hearing, examination or other enquiry without being physically present at the hearing, examination or other enquiry.

### **70 Subsection 44ZF(4)**

Repeal the subsection.

### **71 After section 158**

Insert:

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**158A Proceedings without initiation notice—use of virtual enquiry technology**

- (1) This section applies to the following (the *proceedings*):
  - (a) an arbitration of an access dispute under Part IIIA by the Commission as constituted by members of the Commission under section 44Z;
  - (b) an inquiry under Part VIIA by an inquiry body (within the meaning of that Part) before an inquiry Chair (within the meaning of that Part);
  - (c) a conference convened under subsection 151AZ(1) by the Commission.
- (2) The members of the Commission, the inquiry Chair or the Commission (as applicable) may decide to hold the proceedings:
  - (a) at one or more physical venues; or
  - (b) at one or more physical venues and using virtual enquiry technology; or
  - (c) using virtual enquiry technology only.
- (3) Subsections (4) and (5) apply if the proceedings are held:
  - (a) at one or more physical venues and using virtual enquiry technology; or
  - (b) using virtual enquiry technology only.
- (4) The members of the Commission, the inquiry Chair or the Commission (as applicable) must ensure that the use of the virtual enquiry technology is reasonable.
- (5) If the proceedings are held in public, the members of the Commission, the inquiry Chair or the Commission (as applicable) must ensure that:
  - (a) the virtual enquiry technology provides the public with a reasonable opportunity to observe the proceedings; and
  - (b) information sufficient to allow the public to observe the proceedings using the virtual enquiry technology is made publicly available in a reasonable way.
- (6) If the proceedings are or will be held:
  - (a) at more than one physical venue; or

- (b) at one or more physical venues and using virtual enquiry technology; or
  - (c) using virtual enquiry technology only;
- the members of the Commission, the inquiry Chair or the Commission (as applicable) may appoint a single place and time at which the proceedings are taken to be or have been held.
- (7) This section applies to part of the proceedings in the same way that it applies to all of the proceedings.

**158B Proceedings with initiation notice—use of virtual enquiry technology**

- (1) This section applies to the following (the *proceedings*):
- (a) an appearance to give evidence or produce documents under section 44AAFA before the AER or a person assisting the AER;
  - (b) a conference held under subsection 90A(6) by the Commission as represented by a member or members of the Commission under paragraph 90A(7)(a);
  - (c) a conference held under subsection 93A(5) by the Commission as represented by a member or members of the Commission under paragraph 93A(6)(a);
  - (d) a conference held under Subdivision A or B of Division 3 of Part XI by the Commission as represented by a member or members of the Commission under paragraph 132H(1)(a);
  - (e) an appearance to give evidence or produce documents under section 133D before the Commonwealth Minister or an inspector;
  - (f) an appearance to give evidence or produce documents under paragraph 155(1)(c) before the Commission, an associate member of the Commission who is an AER member or a member of the staff assisting the Commission.
- (2) The person who appoints the date or day (if applicable), time and place for the proceedings may decide that the proceedings are to be held:
- (a) at one or more physical venues; or

- (b) at one or more physical venues and using virtual enquiry technology; or
  - (c) using virtual enquiry technology only.
- (3) If the proceedings are to be held:
  - (a) at more than one physical venue; or
  - (b) at one or more physical venues and using virtual enquiry technology; or
  - (c) using virtual enquiry technology only;the single place and time at which the proceedings are taken to be held is that specified in the notice for the proceedings.
- (4) Subsections (5) and (6) apply if the proceedings are held:
  - (a) at one or more physical venues and using virtual enquiry technology; or
  - (b) using virtual enquiry technology only.
- (5) The AER, the person assisting the AER, the member or members of the Commission, the Commonwealth Minister, the inspector, the associate member of the Commission who is an AER member or the member of the staff assisting the Commission (as applicable) (the *relevant person*) must ensure that the use of the virtual enquiry technology is reasonable.
- (6) If the proceedings are held in public, the relevant person must ensure that:
  - (a) the virtual enquiry technology provides the public with a reasonable opportunity to observe the proceedings; and
  - (b) information sufficient to allow the public to observe the proceedings using the virtual enquiry technology is made publicly available in a reasonable way.
- (7) This section applies to part of the proceedings in the same way that it applies to all of the proceedings.

## 72 Application

Section 158B of the *Competition and Consumer Act 2010*, as inserted by this Part, applies in relation to proceedings for which notice has been given on or after the commencement of this Part.

## ***National Consumer Credit Protection Act 2009***

### **73 Subsection 5(1)**

Insert:

*virtual enquiry technology* means any technology that allows a person to appear at all or part of a hearing, examination or other enquiry without being physically present at the hearing, examination or other enquiry.

### **74 After section 256**

Insert:

#### **256A Proceedings at examination**

- (1) The inspector may decide to hold the examination:
  - (a) at one or more physical venues; or
  - (b) at one or more physical venues and using virtual enquiry technology; or
  - (c) using virtual enquiry technology only.
- (2) Subsection (3) applies if the examination is held:
  - (a) at one or more physical venues and using virtual enquiry technology; or
  - (b) using virtual enquiry technology only.
- (3) The inspector must ensure that the use of the virtual enquiry technology is reasonable.
- (4) If the examination is held:
  - (a) at more than one physical venue; or
  - (b) at one or more physical venues and using virtual enquiry technology; or
  - (c) using virtual enquiry technology only;the inspector may appoint a single place and time at which the examination is taken to have been held.
- (5) This section applies to part of an examination in the same way that it applies to all of an examination.

## **75 After section 285**

Insert:

### **285A Proceedings at hearings**

- (1) ASIC may decide to hold the hearing:
  - (a) at one or more physical venues; or
  - (b) at one or more physical venues and using virtual enquiry technology; or
  - (c) using virtual enquiry technology only.
- (2) Subsections (3) and (4) apply if the hearing is held:
  - (a) at one or more physical venues and using virtual enquiry technology; or
  - (b) using virtual enquiry technology only.
- (3) ASIC must ensure that the use of the virtual enquiry technology is reasonable.
- (4) If the hearing is held in public, ASIC must ensure that:
  - (a) the virtual enquiry technology provides the public with a reasonable opportunity to observe the hearing; and
  - (b) information sufficient to allow the public to observe the hearing using the virtual enquiry technology is made publicly available in a reasonable way.
- (5) If the hearing is held:
  - (a) at more than one physical venue; or
  - (b) at one or more physical venues and using virtual enquiry technology; or
  - (c) using virtual enquiry technology only;ASIC may appoint a single place and time at which the hearing is taken to have been held.
- (6) This section applies to part of a hearing in the same way that it applies to all of a hearing.

## ***Tax Agent Services Act 2009***

### **76 At the end of section 60-105**

Add:

*Use of virtual enquiry technology etc.*

- (4) The Board may decide to hold a proceeding at which a person is to appear before it:
  - (a) at one or more physical venues; or
  - (b) at one or more physical venues and using virtual enquiry technology; or
  - (c) using virtual enquiry technology only.
- (5) Subsection (6) applies if the proceeding is held:
  - (a) at one or more physical venues and using virtual enquiry technology; or
  - (b) using virtual enquiry technology only.
- (6) The Board must ensure that the use of the virtual enquiry technology is reasonable.
- (7) If the proceeding is held:
  - (a) at more than one physical venue; or
  - (b) at one or more physical venues and using virtual enquiry technology; or
  - (c) using virtual enquiry technology only;the Board may appoint a single place and time at which the proceeding is taken to have been held.
- (8) This section applies to part of a proceeding in the same way that it applies to all of a proceeding.

### **77 Subsection 90-1(1)**

Insert:

***virtual enquiry technology*** means any technology that allows a person to appear at all or part of a hearing, examination or other enquiry without being physically present at the hearing, examination or other enquiry.

## **Part 3—Payment methods**

### ***Corporations Act 2001***

#### **78 Paragraph 254P(2)(c)**

Repeal the paragraph, substitute:  
(c) details for making the payment.

#### **79 Subsection 254P(2)**

Omit “The notice must be sent by post.”.

### ***Excise Act 1901***

#### **80 Paragraph 129C(2)(a)**

Repeal the paragraph, substitute:  
(a) the person may pay the penalty stated in the notice in any way stated in the notice; and

### ***Small Superannuation Accounts Act 1995***

#### **81 Section 32**

Repeal the section.

## **Part 4—Publication requirements and other amendments**

### ***Competition and Consumer Act 2010***

#### **82 Paragraph 28(2)(a)**

Omit “such newspapers and other journals as”, substitute “any other manner”.

#### **83 Subsection 44GA(10)**

Omit “national newspaper”, substitute “manner that results in the notice being accessible to the public and reasonably prominent”.

#### **84 Subsection 44LD(10)**

Omit “national newspaper”, substitute “manner that results in the notice being accessible to the public and reasonably prominent”.

#### **85 Subsection 44NC(10)**

Omit “national newspaper”, substitute “manner that results in the notice being accessible to the public and reasonably prominent”.

#### **86 Subsection 44ZZOA(10)**

Omit “national newspaper”, substitute “manner that results in the notice being accessible to the public and reasonably prominent”.

### ***Corporations Act 2001***

#### **87 Section 9 (definition of *daily newspaper*)**

Repeal the definition.

#### **88 Section 9 (definition of *national newspaper*)**

Repeal the definition.

#### **89 Paragraph 103(2)(b)**

Omit all the words after “published”.

## **90 Subsections 254Q(3), (4) and (4A)**

Repeal the subsections, substitute:

### *Advertisement of sale*

- (3) At least 14 days, and not more than 21 days, before the day of the sale, a notice of the sale must be published in accordance with subsection (5A). The specific number of shares to be offered need not be specified in the notice and it is sufficient for the notice to be to the effect that all shares on which a call remains unpaid will be sold.

### *Postponement of sale*

- (4) An intended sale of forfeited shares of which a notice has been published in accordance with subsection (3) may be postponed for not more than 21 days from the date of sale specified in the notice. A notice of the date to which the sale is postponed must be published in accordance with subsection (5A).

## **91 After subsection 254Q(5)**

Insert:

### *Publishing notices*

- (5A) A notice under subsection (3) or (4) is published in accordance with this subsection if the notice is published:
- (a) unless paragraph (b) of this subsection applies—in a manner that results in the notice being accessible to the public and reasonably prominent; or
  - (b) if a determination in force under subsection (5B) specifies one or more manners in which such a notice may be published—in a manner so specified.
- (5B) For the purposes of paragraph (5A)(b), ASIC may, by legislative instrument, make a determination specifying one or more manners in which a notice under subsection (3) or (4) may be published.
- (5C) A manner of publication may be specified in the determination only if ASIC considers that the manner of publication would result

in such a notice being accessible to the public and reasonably prominent.

**92 Paragraph 601CC(14)(a)**

Omit “advertisement in a daily newspaper circulating generally in each State or Territory where the body carried on business at any time during the 6 years before the liquidation”, substitute “a notice published in accordance with subsection 601CCA(1)”.

**93 At the end of Division 1 of Part 5B.2**

Add:

**601CCA Publishing notices relating to cessation of business etc.**

- (1) A notice mentioned in paragraph 601CC(14)(a) is published in accordance with this subsection if it is published:
  - (a) unless paragraph (b) of this subsection applies—in a manner that results in the notice being accessible to the public and reasonably prominent; or
  - (b) if a determination under subsection (2) is in force:
    - (i) if the determination specifies one or more manners of publication under paragraph (2)(a)—in a manner specified in the determination; or
    - (ii) if the determination specifies that such a notice may be published in the prescribed manner—in the prescribed manner.
- Note: For publication in the prescribed manner, see section 1367A.
- (2) For the purposes of paragraph (1)(b), ASIC may, by legislative instrument, make a determination specifying:
  - (a) unless the matter in paragraph (b) of this subsection is specified—one or more manners in which a notice mentioned in paragraph 601CC(14)(a) may be published; or
  - (b) that such a notice may be published in the prescribed manner.
- (3) A manner of publication may be specified in the determination under paragraph (2)(a) only if ASIC considers that the manner of publication would result in such a notice being accessible to the public and reasonably prominent.

#### **94 Paragraph 601CL(15)(a)**

Omit “advertisement in a daily newspaper circulating generally in each State or Territory where the foreign company carried on business at any time during the 6 years before the liquidation”, substitute “a notice published in accordance with subsection 601CLA(1)”.

#### **95 After section 601CL**

Insert:

##### **601CLA Publishing notices relating to cessation of business etc.**

- (1) A notice mentioned in paragraph 601CL(15)(a) is published in accordance with this subsection if it is published:
  - (a) unless paragraph (b) of this subsection applies—in a manner that results in the notice being accessible to the public and reasonably prominent; or
  - (b) if a determination under subsection (2) is in force:
    - (i) if the determination specifies one or more manners of publication under paragraph (2)(a)—in a manner specified in the determination; or
    - (ii) if the determination specifies that such a notice may be published in the prescribed manner—in the prescribed manner.

Note: For publication in the prescribed manner, see section 1367A.

- (2) For the purposes of paragraph (1)(b), ASIC may, by legislative instrument, make a determination specifying:
  - (a) unless the matter in paragraph (b) of this subsection is specified—one or more manners in which a notice mentioned in paragraph 601CL(15)(a) may be published; or
  - (b) that such a notice may be published in the prescribed manner.
- (3) A manner of publication may be specified in the determination under paragraph (2)(a) only if ASIC considers that the manner of publication would result in such a notice being accessible to the public and reasonably prominent.

#### **96 Section 601WBH**

Before “ASIC”, insert “(1)”.

**97 Paragraph 601WBH(b)**

Repeal the paragraph, substitute:

- (b) make a notifiable instrument setting out notice of the issue of the certificate; and
- (c) if regulations made for the purposes of this paragraph specify requirements for such notice to be published—publish the notice in accordance with those requirements.

**98 At the end of section 601WBH**

Add:

- (2) To avoid doubt, paragraph (1)(c) expresses a contrary intention for the purposes of subsection 11(4) of the *Legislation Act 2003*.

**99 Paragraph 601WDA(1)(b)**

Repeal the paragraph, substitute:

- (b) publish notice of the cancellation of the licence on the trustee company's website (if any), and in another manner that is in accordance with subsection (4).

**100 Subsection 601WDA(3)**

Repeal the subsection (not including the note), substitute:

- (3) If a certificate of transfer for a voluntary transfer determination comes into force, the transferring company must, as soon as practicable, publish notice of the transfer of estate assets and liabilities on the transferring company's website (if any), and in another manner that is in accordance with subsection (4).

**101 At the end of section 601WDA**

Add:

*Publishing notices*

- (4) A manner of publishing notice under paragraph (1)(b) or subsection (3) is in accordance with this subsection if the manner:
  - (a) unless paragraph (b) applies—results in the notice being accessible to the public and reasonably prominent; or

- (b) if a determination in force under subsection (5) specifies one or more manners in which such a notice may be published—is so specified.
- (5) For the purposes of paragraph (4)(b), ASIC may, by legislative instrument, make a determination specifying one or more manners in which notice under paragraph (1)(b) or subsection (3) may be published.
- (6) A manner of publication may be specified in the determination only if ASIC considers that the manner of publication would result in such a notice being accessible to the public and reasonably prominent.

**102 Paragraph 1070D(6)(a)**

Omit “place an advertisement in a daily newspaper circulating in a place specified by the directors”, substitute “publish a notice in a manner specified by the directors”.

**103 Paragraph 1071D(6)(b)**

Omit all the words after “and”, substitute “by publishing a notice in any other manner the company thinks fit”.

**104 After subclause 38(2) of Schedule 4**

Insert:

- (2A) Without limiting paragraph (2)(c), regulations made under this clause may provide for ASIC to make, by legislative instrument, a determination relating to manners in which notice mentioned in that paragraph may be published.

***Income Tax Assessment Act 1936***

**105 Subsection 45D(2) (heading)**

Omit “*in national newspaper*”.

**106 Subsection 45D(2)**

Omit “daily newspaper that circulates generally in each State, the Australian Capital Territory and the Northern Territory”, substitute “manner that results in the notice being accessible to the public and reasonably prominent”.

**107 Subsection 177EA(7) (heading)**

Omit “*in national newspaper*”.

**108 Subsection 177EA(7)**

Omit “daily newspaper that circulates generally in each State, the Australian Capital Territory and the Northern Territory”, substitute “manner that results in the notice being accessible to the public and reasonably prominent”.

***Income Tax Assessment Act 1997***

**109 Subsection 204-50(3)**

Omit “daily newspaper that circulates generally in each State, the Australian Capital Territory and the Northern Territory”, substitute “manner that results in the notice being accessible to the public and reasonably prominent”.

***Insurance Act 1973***

**110 Subsection 29(1)**

Repeal the subsection, substitute:

- (1) A general insurer who changes its name must publish a notice of that fact:
  - (a) unless paragraph (b) applies—in a manner that results in the notice being accessible to the public and reasonably prominent; or
  - (b) if a determination under subsection (2A) is in force—in a manner specified in the determination.

**111 After subsection 29(2)**

Insert:

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- (2A) For the purposes of paragraph (1)(b), APRA may, by legislative instrument, make a determination specifying one or more manners in which a notice mentioned in subsection (1) may be published.
- (2B) A manner of publication may be specified in the determination only if APRA considers that the manner of publication would result in such a notice being accessible to the public and reasonably prominent.

**112 Subsection 29(3)**

Omit “placed”, substitute “published”.

***Life Insurance Act 1995***

**113 Paragraph 191(2)(b)**

Repeal the paragraph, substitute:

- (b) notice of intention to make the application has been published in accordance with subsection (2A); and

**114 After subsection 191(2)**

Insert:

- (2A) A notice referred to in paragraph (2)(b) is published in accordance with this subsection if:
- (a) the form of the notice is approved by APRA in accordance with subsection (2B); and
  - (b) the applicant publishes the notice in a manner that:
    - (i) unless subparagraph (ii) of this paragraph applies—results in the notice being accessible to the public and reasonably prominent; or
    - (ii) if a determination under subsection (2C) is in force—is specified in the determination; and
  - (c) any other requirements set out in regulations made for the purposes of this paragraph are satisfied.
- (2B) For the purposes of paragraph (2A)(a), APRA may approve, in writing, the form of a notice referred to in paragraph (2)(b).

(2C) For the purposes of subparagraph (2A)(b)(ii), APRA may, by legislative instrument, make a determination specifying one or more manners in which a notice referred to in paragraph (2)(b) may be published.

(2D) A manner of publication may be specified in the determination only if APRA considers that the manner of publication would result in such a notice being accessible to the public and reasonably prominent.

**115 Subsection 191(3)**

Omit “(2)(b)”, substitute “(2A)(c)”.

**116 Section 223 (heading)**

Repeal the heading, substitute:

**223 Other matters relating to certain replacement policy documents**

**117 Subsections 223(3) and (4)**

Repeal the subsections.

**118 Subsection 224(1)**

Omit “(1)”.

**119 Subparagraph 224(1)(b)(i)**

Repeal the subparagraph.

**120 Subparagraph 224(1)(b)(ii)**

Omit “after giving notice,”.

**121 Subsections 224(2) and (3)**

Repeal the subsections.

**122 Application provision—publishing notices**

The amendments of section 191 of the *Life Insurance Act 1995* made by this Part apply in relation to the publishing of notice of intention under that section on or after the commencement of this Part.

### **123 Saving provision—approved form of notice**

- (1) This item applies if an approval by APRA of a form of a notice mentioned in paragraph 191(2)(b) of the *Life Insurance Act 1995* is in force immediately before the commencement of this Part under regulations made for the purposes of that paragraph.
- (2) The approval continues in force (and may be dealt with) on and after that commencement as if it were an approval of a form by APRA under subsection 191(2B) of the *Life Insurance Act 1995*, as amended by this Part.

### **124 Saving provision—regulations**

Despite the amendment of paragraph 191(2)(b) of the *Life Insurance Act 1995* by this Part, regulations made for the purposes of that paragraph in force immediately before this Part commences continue in force (and may be dealt with) on and after that commencement as if they had been made for the purposes of paragraph 191(2A)(c) of that Act as inserted by this Part.

## ***National Consumer Credit Protection Act 2009***

### **125 Subsection 64(2) of the *National Credit Code***

Omit “in a newspaper circulating throughout each State and Territory”, substitute “in accordance with subsection (8)”.

### **126 Subsection 64(3) of the *National Credit Code***

Omit “in a newspaper circulating throughout each State and Territory”, substitute “by publishing a notice in accordance with subsection (8)”.

### **127 At the end of section 64 of the *National Credit Code***

Add:

#### *Publishing notices*

- (8) A notice under subsection (1) or (3) is published in accordance with this subsection if it is published:
  - (a) unless paragraph (b) of this subsection applies—in a manner that results in the notice being accessible to the debtor and reasonably prominent; or

- (b) if a determination in force under subsection (9) specifies one or more manners in which such a notice may be published—in a manner so specified.
- (9) For the purposes of paragraph (8)(b), ASIC may, by legislative instrument, make a determination specifying one or more manners in which a notice under subsection (1) or (3) may be published.
- (10) A manner of publication may be specified in the determination only if ASIC considers that the manner of publication would result in such a notice being accessible to the debtor and reasonably prominent.

**128 Subsection 66(2) of the *National Credit Code***

Omit “in a newspaper circulating throughout each State and Territory”, substitute “in accordance with subsection (6)”.

**129 At the end of section 66 of the *National Credit Code***

Add:

*Publishing notices*

- (6) A notice under subsection (2) is published in accordance with this subsection if it is published:
  - (a) unless paragraph (b) of this subsection applies—in a manner that results in the notice being accessible to the debtor and reasonably prominent; or
  - (b) if a determination under subsection (7) is in force—in a manner specified in the determination.
- (7) For the purposes of paragraph (6)(b), ASIC may, by legislative instrument, make a determination specifying one or more manners in which a notice under subsection (2) may be published.
- (8) A manner of publication may be specified in the determination only if ASIC considers that the manner of publication would result in such a notice being accessible to the debtor and reasonably prominent.

**130 Subsection 119(2) of the *National Credit Code***

Omit “in a newspaper circulating throughout one or more States or Territories, as the court determines”, substitute “and in a manner determined by the court”.

***Private Health Insurance (Prudential Supervision) Act 2015***

**131 Paragraph 20(4)(a)**

Omit “national newspaper, or in a newspaper circulating in each jurisdiction where the insurer has its registered office or carries on business”, substitute “manner that results in the notice being accessible to the public and reasonably prominent”.

**132 Paragraph 40(2)(b)**

Repeal the paragraph, substitute:

- (b) notify the termination day by publishing a notice:
  - (i) unless subparagraph (ii) applies—in a manner that results in the notice being accessible to the public and reasonably prominent; or
  - (ii) if a determination under subsection (2A) is in force—in a manner specified in the determination.

**133 After subsection 40(2)**

Insert:

- (2A) For the purposes of subparagraph (2)(b)(ii), APRA may, by legislative instrument, make a determination specifying one or more manners in which a notice mentioned in paragraph (2)(b) may be published.
- (2B) A manner of publication may be specified in the determination only if APRA considers that the manner of publication would result in such a notice being accessible to the public and reasonably prominent.

**134 Paragraph 75(2)(b)**

Repeal the paragraph, substitute:

- (b) after the external management or terminating management began but on or before the day on which the manager gives to

the ADI written notice of the appointment that began the external management or terminating management.

### ***Productivity Commission Act 1998***

#### **135 Sections 13 and 14**

Omit “in each State and internal Territory, by advertisement published in a newspaper circulating in the State or Territory”, substitute “, by publishing a notice in a manner that results in the notice being accessible to the public and reasonably prominent”.

### ***Superannuation Industry (Supervision) Act 1993***

#### **136 Subsection 10(1) (definition of *licensing transition period*)**

Repeal the definition.

#### **137 Section 29CB**

Repeal the section.

#### **138 Section 29CC (heading)**

Omit “other”.

#### **139 Subsection 29CC(1)**

Repeal the subsection, substitute:

- (1) APRA must decide an application for an RSE licence within 90 days after receiving it, unless APRA extends the period for deciding the application under subsection (2).

#### **140 Subsection 29CC(2)**

Omit “an application covered by paragraph (1)(a) or (b)”, substitute “the application”.

#### **141 Paragraph 29D(1)(h)**

Omit “, refused consideration under subsection 29CB(3)”.

**142 Subsections 142(7) and (9)**

Repeal the subsections, substitute:

*Publishing notice*

- (7) The Regulator must publish notice of the making of each instrument under subsection (1) in a manner that results in the notice being accessible to the public and reasonably prominent.

***Taxation Administration Act 1953***

**143 Subsection 260-145(3) in Schedule 1**

Omit “twice in a daily newspaper circulating in the State or Territory in which the person resided at the time of death”, substitute “in a manner that results in the notice being accessible to the public and reasonably prominent”.

## Schedule 2—ALRC Financial Services Interim Report

### Part 1—Removal of erroneous references and redundant definitions

#### *Australian Securities and Investments Commission Act 2001*

##### 1 Subsection 5(3)

Omit “Parts 1.2 and 1.3 of the Corporations Act apply”, substitute “Part 1.2 of the Corporations Act applies”.

#### *Corporations Act 2001*

##### 2 Section 9

Repeal the following definitions:

- (a) definition of *arbitrage transaction*;
- (b) definition of *Australian bank*;
- (c) definition of *Australian register*;
- (d) definition of *cash management trust interest*;
- (e) definition of *chargeable matter*;
- (f) definition of *court of summary jurisdiction*;
- (g) definition of *deal*;
- (h) definition of *emoluments*;
- (i) definition of *exempt foreign company*;
- (j) definition of *financial corporation*;
- (k) definition of *Full Court*;
- (l) definition of *non-voting share*;
- (m) definition of *quarter day*;
- (n) definition of *renounceable option*.

##### 3 Section 761A (definition of *financial product advice law*)

Repeal the definition.

## **Part 2—Consistent headings for sections defining terms**

### ***Corporations Act 2001***

#### **4 Division 2 of Part 1.2 of Chapter 1 (heading)**

Omit “Associates”, substitute “**Meaning of associate**”.

#### **5 Section 45A (heading)**

Omit “Proprietary companies”, substitute “**Meaning of *proprietary company, small proprietary company and large proprietary company***”.

#### **6 Section 45B (heading)**

Omit “Small companies limited by guarantee”, substitute “**Meaning of *small company limited by guarantee***”.

#### **7 Section 46 (heading)**

Omit “What is a subsidiary”, substitute “**Meaning of *subsidiary—general***”.

#### **8 Section 50 (heading)**

Omit “Related bodies corporate”, substitute “**Meaning of *related body corporate***”.

#### **9 Section 50AAA (heading)**

Omit “Associated entities”, substitute “**Meaning of *associated entity***”.

#### **10 Section 50AA (heading)**

Omit “Control”, substitute “**Meaning of *control***”.

#### **11 Section 51M (heading)**

Omit “Mutual entities”, substitute “**Meaning of *mutual entity***”.

#### **12 Section 64A (heading)**

Omit “Entities”, substitute “**Meaning of *entity***”.

**13 Section 88A (heading)**

Omit “Public document of a body corporate”, substitute “**Meaning of public document**”.

**14 Section 88B (heading)**

Omit “Qualified accountants”, substitute “**Meaning of qualified accountant**”.

**15 Section 89 (heading)**

Omit “Qualified privilege”, substitute “**Meaning of qualified privilege**”.

**16 Section 91 (heading)**

Omit “Relation-back day”, substitute “**Meaning of relation-back day**”.

**17 Section 92 (heading)**

Omit “Securities”, substitute “**Meaning of securities**”.

**18 Section 95A (heading)**

Omit “Solvency and insolvency”, substitute “**Meaning of solvent and insolvent**”.

**19 Section 102C (heading)**

Omit “In Australia”, substitute “**Meaning of in Australia**”.

**20 Section 111AC (heading)**

Omit “Disclosing entity”, substitute “**Meaning of disclosing entity**”.

**21 Section 111AD (heading)**

Omit “ED securities”, substitute “**Meaning of ED securities**”.

**22 Section 111AL (heading)**

Omit “Listed or unlisted disclosing entity”, substitute “**Meaning of listed disclosing entity and unlisted disclosing entity**”.

**23 Section 111AM (heading)**

Omit “**Quoted ED securities**”, substitute “**Meaning of quoted ED securities**”.

**24 Section 323D (heading)**

Omit “**Financial years and half-years for companies, registered schemes and disclosing entities**”, substitute “**Meaning of financial year and half-year—company, registered scheme and disclosing entity**”.

**25 Section 323DAA (heading)**

Omit “**Financial years for notified foreign passport funds**”, substitute “**Meaning of financial year—notified foreign passport fund**”.

**26 Section 324AF (heading)**

Omit “**Lead and review auditors**”, substitute “**Meaning of lead auditor and review auditor**”.

**27 Section 345A (heading)**

Omit “**Review date**”, substitute “**Meaning of review date**”.

**28 Section 453A (heading)**

Omit “**When restructuring begins and ends**”, substitute “**Meaning of restructuring**”.

**29 Section 458E (heading)**

Omit “**When is a company eligible for temporary restructuring relief?**”, substitute “**Meaning of eligible for temporary restructuring relief**”.

**30 Section 588FA (heading)**

Omit “**Unfair preferences**”, substitute “**Meaning of unfair preference**”.

**31 Section 588FB (heading)**

Omit “**Uncommercial transactions**”, substitute “**Meaning of uncommercial transaction**”.

**32 Section 588FC (heading)**

Omit “**Insolvent transactions**”, substitute “**Meaning of *insolvent transaction***”.

**33 Section 588FD (heading)**

Omit “**Unfair loans to a company**”, substitute “**Meaning of *unfair loan***”.

**34 Section 588FDA (heading)**

Omit “**Unreasonable director-related transactions**”, substitute “**Meaning of *unreasonable director-related transaction***”.

**35 Section 588FDB (heading)**

Omit “**Creditor-defeating disposition**”, substitute “**Meaning of *creditor-defeating disposition***”.

**36 Section 602A (heading)**

Omit “**Substantial interest concept**”, substitute “**Meaning of *substantial interest***”.

**37 Section 738N (heading)**

Omit “**When a CSF offer is**”, substitute “**Meaning of**”.

**38 Section 738U (heading)**

Omit “**When a CSF offer document is**”, substitute “**Meaning of**”.

**39 Section 761G (heading)**

Omit “**retail client and wholesale client**”, substitute “***retail client and wholesale client***”.

**40 Division 3 of Part 7.1 (heading)**

Omit “**What is a financial product?**”, substitute “**Meaning of financial product and related terms**”.

**41 Section 763A (heading)**

Omit “**General definition of *financial product***”, substitute “**Meaning of *financial product***”.

**42 Section 763B (heading)**

Omit “When a person makes a financial investment”, substitute  
“Meaning of *makes a financial investment*”.

**43 Section 763C (heading)**

Omit “When a person”, substitute “Meaning of”.

**44 Section 763D (heading)**

Omit “When a person”, substitute “Meaning of”.

**45 Division 4 of Part 7.1 (heading)**

Omit “When does a person provide a financial service?”, substitute  
“Meaning of financial service and related terms”.

**46 Section 766A (heading)**

Omit “When does a person provide a *financial service*?”, substitute  
“Meaning of *financial service*”.

**47 Section 766B (heading)**

Omit “financial product advice”, substitute “*financial product advice, personal advice and general advice*”.

**48 Section 766D (heading)**

Omit “for a financial product”.

**49 Section 766E (heading)**

Omit “provide a custodial or depository service”, substitute  
“*custodial or depository service*”.

**50 Sections 766F and 766H (heading)**

Omit “provides a”.

**51 Division 5 of Part 7.1 (heading)**

Omit “What is a financial market?”, substitute “Meaning of financial market”.

**52 Section 767A (heading)**

Omit “What is a *financial market*?”, substitute “**Meaning of *financial market***”.

**53 Division 6 of Part 7.1 (heading)**

Omit “What is a clearing and settlement facility?”, substitute “**Meaning of clearing and settlement facility**”.

**54 Section 768A (heading)**

Omit “What is a clearing and settlement facility?”, substitute “**Meaning of *clearing and settlement facility***”.

**55 Section 850B (heading)**

Omit “unacceptable control situation”, substitute “***unacceptable control situation***”.

**56 Section 908AB (heading)**

Omit “financial benchmark”, substitute “***financial benchmark***”.

**57 Section 908AC (heading)**

Omit “significant financial benchmark”, substitute “***significant financial benchmark***”.

**58 Section 912D (heading)**

Omit “What are reportable situations?”, substitute “**Meaning of reportable situation**”.

**59 Section 961C (heading)**

Omit “When is something *reasonably apparent*?”, substitute “**Meaning of *reasonably apparent***”.

**60 Section 961D (heading)**

Omit “What is a *reasonable investigation*?”, substitute “**Meaning of *reasonable investigation***”.

**61 Section 961F (heading)**

Omit “What is a *basic banking product*?”, substitute “**Meaning of *basic banking product***”.

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**62 Section 961P (heading)**

Omit “*Responsible*”, substitute “**Meaning of *responsible***”.

**63 Section 962A (heading)**

Omit “*Ongoing fee arrangements*”, substitute “**Meaning of *ongoing fee arrangement***”.

**64 Section 962B (heading)**

Omit “*Ongoing fees*”, substitute “**Meaning of *ongoing fee***”.

**65 Section 962C (heading)**

Omit “*Fee recipients*”, substitute “**Meaning of *fee recipient***”.

**66 Section 962L (heading)**

Omit “*Renewal period*”, substitute “**Meaning of *renewal period***”.

**67 Subdivision B of Division 4 of Part 7.7A (heading)**

Omit “*What is conflicted remuneration?*”, substitute “**Meaning of *conflicted remuneration***”.

**68 Section 963A (heading)**

Omit “*Conflicted remuneration*”, substitute “**Meaning of *conflicted remuneration—general***”.

**69 Section 964F (heading)**

Omit “*What is an asset-based fee?*”, substitute “**Meaning of *asset-based fee***”.

**70 Section 964H (heading)**

Omit “*When is something reasonably apparent?*”, substitute “**Meaning of *reasonably apparent***”.

**71 Section 994AA (heading)**

Omit “*Extended operation of this Part in relation to ASIC Act financial products*”, substitute “**Meaning of *financial product—Part 7.8A***”.

**72 Section 1014A (heading)**

Omit “What a Supplementary Product Disclosure Statement is”, substitute “Meaning of *Supplementary Product Disclosure Statement*”.

**73 Section 1014H (heading)**

Omit “What a Replacement Product Disclosure Statement is”, substitute “Meaning of *Replacement Product Disclosure Statement*”.

**74 Section 1200B (heading)**

Omit “When an offer is a recognised offer”, substitute “Meaning of *recognised offer*”.

**75 Section 1272B (heading)**

Omit “Eligible officers”, substitute “Meaning of *eligible officer*”.

**76 Section 1311D (heading)**

Omit “because of an offence”, substitute “—offence”.

**77 Section 1317AAA (heading)**

Omit “Eligible whistleblowers”, substitute “Meaning of *eligible whistleblower*”.

**78 Section 1317AAB (heading)**

Omit “Regulated entities”, substitute “Meaning of *regulated entity*”.

**79 Section 1317AAC (heading)**

Omit “Eligible recipients”, substitute “Meaning of *eligible recipient*”.

**80 Section 1317GAD (heading)**

Omit “because of a contravention of a civil penalty provision”, substitute “—civil penalty provision”.

## **Part 3—Other amendments**

### **Division 1—Single use definitions**

#### *Australian Securities and Investments Commission Act 2001*

##### **81 Subsection 5(1) (paragraph (a) of the definition of *contravention*)**

Repeal the paragraph, substitute:

(a) in relation to an offence against a law—includes:

- (i) an offence against section 6 of the *Crimes Act 1914*; and
- (ii) an ancillary offence (within the meaning of the *Criminal Code*);

relating to the offence against the law; and

##### **82 Subsection 243F(5)**

Omit “(within the meaning of Chapter 7 of the Corporations Act)”  
(wherever occurring).

#### *Corporations Act 2001*

##### **83 Section 9**

Repeal the following definitions:

- (a) definition of *aggregated turnover*;
- (b) definition of *ancillary offence*;
- (c) definition of *chargee*;
- (d) definition of *close associate*.

##### **84 Section 9**

Insert:

*connected* with a corporation: see section 64B.

##### **85 Section 9**

Repeal the following definitions:

- (a) definition of *connected entity*;

- (b) definition of *current market bid price*;
- (c) definition of *deductible gift recipient*.

**86 Section 9 (paragraph (c) of the definition of examinable affairs)**

Repeal the paragraph, substitute:

- (c) the business affairs of any of the following, in so far as those business affairs are, or appear to be, relevant to the corporation or to anything that is included in the corporation's examinable affairs because of paragraph (a) or (b):
  - (i) a body corporate that is, or has been, related to the corporation;
  - (ii) an entity that is, or has been, connected with the corporation.

**87 Section 9**

Repeal the following definitions:

- (a) definition of *group executives*;
- (b) definition of *machine-copy*;
- (c) definition of *old Division 11 of Part 11.2 transitionals*;
- (d) definition of *Part 7.7A civil penalty provision*.

**88 Section 9 (definition of participant)**

Repeal the definition, substitute:

*participant*:

- (a) in a clearing and settlement facility—has the meaning given by subsections 768A(3) and (4); and
- (b) in a financial market—has the meaning given by subsections 767A(4) and (5).

**89 Section 9 (definition of reproduction)**

Repeal the definition, substitute:

*reproduction*, in relation to a document, means:

- (a) a copy made of the document by any machine in which, or process by which, an image of the contents of the document is reproduced; or
- (b) a print made from a negative of the document.

**90 Section 9 (definition of *State or Territory authority*)**

Repeal the definition.

**91 Paragraph 45B(1)(b)**

After “deductible gift recipient”, insert “(within the meaning of the *Income Tax Assessment Act 1997*)”.

**92 Section 51B (paragraph (b) of the definition of *secured party*)**

After “chargee”, insert “(including a person in whose favour a charge is to be given or executed, whether on demand or otherwise, under an agreement)”.

**93 Paragraph 300A(4)(b)**

Repeal the paragraph, substitute:

- (b) a person holds, in each of 2 or more entities within the consolidated entity, a position covered by subsection (5), whether or not the person holds the same position in each of those entities;

**94 At the end of section 300A**

Add:

- (5) This subsection covers the following positions:
  - (a) director;
  - (b) secretary;
  - (c) senior manager;
  - (d) partner;
  - (e) trustee.

**95 Subparagraphs 588FDA(1)(b)(ii) and (iii)**

Repeal the subparagraphs, substitute:

- (ii) a relative of a director of the company; or
-

- (iii) a relative of a spouse of a director of the company; or
- (iv) a person on behalf of, or for the benefit of, a person of a kind referred to in subparagraph (i), (ii) or (iii); and

#### **96 Paragraph 601QA(5)(c)**

Repeal the paragraph, substitute:

- (c) the provisions of Division 11 of Part 11.2 of the old Corporations Law of each State or Territory in this jurisdiction, to the extent they continue to have effect because of section 1408 of this Act; and
- (d) if regulations for the purposes of subsection 1408(3) deal with a matter or matters dealt with in those provisions—the regulations that so deal with the matter or matters.

#### **97 Subsection 621(2) (note)**

Omit “consideration”, substitute “price”.

#### **98 Section 649B**

Omit “The bidder may increase the current market bid price.”, substitute “The bidder may vary the offers under a market bid to increase the price offered to acquire securities under the market bid.”.

#### **99 Section 761A (definition of *funeral benefit*)**

Repeal the definition, substitute:

***funeral benefit:***

- (a) means a benefit that consists of the provision of funeral, burial or cremation services, with or without the supply of goods connected with such services; but
- (b) does not include a scheme or arrangement for the provision of benefits consisting of the payment of money, on the death of a person, for the purpose of meeting the whole or a part of the expenses of and incidental to the funeral, burial or cremation of the person.

#### **100 Section 761A**

Repeal the following definitions:

- (a) definition of *funeral expenses facility*;

- (b) definition of *participant*;
- (c) definition of *recognised affiliate*.

### **101 Section 765B**

Repeal the section.

### **102 At the end of section 767A**

Add:

#### *Meaning of participant*

- (4) A person who is allowed to participate directly in a financial market under the market's operating rules is a *participant* in the market.
- (5) A person who is:
  - (a) recognised by the operating rules of the market as a suitably qualified affiliate of the market; and
  - (b) involved in the carrying on of a financial services business (including as an employee, director or in some other capacity);is also, for the purposes of the following provisions, a *participant* in the market:
  - (c) paragraph 792B(2)(b);
  - (d) section 793B;
  - (e) section 883A;
  - (f) subsection 915F(2);
  - (g) paragraphs 923B(3)(a) and (b);
  - (h) any other provisions prescribed by regulations for the purposes of this paragraph.

### **103 At the end of section 768A**

Add:

#### *Meaning of participant*

- (3) A person who is allowed to participate directly in a clearing and settlement facility under the facility's operating rules is a *participant* in the facility.

- (4) A person who is:
- (a) recognised by the operating rules of the facility as a suitably qualified affiliate of the facility; and
  - (b) involved in the carrying on of a financial services business (including as an employee, director or in some other capacity);
- is also, for the purposes of the following provisions, a *participant* in the facility:
- (c) paragraph 821B(2)(b);
  - (d) section 822B;
  - (e) subsection 915F(2);
  - (f) any other provisions prescribed by regulations for the purposes of this paragraph.

**104 Paragraph 916G(5)(c)**

Repeal the paragraph, substitute:

- (c) in a proceeding in respect of:
  - (i) an offence against section 6 of the *Crimes Act 1914*; or
  - (ii) an ancillary offence (within the meaning of the *Criminal Code*);relating to an offence based on this section; or

**105 Subsection 1241A(5)**

Omit “(within the meaning of Chapter 7)” (wherever occurring).

**106 Paragraph 1274(2AA)(b)**

After “aggregated turnover”, insert “(within the meaning of the *Income Tax Assessment Act 1997*)”.

**107 Paragraph 1317AAE(3)(b)**

Repeal the paragraph, substitute:

- (b) is made to any of the following for the purpose of assisting it in the performance of its functions or duties:
  - (i) a Commonwealth authority;
  - (ii) an authority of a State or Territory;

- (iii) another body (whether incorporated or not) that is established or continued in existence by or under a law of a State or Territory.

### 108 Paragraph 1317G(1)(c)

Omit “if the contravention is of a financial services civil penalty provision that is not a Part 7.7A civil penalty provision”, substitute “if the contravention is of a financial services civil penalty provision (other than one excluded by subsection (1A))”.

### 109 After subsection 1317G(1)

Insert:

- (1A) The civil penalty provisions in the following table are excluded by this subsection.

<b>Excluded civil penalty provisions of Part 7.7A</b>		
<b>Item</b>	<b>Provision</b>	<b>Matter</b>
1	Subsections 961K(1) and (2)	Financial services licensee responsible for breach of certain best interests duties
2	Section 961L	Financial services licensee to ensure compliance with certain best interests duties
3	Subsection 961Q(1)	Authorised representative responsible for breach of certain best interests duties
4	Subsection 962G(4)	Fee recipient must give fee disclosure statement
5	Section 962P	Charging ongoing fee after termination of ongoing fee arrangement
6	Subsection 962R(4)	Fee recipient must not deduct ongoing fees without consent
7	Subsection 962S(5) or (8)	Fee recipient must not arrange for deduction of ongoing fees without consent or accept such deductions
8	Subsection 962U(3)	Fee recipient must confirm receipt of variation or withdrawal of consent for deductions of ongoing fees
9	Subsection 962V(3)	Fee recipient must give written notice of cessation of consent to account provider
10	Subsections 963E(1)	Financial services licensee must not accept

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**Excluded civil penalty provisions of Part 7.7A**

<b>Item</b>	<b>Provision</b>	<b>Matter</b>
	and (2)	conflicted remuneration
11	Section 963F	Financial services licensee must ensure representatives do not accept conflicted remuneration
12	Subsection 963G(1)	Authorised representative must not accept conflicted remuneration
13	Section 963J	Employer must not pay employees conflicted remuneration
14	Section 963K	Financial product issuer or seller must not give conflicted remuneration to financial services licensee or representative
15	Section 963P	Person covered by section 963M must pay amount etc. in accordance with regulations
16	Subsection 964A(1)	Platform operator must not accept volume-based shelf-space fees
17	Subsections 964D(1) and (2)	Financial services licensee must not charge asset-based fees on borrowed amounts
18	Subsection 964E(1)	Authorised representative must not charge asset-based fees on borrowed amounts
19	Section 965	Anti-avoidance of Part 7.7A provisions

## **Division 2—Definitions about resolutions**

### ***Corporations Act 2001***

#### **110 Section 9 (definition of *extraordinary resolution*)**

Repeal the definition, substitute:

***extraordinary resolution***, in relation to a registered scheme, a CCIV or a sub-fund of a CCIV, means a resolution of the members of the registered scheme that complies with subsection 253LA(2).

#### **111 Section 9 (definition of *special resolution*)**

Repeal the definition, substitute:

***special resolution*** means:

- (a) in relation to a company—a resolution of the company that complies with section 250MA; or
- (b) in relation to a registered scheme, a CCIV or a sub-fund of a CCIV—a resolution of the members of the registered scheme that complies with subsection 253LA(1).

### **112 At the end of Division 7 of Part 2G.2**

Add:

#### **250MA Requirements for a special resolution**

For a resolution of a company to have effect as a special resolution:

- (a) notice given under section 249J of the meeting at which the resolution is proposed must include the information required by paragraph 249L(1)(c) in relation to the resolution; and
- (b) the resolution must be passed by at least 75% of the votes cast by members who are entitled to vote on the resolution; and
- (c) the resolution must be otherwise valid.

### **113 At the end of Division 6 of Part 2G.4**

Add:

#### **253LA Requirements for a special resolution or an extraordinary resolution**

- (1) For a resolution of the members of a registered scheme to have effect as a special resolution:
  - (a) notice given under section 252G of the meeting at which the resolution is proposed must include the information required by paragraph 252J(c) in relation to the resolution; and
  - (b) the resolution must be passed by at least 75% of the votes cast by members of the scheme who are entitled to vote on the resolution; and
  - (c) the resolution must be otherwise valid.
- (2) For a resolution of the members of a registered scheme to have effect as an extraordinary resolution:

- (a) notice given under section 252G of the meeting at which the resolution is proposed must include the information required by paragraph 252J(c) in relation to the resolution; and
- (b) the resolution must be passed by at least 50% of the votes that may be cast by members of the scheme who are entitled to vote on the resolution (including members who are not present in person or by proxy).
- (c) the resolution must be otherwise valid.

**114 After paragraph 601QA(5)(b)**

Insert:

- (ba) section 253LA as that section applies in relation to the operation of:
  - (i) this Chapter; or
  - (ii) regulations made for the purposes of this Chapter; and

**Division 3—Certain inclusive and relational definitions**

***Corporations Act 2001***

**115 Section 9**

Repeal the following definitions:

- (a) definition of *have*;
- (b) definition of *hold*;
- (c) definition of *information*.

**116 Section 9 (definition of *on*)**

Repeal the definition, substitute:

*on* a financial market: see subsection 767A(3).

**117 Section 9 (definition of *statement*)**

Repeal the definition.

**118 After subsection 767A(2)**

Insert:

- (3) Something that is done through or by means of the facility that constitutes a financial market is done *on* the financial market.

Note: For example, when securities are quoted or traded on a financial market.

## **Division 4—Review fee**

### ***Corporations Act 2001***

#### **119 Section 9 (definition of review fee)**

Repeal the definition, substitute:

*review fee* has the same meaning as in the *Corporations (Review Fees) Act 2003*.

#### **120 Section 1242G**

Omit “fee imposed under the *Corporations (Review Fees) Act 2003*”, substitute “review fee”.

#### **121 Subsection 1351(2)**

Repeal the subsection, substitute:

- (2) Review fees (which are imposed by the *Corporations (Review Fees) Act 2003*) are payable to the Commonwealth.

#### **122 Subsections 1351(3) and (4)**

Omit “fee imposed under the *Corporations (Review Fees) Act 2003*”, substitute “review fee”.

#### **123 Paragraph 1364(2)(n)**

Omit “imposed by the *Corporations (Review Fees) Act 2003*”.

## **Division 5—Rules of Court**

### ***Corporations Act 2001***

#### **124 Section 9 (definition of rules)**

Repeal the definition.

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**125 Section 9**

Insert:

*rules of court* means:

- (a) rules of the Federal Court; or
  - (b) rules of a State or Territory Supreme Court; or
  - (c) rules of the Federal Circuit and Family Court of Australia (Division 1);
- as the case requires.

**126 Subparagraph 423(1)(a)(iv)**

Omit “rules”, substitute “rules of court”.

**127 Paragraph 459E(3)(b)**

Omit “rules”, substitute “rules of court”.

**128 Subparagraph 459Q(c)(ii)**

Omit “rules”, substitute “rules of court”.

**129 Section 465C**

Omit “rules”, substitute “rules of court”.

**130 Paragraph 467(3)(b)**

Omit “rules”, substitute “rules of court”.

**131 Subsection 475(8)**

Omit “rules”, substitute “rules of court”.

**132 Subsections 488(1) and (2)**

Omit “rules”, substitute “rules of court”.

**133 Subsection 596C(1)**

Omit “rules”, substitute “rules of court”.

**134 Subsections 597(14) and (15)**

Omit “rules”, substitute “rules of court”.

**135 Subparagraphs 1337S(1)(b)(i) and (ii)**

Omit “rules”, substitute “rules of court”.

**136 Subparagraphs 1337T(1)(b)(i) and (ii)**

Omit “rules”, substitute “rules of court”.

**137 Subparagraphs 1337U(1)(b)(i) and (ii)**

Omit “rules”, substitute “rules of court”.

**Division 6—Other amendments**

***Corporations Act 2001***

**138 Section 9 (definition of *exempt body*)**

Repeal the definition.

**139 Section 9**

Insert:

*exempt body corporate* of a State or Territory has the meaning given by section 66A.

**140 Section 9 (definition of *professional member of an audit team*)**

Repeal the definition.

**141 Section 9**

Insert:

*professional member* of the audit team for an audit has the meaning given by section 324AE.

**142 Section 9 (definition of *public document*)**

Omit “body corporate”, substitute “body”.

**143 Section 9 (definition of *related body corporate*)**

Omit “by virtue of section 50”, substitute “, as determined in accordance with section 50”.

**144 Section 66A (heading)**

Omit “**Exempt bodies**”, substitute “**Meaning of *exempt body corporate***”.

**145 Section 66A**

Omit “exempt body”, substitute “*exempt body corporate*”.

**146 Section 102B (heading)**

Omit “*In Australia or elsewhere, in this jurisdiction or elsewhere etc.*”, substitute “**Meaning of *in this jurisdiction or elsewhere and outside this jurisdiction***”.

**147 Subsection 102B(1)**

Omit “expression *in Australia or elsewhere*, or”, substitute “expression ‘in Australia or elsewhere’, or”.

**148 Section 324AE**

Repeal the section, substitute:

**324AE Meaning of *professional member*—audit team**

If an individual auditor, audit firm or audit company conducts an audit of a company or registered scheme, a person who is any of the following is a *professional member* of the audit team for the audit:

- (a) a registered company auditor who participates in the conduct of the audit;
- (b) a person who participates in the conduct of the audit and, in the course of doing so, exercises professional judgement in relation to the application of or compliance with:
  - (i) accounting standards; or
  - (ii) auditing standards; or
  - (iii) the provisions of this Act dealing with financial reporting and the conduct of audits; and
- (c) a person who is in a position to directly influence the outcome of the audit because of the role they play in the design, planning, management, supervision or oversight of the audit;

- (d) a person who recommends or decides what the lead auditor is to be paid in connection with the performance of the audit;
- (e) a person who provides, or takes part in providing, quality control for the audit.

**149 Subsection 708(20)**

Omit “exempt body”, substitute “exempt body corporate”.

**150 Subsection 708(20) (note)**

Omit “*exempt body*”, substitute “*exempt body corporate* of a State or Territory”.

**151 Paragraph 994B(3)(e)**

Omit “exempt body or”, substitute “exempt body corporate of a State or Territory or by”.

**152 Subsection 1012D(8) (heading)**

Omit “*exempt body*”, substitute “*exempt body corporate*”.

**153 Paragraph 1012D(8)(b)**

Omit “exempt body”, substitute “exempt body corporate of a State or Territory”.

**154 Subsection 1012D(8) (Note 1)**

Omit “*exempt body*”, substitute “*exempt body corporate* of a State or Territory”.

**155 Section 1023B (paragraph (a) of the definition of *financial product*)**

Omit “exempt body or”, substitute “exempt body corporate of a State or Territory or by”.

## Part 4—Application and transitional provisions

### *Australian Securities and Investments Commission Act 2001*

#### 156 In the appropriate position

Insert:

## Part 40—Application and transitional provisions relating to the ALRC Financial Services Interim Reports

### Division 1—Schedule 2 to the Treasury Laws Amendment (Modernising Business Communications and Other Measures) Act 2023

#### 344 Definitions

In this Division:

*commencement time* means the time when Schedule 2 to the *Treasury Laws Amendment (Modernising Business Communications and Other Measures) Act 2023* commences.

#### 344A Translation of references in instruments

- (1) This section applies to an instrument (the *affected instrument*) that:
  - (a) was made under this Act; and
  - (b) was in force immediately before the commencement time.

*References to moved definitions and other provisions*

- (2) If:
  - (a) immediately before the commencement time, the affected instrument contained a reference to a provision of the Corporations legislation (including, for example, a definition); and

(b) that provision was repealed by Schedule 2 to the *Treasury Laws Amendment (Modernising Business Communications and Other Measures) Act 2023*; and

(c) the Corporations legislation, as amended by that Schedule, contains a corresponding provision;

then the affected instrument has effect, at and after the commencement time, as if the reference to the repealed provision were a reference to the corresponding provision.

*References to repealed definitions with no corresponding definition*

- (3) Despite the repeal of definitions in sections 9 and 761A of the Corporations Act made by items 2, 3, 83, 85, 87, 90, 100, 115 and 117 of Schedule 2 to the *Treasury Laws Amendment (Modernising Business Communications and Other Measures) Act 2023*, the definitions repealed by those items continue, at and after the commencement time, to have effect for the purposes of the affected instrument as if those definitions had not been repealed.

## ***Corporations Act 2001***

### **157 In the appropriate position in Chapter 10**

Insert:

## **Part 10.68—Application and transitional provisions relating to the ALRC Financial Services Interim Reports**

### **Division 1—Schedule 2 to the Treasury Laws Amendment (Modernising Business Communications and Other Measures) Act 2023**

#### **1698 Definitions**

In this Division:

*commencement time* means the time when Schedule 2 to the *Treasury Laws Amendment (Modernising Business Communications and Other Measures) Act 2023* commences.

#### 1698A Translation of references in instruments

- (1) This section applies to an instrument (the *affected instrument*) that:
- (a) was made under this Act or an instrument made under this Act; and
  - (b) was in force immediately before the commencement time.

*References to moved definitions and other provisions*

- (2) If:
- (a) immediately before the commencement time, the affected instrument contained a reference to a provision of the Corporations legislation (including, for example, a definition); and
  - (b) that provision was repealed by Schedule 2 to the *Treasury Laws Amendment (Modernising Business Communications and Other Measures) Act 2023*; and
  - (c) the Corporations legislation, as amended by that Schedule, contains a corresponding provision;

then the affected instrument has effect, at and after the commencement time, as if the reference to the repealed provision were a reference to the corresponding provision.

*References to repealed definitions with no corresponding definition*

- (3) Despite the repeal of definitions in sections 9 and 761A made by items 2, 3, 83, 85, 87, 90, 100, 115 and 117 of Schedule 2 to the *Treasury Laws Amendment (Modernising Business Communications and Other Measures) Act 2023*, the definitions repealed by those items continue, at and after the commencement time, to have effect for the purposes of the affected instrument as if those definitions had not been repealed.

## **Part 5—Consequential amendments of other Acts**

### ***ASIC Supervisory Cost Recovery Levy Act 2017***

#### **158 Section 7 (subparagraph (d)(i) of the definition of *market infrastructure entity*)**

Omit “in a licensed market for the purposes of Chapter 7 of the *Corporations Act 2001*”, substitute “(within the meaning of the *Corporations Act 2001*) in a licensed market”.

#### **159 Section 7 (subparagraph (d)(ii) of the definition of *market infrastructure entity*)**

Repeal the subparagraph, substitute:

- (ii) would be such a participant if paragraph (b) of the definition of *participant* in section 9 of that Act covered a person who is allowed to indirectly participate in the facility or market concerned; or

### ***Taxation Administration Act 1953***

#### **160 Section 396-55 in Schedule 1 (table item 5)**

Omit “Chapter 7 of”.

## Schedule 3—Rationalisation of ending ASIC instruments

### Part 1—Voting control limits for proposed licensed trustee companies

#### Division 1—Amendments

#### *Corporations Act 2001*

##### 1 Part 5D.5 (heading)

After “licensed trustee companies”, insert “and proposed licensed trustee companies”.

##### 2 Section 601RAA

Insert:

*proposed licensed trustee company* means a company:

- (a) that is a trustee company, or a corporation to which paragraph 51(xx) of the Constitution applies that proposes to become a trustee company; and
- (b) that proposes to apply for an Australian financial services licence covering the provision of one or more traditional trustee company services.

##### 3 Section 601VAA

Repeal the section, substitute:

##### **601VAA Meaning of unacceptable control situation**

For the purposes of this Part, an *unacceptable control situation* exists in relation to:

- (a) a licensed trustee company and in relation to a particular person; or
- (b) a proposed licensed trustee company and in relation to a particular person;

if the person’s voting power in the company is more than:

- (c) 15%; or
- (d) if an approval of a higher percentage is in force under Division 2 in relation to the company and in relation to the person—that higher percentage.

#### **4 Subsection 601VBA(1)**

After “licensed trustee company”, insert “or proposed licensed trustee company”.

#### **5 Paragraphs 601VBA(1)(a) and (b)**

Omit “trustee”.

#### **6 Subsection 601VBB(1)**

Omit all the words after “the Minister is satisfied that”, substitute:

- : (a) in the case of a licensed trustee company—it would be in the interests of that company and its clients for the application to be granted; or
- (b) in the case of a proposed licensed trustee company—it would be in the interests of that company and its clients for the application to be granted were that company a licensed trustee company.

#### **7 Paragraphs 601VBB(2)(b) and 601VBB(4)(b)**

Omit “licensed trustee”.

#### **8 Subsection 601VBC(4)**

Omit all the words after “the Minister is satisfied that”, substitute:

- : (a) in the case of a licensed trustee company—it would be in the interests of that company and its clients for the application to be granted; or
- (b) in the case of a proposed licensed trustee company—it would be in the interests of that company and its clients for the application to be granted were that company a licensed trustee company.

#### **9 Paragraphs 601VBC(7)(b) and 601VBD(7)(b)**

Omit “licensed trustee”.

**10 Paragraphs 601VBE(1)(a)**

After “licensed trustee company”, insert “or proposed licensed trustee company”.

**11 Paragraph 601VBE(1)(b)**

Omit “trustee”.

**12 Subsection 601VBE(3)**

Omit all the words after “the Minister is satisfied that”, substitute:

- : (a) in the case of a licensed trustee company—it would be in the interests of that company and its clients for the application to be granted; or
- (b) in the case of a proposed licensed trustee company—it would be in the interests of that company and its clients for the application to be granted were that company a licensed trustee company.

**13 Subsection 601VBE(6)**

Omit all the words after “the Minister is satisfied that”, substitute:

- : (a) in the case of a licensed trustee company—the variation would be in the interests of that company and its clients; or
- (b) in the case of a proposed licensed trustee company—the variation would be in the interests of that company and its clients were that company a licensed trustee company.

**14 Paragraph 601VBE(9)(b)**

Omit “licensed trustee”.

**15 Subsection 601VBF(1)**

After “licensed trustee company”, insert “or proposed licensed trustee company”.

**16 Paragraph 601VBF(1)(a)**

Omit all the words after “the Minister is satisfied that”, substitute:

- : (i) in the case of a licensed trustee company—it would be in the interests of that company and its clients for the approval to be revoked; or

- (ii) in the case of a proposed licensed trustee company—it would be in the interests of that company and its clients for the approval to be revoked were that company a licensed trustee company.

**17 Paragraph 601VBF(1)(b)**

Omit “trustee”.

**18 Paragraph 601VBF(4)(b)**

Omit “licensed trustee”.

**19 Section 601VBH (heading)**

Omit “licensed trustee company and its clients”, substitute “the company concerned and its clients”.

**20 Section 601VBH**

Omit all the words after “in relation to”, substitute “a company, the Minister may seek the views of the company concerned and its clients”.

**21 Paragraph 601VBI(3)(b)**

Omit “licensed trustee”.

**22 Subsection 601VBI(5)**

Omit “licensed trustee”.

**23 Section 601VCB**

Omit “licensed trustee”.

**Division 2—Repeals**

*ASIC Class Order [CO 12/340]*

**24 The whole of the instrument**

Repeal the instrument.

## **Part 2—Information in a Financial Services Guide given in a time critical situation**

### **Division 1—Amendments**

#### *Corporations Act 2001*

#### **25 Section 941E**

Repeal the section, substitute:

#### **941E Information must be up to date**

- (1) The information in the Financial Services Guide must be up to date as at the time when it is given to the client.
- (2) However, if the Financial Services Guide is given to the client under subsection 941D(4), the information in the Financial Services Guide may be up to date as at the time the statement referred to in that subsection is given to the client.

Note: A Supplementary Financial Services Guide containing updated information may be given with a Financial Services Guide that has become out of date. The updated information is taken to be included in the Financial Services Guide (see section 943D).

### **Division 2—Repeals**

#### *ASIC Corporations (Financial Services Guide Given in a Time Critical Situation) Instrument 2022/498*

#### **26 The whole of the instrument**

Repeal the instrument.

## **Part 3—Product Disclosure Statement requirements for general insurance quotes**

### **Division 1—Amendments**

#### *Corporations Act 2001*

#### **27 Subsection 1012A(4)**

Repeal the subsection, substitute:

*This section has effect subject to other provisions*

- (4) This section does not apply to a regulated person for a recommendation situation if:
- (a) one or more of sections 1012D, 1012DA, 1012E, 1012F, 1012G or 1014E apply to a regulated person for that recommendation situation; and
  - (b) for each of those sections that so applies—the regulated person complies with the requirements (if any) in that section for that recommendation situation.

#### **28 Subsection 1012B(5)**

Repeal the subsection, substitute:

*This section has effect subject to other provisions*

- (5) This section does not apply to a regulated person for an issue situation if:
- (a) one or more of sections 1012D, 1012DAA, 1012E, 1012F, 1012G, 1012GA or 1014E apply to a regulated person for that issue situation; and
  - (b) for each of those sections that so applies—the regulated person complies with the requirements (if any) in that section for that issue situation.

#### **29 Subsection 1012C(10)**

Repeal the subsection, substitute:

*This section has effect subject to other provisions*

- (10) This section does not apply to a regulated person for a sale situation if:
- (a) one or more of sections 1012D, 1012DA, 1012E or 1014E apply to a regulated person for that sale situation; and
  - (b) for each of those sections that so applies—the regulated person complies with the requirements (if any) in that section for that sale situation.

### **30 After section 1012G**

Insert:

#### **1012GA Product Disclosure Statement for certain general insurance product quotes may be provided later, or is not required**

- (1) A regulated person, in making an offer to issue, or an offer to arrange for the issue of, a general insurance product to a client, may deal with the product under this section only if:
- (a) the offer is made by or at the same time as giving a quote to the client in the course of, or because of, a telephone call with the client that is not unsolicited contact (within the meaning of section 992A); and
  - (b) in the course of the phone call, but before the offer is made, the regulated person orally communicates the following information to the client in a clear, concise and effective manner:
    - (i) if the insurance cover under the product is subject to exclusions or limitations—that fact, and the fact that information about those exclusions and limitations is contained in the Product Disclosure Statement for the product;
    - (ii) that the level of insurance cover under the product may be different from the level of insurance cover under other general insurance products; and
  - (c) the regulated person asks the client whether the client wants to be given a Product Disclosure Statement for the product, but does not influence the client's decision to elect to be given the Product Disclosure Statement.

- (2) In the course of the telephone call:
- (a) if the client informs the regulated person that the client wants to be given the Product Disclosure Statement—the regulated person must give the Product Disclosure Statement to the client as soon as practicable after the time the offer is made; or
  - (b) if the client informs the regulated person that the client does not want to be given the Product Disclosure Statement—the regulated person does not have to give the client the Product Disclosure Statement in relation to the making of the offer.

Note: The regulated person may need to give a Product Disclosure Statement to the client at or before the time specified in section 1012B if, in the course of the telephone call or later, the client applies for, or otherwise offers to acquire, the product, or the product is issued to the client.

- (3) In this section:

**quote** means, in relation to a general insurance product, a statement of the cost (and not merely an estimate of the likely cost) of the product if the cost is calculated by a regulated person having regard to information given to them by a client.

## **Division 2—Repeals**

### ***ASIC Corporations (PDS Requirements for General Insurance Quotes) Instrument 2022/66***

#### **31 The whole of the instrument**

Repeal the instrument.



## **283BHA Additional requirements for describing debentures as secured notes**

### *Advertisements and publications*

- (1) If the borrower proposes to describe or refer to the debentures as secured notes in an advertisement or publication in relation to the offer, or intended offer, of debentures that requires a disclosure document—the borrower must ensure that the advertisement or publication includes:
  - (a) a statement that the secured notes are not bank deposits; and
  - (b) a statement that there is a risk that investors could lose some or all of their money.

### *Disclosure documents and quarterly reports*

- (2) If the borrower proposes to describe or refer to the debentures as secured notes in a disclosure document or in a quarterly report prepared under section 283BF—the borrower must ensure that the disclosure document or quarterly report includes statements of the following:
  - (a) key features of the security interest, including:
    - (i) that the security interest is first ranking; and
    - (ii) the type of security interest; and
    - (iii) the identity of the person providing the security interest; and
    - (iv) the property constituting the security for the security interest;
  - (b) that, in the borrower's assessment, the property that constitutes the security for the security interest is sufficient and is reasonably likely to be sufficient to meet the liabilities referred to in paragraph 283BH(4)(b);
  - (c) if the value of the property that constitutes the security for the security interest may be affected by the financial position or performance of a related body corporate or related party of the borrower—that fact.

**Schedule 3** Rationalisation of ending ASIC instruments

**Part 4** Describing debentures as secured notes

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*Borrower's website*

- (3) If the borrower describes or refers to the debentures as secured notes on its website—the borrower must ensure that the reports, documents and notices mentioned in an item of the following table are published on the borrower's website in the period specified in that item:

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<b>Publication requirements</b>		
<b>Item</b>	<b>Document, report or notice</b>	<b>Period for publication</b>
1	The most recent quarterly report prepared in relation to the borrower under section 283BF	As soon as practicable after a copy of the report is required to be lodged with ASIC
2	Each disclosure document (including any replacement or supplementary document) lodged with ASIC in relation to the borrower in the previous 13 months	As soon as practicable after a copy of the document is lodged with ASIC
3	Each continuous disclosure notice required to be lodged with ASIC under section 675 in relation to the borrower in the previous 12 months	As soon as practicable after the notice is required to be lodged with ASIC

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- (4) In this section:

*advertisement or publication*, in relation to an offer, or intended offer, of debentures that requires a disclosure document, means:

- (a) an advertisement for the offer or intended offer; or
- (b) a publication of a statement that:
  - (i) directly or indirectly refers to the offer or intended offer; or
  - (ii) is reasonably likely to induce people to apply for the debentures.

*related party* has the meaning given by section 228.

**Division 2—Repeals**

***ASIC Corporations (Describing Debentures—Secured Notes)  
Instrument 2022/61***

**34 The whole of the instrument**

Repeal the instrument.

## **Part 5—Notice requirements in the hardship provisions of the National Credit Code**

### **Division 1—Amendments**

#### *National Consumer Credit Protection Act 2009*

##### **35 After subsection 72(4) of the *National Credit Code***

Insert:

- (4A) Subsection (4) does not apply if the credit provider and the debtor agree to a change to the credit contract that defers or otherwise reduces the obligations of the debtor under that contract for a period not exceeding 90 days.

##### **36 After subsection 73(1) of the *National Credit Code***

Insert:

- (1A) Subsection (1) does not apply if the credit provider and the debtor agree to a change to the credit contract that defers or otherwise reduces the obligations of the debtor under that contract for a period not exceeding 90 days.

##### **37 After subsection 177B(4) of the *National Credit Code***

Insert:

- (4A) Subsection (4) does not apply if the lessor and the lessee agree to a change to the consumer lease that defers or otherwise reduces the obligations of the lessee under that lease for a period not exceeding 90 days.

##### **38 After subsection 177C(1) of the *National Credit Code***

Insert:

- (1A) Subsection (1) does not apply if the lessor and the lessee agree to a change to the consumer lease that defers or otherwise reduces the obligations of the lessee under that lease for a period not exceeding 90 days.
-

***National Consumer Credit Protection (Transitional and  
Consequential Provisions) Act 2009***

**39 After item 5 of Part 2 of Schedule 5**

Insert:

**5A Sections 72 and 73 of the new Credit Code**

*Item applies to credit contracts and consumer leases entered into  
before 1 March 2013*

- (1) This item applies in relation to a credit provider and a debtor under a credit contract (within the meaning of the new Credit Code):
  - (a) entered into before 1 March 2013; and
  - (b) for which the debtor applied to the credit provider in accordance with former subsections 72(1) and (2) of the new Credit Code (as in force before 1 March 2013).
- (2) This item also applies in relation to a lessor and a lessee under a consumer lease (within the meaning of the new Credit Code):
  - (a) entered into before 1 March 2013; and
  - (b) for which the lessee applied to the lessor in accordance with former subsections 72(1) and (2), and former section 177, of the new Credit Code (as in force before 1 March 2013);

in a corresponding way to the way this item applies to a credit provider and debtor under a credit contract.

Note: Former section 177 of the new Credit Code (as in force before 1 March 2013) has the effect that former sections 72 and 73 of that Code apply to consumer leases in the same way as they apply to credit contracts.

***Notice requirements for changes to a credit contract or a  
consumer lease on grounds of hardship do not apply in certain  
circumstances***

- (4) Former subsection 72(3) of the new Credit Code (as in force before 1 March 2013) does not apply if the credit provider and the debtor agree to a change to the credit contract that defers or otherwise reduces the obligations of the debtor under that contract for a period not exceeding 90 days.

**Schedule 3** Rationalisation of ending ASIC instruments

**Part 5** Notice requirements in the hardship provisions of the National Credit Code

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- (5) Former subsection 73(1) of the new Credit Code (as in force before 1 March 2013) does not apply if the credit provider and the debtor agree to a change to the credit contract that defers or otherwise reduces the obligations of the debtor under that contract for a period not exceeding 90 days.

**Division 2—Repeals**

*ASIC Class Order [CO 14/41]*

**40 The whole of the instrument**

Repeal the instrument.

## **Schedule 4—Miscellaneous and technical amendments**

### **Part 1—Amendments commencing day after Royal Assent**

#### **Division 1—Foreign ownership register notices**

##### *Foreign Acquisitions and Takeovers Act 1975*

###### **1 Subsection 130ZI(1)**

Omit “give a notice”, substitute “give a register notice”.

###### **2 Subsection 130ZI(4)**

Omit “for a notice”, substitute “for a register notice”.

###### **3 Subsection 130ZO(3)**

Omit “in relation to the notice”, substitute “in relation to the register notice”.

###### **4 Subsection 130ZP(4)**

Omit “in relation to the notice”, substitute “in relation to the register notice”.

###### **5 Subsection 130ZR(2)**

Omit “when the notice is given”, substitute “when the register notice is given”.

###### **6 Paragraph 130ZS(2)(a)**

Omit “because of a notice”, substitute “because of a register notice”.

###### **7 Paragraph 130ZS(2)(b)**

Omit “for a notice”, substitute “for a register notice”.

###### **8 Paragraph 130ZT(2)(a)**

Omit “because of a notice”, substitute “because of a register notice”.

**9 Paragraph 130ZT(2)(b)**

Omit “for a notice”, substitute “for a register notice”.

**10 Paragraph 130ZU(1)(c)**

Omit “foreign”.

**Division 2—Infringement notices**

***Corporations Act 2001***

**11 Paragraph 1317DAT(5)(a)**

Omit “make an arrangement for the applicant to pay the amount payable under the infringement notice by instalments”, substitute “withdraw the infringement notice”.

**12 At the end of Part 10.64**

Add:

**Division 2—Miscellaneous and Technical Amendments**

**1694G Application of amendments made by Division 2 of Part 1 of Schedule 4 to the *Treasury Laws Amendment (Modernising Business Communications and Other Measures) Act 2023***

The amendments made by Division 2 of Part 1 of Schedule 4 to the *Treasury Laws Amendment (Modernising Business Communications and Other Measures) Act 2023* apply in relation to representations made to ASIC:

- (a) under subsection 1317DAT(1) of this Act; and
- (b) on or after the commencement of that Part;

whether the related infringement notice was given before, on or after that commencement.

### **Division 3—Motor vehicle service and repair information scheme adviser**

#### ***Competition and Consumer Act 2010***

##### **13 Subsection 57FA(3)**

Omit “be paid any remuneration or allowances”, substitute “any payment (including any remuneration or allowances) relating to this appointment”.

##### **14 At the end of subsection 57FA(3)**

Add:

Note: The person appointed could be a body corporate or an individual.

##### **15 Application of amendments**

The amendments made by this Division apply in relation to each appointment under subsection 57FA(2) of the *Competition and Consumer Act 2010* that takes effect on or after 1 July 2022.

### **Division 4—Fringe Benefits technical amendment**

#### ***Fringe Benefits Tax Assessment Act 1986***

##### **16 Paragraphs 37(b) and (c)**

Before “section 8-1”, insert “under”.

### **Division 5—Disclosure of protected information**

#### ***Commonwealth Registers Act 2020***

##### **17 Paragraph 17(1)(c)**

After “information”, insert “is protected information that”.

## **Division 6—Giving TFNs under corporations legislation**

### ***Corporations (Aboriginal and Torres Strait Islander) Act 2006***

#### **18 Paragraph 308-5(5)(a)**

Omit “a written statement of”.

#### **19 Subparagraph 308-5(5)(b)(ii)**

Omit “a written statement of”.

### ***Corporations Act 2001***

#### **20 Paragraph 1272(5)(a)**

Omit “a written statement of”.

#### **21 Subparagraph 1272(5)(b)(ii)**

Omit “a written statement of”.

## **Division 7—Consumers**

### ***Competition and Consumer Act 2010***

#### **22 Section 4B**

Before “For the purposes of”, insert “(1)”.

#### **23 At the end of section 4B**

Add:

(2) If it is alleged in:

- (a) any proceeding under this Act; or
- (b) any other proceeding in respect of a matter arising under this Act;

that a person was a consumer in relation to particular goods or services, it is presumed, unless the contrary is established, that the person was a consumer in relation to those goods or services.

## **Division 8—Giving notices under the Superannuation Industry (Supervision) Act 1993**

### ***Superannuation Industry (Supervision) Act 1993***

#### **24 Subsection 126A(7)**

Repeal the subsection, substitute:

- (7) As soon as practicable after the Regulator gives a notice under:
- (a) subsection (6) of this section; or
  - (b) subsection 344(6) (result of internal review);
- the Regulator must, by notifiable instrument, publish particulars of the notice.

#### **25 Subsection 126H(8)**

Omit “cause particulars of the disqualification to which the notice relates”.

#### **26 Paragraph 126H(8)(a)**

Omit “to be given”, substitute “give particulars of the disqualification”.

#### **27 Paragraph 126H(8)(b)**

Repeal the paragraph, substitute:

- (b) by notifiable instrument, publish particulars of the disqualification.

#### **28 Subsection 130D(7)**

Omit “cause particulars of the disqualification to which the notice relates to be published in the *Gazette*”, substitute “, by notifiable instrument, publish particulars of the disqualification”.

#### **29 Subsection 130F(5) (heading)**

Repeal the heading, substitute:

*Publication*

**30 Subsection 130F(5)**

Omit “cause a copy of the order to be published in the *Gazette* as soon as practicable after it”, substitute “, by notifiable instrument, publish a copy of the order as soon as practicable after the order”.

**31 Subsection 130F(6)**

Omit “cause a notice of the variation or revocation to be published in the *Gazette*”, substitute “, by notifiable instrument, give notice of the variation or revocation”.

**32 Subsection 130F(7)**

Omit “cause a notice of the Tribunal’s decision to be published in the *Gazette*”, substitute “, by notifiable instrument, give notice of the Tribunal’s decision”.

**33 Subsection 130F(13)**

Repeal the heading, substitute:

*Publication*

**34 Subsection 130F(13)**

Omit “cause particulars of the revocation to be published in the *Gazette*”, substitute “, by notifiable instrument, publish particulars of the revocation”.

**35 Subsection 131(4)**

Repeal the heading, substitute:

*Publication*

**36 Subsection 131(4)**

Omit “cause particulars of the disqualification order to be published in the *Gazette*”, substitute “, by notifiable instrument, publish particulars of the disqualification order”.

**37 Subsection 131(4A)**

Omit “cause particulars of the variation or revocation to be published in the *Gazette*”, substitute “, by notifiable instrument, publish particulars of the variation or revocation”.

**38 Subsection 131(4B)**

Omit “cause particulars of the Tribunal’s decision to be published in the *Gazette*”, substitute “, by notifiable instrument, publish particulars of the Tribunal’s decision”.

**39 Subsection 131(10) (heading)**

Repeal the heading, substitute:

*Publication*

**40 Subsection 131(10)**

Omit “cause particulars of the revocation to be published in the *Gazette*”, substitute “, by notifiable instrument, publish particulars of the revocation”.

**41 Subsection 347A(10)**

Omit “notice published in the *Gazette*”, substitute “notifiable instrument”.

**Division 9—Declarations for fringe benefits tax  
assessment**

***Fringe Benefits Tax Assessment Act 1986***

**42 Paragraph 61A(2)(a)**

Omit “set out:”, substitute “set out the number of whole kilometres travelled by the car in providing transport by virtue of which the recipients expenditure is in respect of overseas employment holiday transport; or”.

**43 Subparagraphs 61A(2)(a)(iii) and (iv)**

Repeal the subparagraphs.

**44 At the end of paragraph 61B(a)**

Add “and”.

**45 Paragraph 61B(c)**

Repeal the paragraph, substitute:

- (c) the recipient gives to the employer, before the declaration date, a declaration, in a form approved by the Commissioner, purporting to set out the number of whole kilometres travelled by the car in providing transport by virtue of which the benefit is in respect of relocation transport;

**46 Paragraph 61E(c)**

Repeal the paragraph, substitute:

- (c) the recipient gives to the employer, before the declaration date, a declaration, in a form approved by the Commissioner, purporting to set out the number of whole kilometres travelled by the car in providing transport by virtue of which the benefit is in respect of an employment interview or selection test;

**47 Paragraph 61F(c)**

Repeal the paragraph, substitute:

- (c) the recipient gives to the employer, before the declaration date, a declaration, in a form approved by the Commissioner, purporting to set out the number of whole kilometres travelled by the car in providing transport by virtue of which the benefit is associated with:
  - (i) a work-related medical examination of the employee; or
  - (ii) work-related medical screening of the employee; or
  - (iii) work-related preventative health care of the employee; or
  - (iv) work-related counselling of the employee or of an associate of the employee; or
  - (v) migrant language training of the employee or of an associate of the employee;

## **Division 10—Cross reference update**

### ***Superannuation Industry (Supervision) Act 1993***

#### **48 Subsection 6(1) (table item 24)**

Repeal the item.

## **Division 11—Exempt core Part 3 actions**

### ***Foreign Acquisitions and Takeovers Act 1975***

#### **49 Section 4**

Insert:

*exempt core Part 3 action* means an action which would be a core Part 3 action if an exemption certificate did not relate to the action.

#### **50 Subparagraph 98B(4)(b)(ii)**

After “one or more”, insert “exempt”.

#### **51 Section 98D**

Before “core Part 3” (wherever occurring), insert “exempt”.

#### **52 Subparagraph 98E(1)(a)(iii)**

After “one or more”, insert “exempt”.

#### **53 Subparagraph 98E(1)(b)**

After “core Part 3 actions”, insert “or exempt core Part 3 actions”.

#### **54 Paragraph 98E(1)(c)**

After “core Part 3 action”, insert “or exempt core Part 3 action”.

#### **55 Subsection 98E(2)**

After “core Part 3 action” (wherever occurring), insert “or exempt core Part 3 action”.

**56 Paragraph 98E(4)(a)**

After “core Part 3 action”, insert “or exempt core Part 3 action”.

**57 Subparagraph 101AA(1)(b)(i)**

After “core Part 3 actions”, insert “or exempt core Part 3 actions”.

**58 Subsection 101AA(2)**

After “core Part 3 actions”, insert “or exempt core Part 3 actions”.

**Division 12—Application provisions relating to financial advisers**

*Corporations Act 2001*

**59 At the end of subsection 1684D(3)**

Add:

Note: The relevant provisions may apply to an existing provider before 1 January 2026 if the existing provider fails to pass the exam by the exam cut-off day (see subsection (5)).

**60 Paragraph 1684D(6)(a)**

Repeal the paragraph, substitute:

- (a) they did not include a reference to the education and training standard in subsection 921B(2), as amended by Schedule 1 to the amending Act; and

**61 After subsection 1684D(6)**

Insert:

- (6A) If an existing provider in relation to whom the relevant provisions begin to apply under subsection (6) has not, at the start of 1 January 2026, satisfied paragraph (3)(a) or (b) (which are about qualifications), then, from 1 January 2026:
  - (a) for an existing provider who is a relevant provider on 1 January 2026—the relevant provisions apply in relation to the existing provider without the modifications set out in paragraphs (6)(a) and (b); and

- (b) for an existing provider who is *not* a relevant provider on 1 January 2026—the relevant provisions apply in relation to the existing provider:
- (i) without the modifications set out in paragraphs (6)(a) and (b); and
  - (ii) with the modifications set out in paragraphs (4)(a) and (b).

Note: This subsection sets out the consequences for the provider of failing to gain qualifications by 1 January 2026. These consequences differ depending on whether the provider is or is not a relevant provider on that day. If the provider is a relevant provider, they will need to meet the education and training standards. If the provider is not a relevant provider, they will need to gain qualifications but will not need to meet the work and training-related standards.

## **Division 13—Renumbering**

### ***Australian Securities and Investments Commission Act 2001***

**62 Part 29 (the Part 29 inserted by item 7 of Schedule 1 to the *Financial Sector Reform (Hayne Royal Commission Response—Protecting Consumers (2019 Measures)) Act 2020*)**

Renumber as Part 29A.

**63 Section 325 (the section 325 inserted by item 7 of Schedule 1 to the *Financial Sector Reform (Hayne Royal Commission Response—Protecting Consumers (2019 Measures)) Act 2020*)**

Renumber as section 326A.

### ***Financial Sector Reform (Hayne Royal Commission Response—Protecting Consumers (2019 Measures)) Act 2020***

**64 Item 10 of Schedule 1 (note)**

Omit “Part 29 of the *Australian Securities and Investments Commission Act 2001*”, substitute “item 7 of this Schedule”.

## Division 14—Virtual RSE annual members’ meetings

### *Superannuation Industry (Supervision) Act 1993*

#### 65 Subsection 10(1)

Insert:

*virtual meeting technology* has the same meaning as in the *Corporations Act 2001*.

#### 66 Paragraph 29P(3)(a)

Repeal the paragraph, substitute:

- (a) set out in the notice:
  - (i) if there is only one location at which to physically attend the annual members’ meeting—the date, time and place for the meeting; and
  - (ii) if there are 2 or more locations at which to physically attend the annual members’ meeting—the date and time for the meeting at each location, and the main location for the meeting; and
  - (iii) if virtual meeting technology is to be used in holding the annual members’ meeting—sufficient information to allow persons to participate in the meeting by means of the technology; and
- (aa) include in the notice the agenda of matters to be discussed at the annual members’ meeting; and

#### 67 After subsection 29P(4)

Insert:

*Place and time of meetings and presence at meetings*

- (4A) The RSE licensee may hold the annual members’ meeting:
  - (a) at one or more physical venues; or
  - (b) at one or more physical venues and using virtual meeting technology; or
  - (c) using virtual meeting technology only.

- (4B) The place at which the annual members' meeting is held is taken to be:
- (a) if the meeting is held at only one physical venue (whether or not it is also held using virtual meeting technology)—that physical venue; or
  - (b) if the meeting is held at more than one physical venue (whether or not it is also held using virtual meeting technology)—the main physical venue of the meeting as set out in the notice of the meeting; or
  - (c) if the meeting is held using virtual meeting technology only—the registered address of, or an address for service of notices on, the registrable superannuation entity as contained in a register kept by APRA under regulations made for the purposes of subsection 353(2).
- (4C) The time at which the annual members' meeting is held is taken to be the time at the place at which the meeting is taken to be held in accordance with subsection (4B).
- (4D) A person who attends the annual members' meeting (whether at a physical venue or by using virtual meeting technology) is taken for all purposes to be present in person at the meeting while so attending.

## **68 Application of amendments**

The amendments of the *Superannuation Industry (Supervision) Act 1993* made by this Division apply in relation to an annual members' meeting of a registrable superannuation entity that is held for a year of income of the entity that ends on or after the day this Division commences.

## **Division 15—Repeal of redundant appropriation**

### ***Treasury Laws Amendment (North Queensland Flood Recovery) Act 2019***

## **69 Schedule 3**

Repeal the Schedule.

## Division 16—CCIV technical amendments

### *Corporations Act 2001*

#### **70 Section 9 (definition of *listing market*)**

Omit “or (1B)”, substitute “, (1B) or (1C)”.

#### **71 After subsection 111AE(1B)**

Insert:

(1C) If:

- (a) subsection (1) does not apply to securities issued by a CCIV; and
- (b) a sub-fund of the CCIV is, with the agreement, consent or acquiescence of the CCIV, included in the official list of a prescribed financial market; and
- (c) the market’s listing rules (according to their terms) apply to the sub-fund in relation to a class of securities issued by the CCIV that are referable to the sub-fund;

securities in that class that are referable to the sub-fund are ***ED securities***, and that market is a ***listing market*** in relation to the CCIV.

Note: Subsection (1) may apply to a CCIV instead of this subsection if the CCIV, and not a sub-fund, is included in the official list of a prescribed financial market.

#### **72 After subsection 793C(4A)**

Insert:

(4B) For the purposes of this section, if:

- (a) subsection (3) does not apply to a CCIV; and
- (b) a sub-fund of the CCIV is, with the agreement, consent or acquiescence of the CCIV, included in the official list of a licensed market;

the CCIV, or an associate of the CCIV, is taken to be under an obligation to comply with the operating rules of that market to the extent to which those rules purport to apply to the CCIV or associate.

Note: Subsection (3) may apply to a CCIV instead of this subsection if the CCIV, and not a sub-fund, is included in the official list of a licensed market.

### **73 In the appropriate position in Chapter 10**

Insert:

#### **1694H Application of amendments made by Division 16 of Part 1 of Schedule 4 to the *Treasury Laws Amendment (Modernising Business Communications and Other Measures) Act 2023***

- (1) Subsection 111AE(1C) (as inserted by Division 16 of Part 1 of Schedule 4 to the *Treasury Laws Amendment (Modernising Business Communications and Other Measures) Act 2023*) applies in relation to a sub-fund of a CCIV on or after the commencement of that Part (whether the sub-fund was included in the official list of a prescribed financial market before, on or after that commencement).
- (2) Subsection 793C(4B) (as inserted by Division 16 of Part 1 of Schedule 4 to the *Treasury Laws Amendment (Modernising Business Communications and Other Measures) Act 2023*) applies in relation to a sub-fund of a CCIV on or after the commencement of that Part (whether the sub-fund was included in the official list of a licensed market before, on or after that commencement).

### **Division 17—Recognised tax advisers**

#### ***Income Tax Assessment Act 1997***

#### **74 Section 995-1 (definition of *recognised tax adviser*)**

Repeal the definition, substitute:

***recognised tax adviser*** means:

- (a) a \*registered tax agent; or
- (b) a registered BAS agent (within the meaning of the *Tax Agent Services Act 2009*); or
- (c) a qualified tax relevant provider (within the meaning of Part 7.6 of the *Corporations Act 2001*); or
- (d) a legal practitioner.

**75 Section 995-1 (definition of *registered tax agent, BAS agent or tax (financial) adviser*)**

Repeal the definition.

**76 Application and transitional provisions**

- (1) The amendments made by this Division apply in relation to advice provided on or after 1 January 2022.
- (2) For the purposes of paragraph 25-5(2)(e) and subsection 110-35(2) of the *Income Tax Assessment Act 1997*, treat advice that is covered by subitem (3) as advice that is provided by a recognised tax adviser (within the meaning of the *Income Tax Assessment Act 1997* as amended by this Division).
- (3) For the purposes of subitem (2), advice is covered by this subitem if:
  - (a) an entity provides the advice between 1 January and 31 December 2022; and
  - (b) the entity was, immediately before 1 January 2022, a registered tax (financial) adviser (within the meaning of the *Tax Agent Services Act 2009* as in force at that time); and
  - (c) the entity is not a recognised tax adviser (within the meaning of the *Income Tax Assessment Act 1997* as amended by this Division) throughout during the period:
    - (i) starting 1 January 2022; and
    - (ii) ending the day the advice is provided; and
  - (d) at the time the advice is provided:
    - (i) the entity is not a relevant provider (within the meaning of section 910A of the *Corporations Act 2001*); and
    - (ii) if the entity has applied, under section 20-20 of the *Tax Agent Services Act 2009*, for registration as a tax agent—the Board (within the meaning of the *Tax Agent Services Act 2009*) has not rejected the application and notified the entity of its decision.

## **Division 18—Reference Checking and Information Sharing Protocol**

### ***Corporations Act 2001***

#### **77 Section 910A**

Insert:

*credit licensee* means a licensee within the meaning of the *National Consumer Credit Protection Act 2009*.

*mortgage broker* has the same meaning as in the *National Consumer Credit Protection Act 2009*.

*mortgage intermediary* has the same meaning as in the *National Consumer Credit Protection Act 2009*.

#### **78 Paragraph 912A(1)(cc)**

Omit “in relation to:”, substitute “; and”.

#### **79 Subparagraphs 912A(1)(cc)(i) and (ii)**

Repeal the subparagraphs.

#### **80 Subsection 912A(3A)**

Repeal the subsection, substitute:

*Reference Checking and Information Sharing Protocol*

- (3A) ASIC may, by legislative instrument, determine a protocol for sharing and requesting information about an individual in respect of whom there are reasonable grounds to suspect that:
- (a) if the individual becomes a representative of a financial services licensee (*recruiting financial services licensee*), the individual will provide personal advice to retail clients about relevant financial products; or
  - (b) if the individual becomes a representative of a credit licensee (*recruiting credit licensee*), the individual will:
    - (i) provide credit assistance in relation to credit contracts secured by mortgages over residential property; and

- (ii) be a mortgage broker or a director, employee or agent of a mortgage broker; or
  - (c) a mortgage intermediary (*prospective mortgage intermediary*) is acting, or will act, as an intermediary in relation to a credit licensee where the individual is, or is a former, current or prospective representative of, that credit licensee, and in that capacity the individual:
    - (i) provides, provided or will provide credit assistance in relation to credit contracts secured by mortgages over residential property; and
    - (ii) is, was or will be a mortgage broker or a director, employee or agent of a mortgage broker.
- (3AA) The Reference Checking and Information Sharing Protocol may provide for any or all of the following to share information about the individual with the recruiting financial services licensee, the recruiting credit licensee or the prospective mortgage intermediary:
- (a) if the individual is a financial services licensee—the individual;
  - (b) if the individual is a former or current representative of a financial services licensee—that licensee.
- (3AB) The Reference Checking and Information Sharing Protocol may provide, in a case covered by paragraph (3A)(a), for the recruiting financial services licensee to request information about the individual from any or all of the following:
- (a) if the individual is a financial services licensee or credit licensee—the individual;
  - (b) if the individual is a former or current representative of a financial services licensee—that financial services licensee;
  - (c) if the individual is a former or current representative of a credit licensee—that credit licensee;
  - (d) if a mortgage intermediary has previously acted or is acting as an intermediary in relation to a credit licensee where the individual is, or is a former or current representative of, that credit licensee—that mortgage intermediary.
- (3AC) The Reference Checking and Information Sharing Protocol may also provide for keeping and retaining records of information

shared, and the circumstances under which that information is shared.

**81 Subsections 912A(3C) and (3D)**

Repeal the subsections.

**82 Subsection 912A(3E)**

Omit “subsection (3D)”, substitute “paragraphs (3A)(b) and (c) and (3AB)(c) and (d)”.

**83 Subsection 912A(3F)**

Omit all the words after “Reference Checking and Information Sharing Protocol”.

**84 In the appropriate position in Chapter 10**

Insert:

**1694J Transitional—Reference Checking and Information Sharing Protocol**

A protocol determined under subsection 912A(3A) of the *Corporations Act 2001* in force immediately before the commencement of Division 18 of Part 1 of Schedule 4 to the *Treasury Laws Amendment (Modernising Business Communications and Other Measures) Act 2023* continues in force as if it had been determined under that subsection as substituted by that Schedule.

***National Consumer Credit Protection Act 2009***

**85 Subsection 5(1)**

Insert:

*financial services licensee* has the same meaning as in Chapter 7 of the *Corporations Act 2001*.

**86 Paragraph 47(1)(ea)**

Omit “in relation to:”, substitute “; and”.

**87 Subparagraphs 47(1)(ea)(i) and (ii)**

Repeal the subparagraphs.

**88 Paragraph 47(1)(ha)**

Omit “(within the meaning of Chapter 7 of that Act)”.

**89 Subsection 47(3A)**

Repeal the subsection, substitute:

*Reference Checking and Information Sharing Protocol*

(3A) ASIC may, by legislative instrument, determine a protocol for sharing and requesting information about an individual in respect of whom there are reasonable grounds to suspect that:

(a) if the individual becomes a representative of a licensee (*recruiting credit licensee*), the individual will:

(i) provide credit assistance in relation to credit contracts secured by mortgages over residential property; and

(ii) be a mortgage broker or a director, employee or agent of a mortgage broker; or

(b) a mortgage intermediary (*prospective mortgage intermediary*) is acting, or will act, as an intermediary in relation to a licensee where the individual is, or is a former, current or prospective representative of, that licensee, and in that capacity the individual:

(i) provides, provided or will provide credit assistance in relation to credit contracts secured by mortgages over residential property; and

(ii) is, was or will be a mortgage broker or a director, employee or agent of a mortgage broker; or

(c) if the individual becomes a representative of a financial services licensee (*recruiting financial services licensee*), the individual will provide personal advice to retail clients about relevant financial products.

(3AA) The Reference Checking and Information Sharing Protocol may provide for any or all of the following to share information about the individual with the recruiting credit licensee, the prospective mortgage intermediary or the recruiting financial services licensee:

- (a) if the individual is a licensee—the individual;
  - (b) if the individual is a former or current representative of a licensee—that licensee;
  - (c) if a mortgage intermediary has previously acted or is acting as an intermediary in relation to a licensee where the individual is, or is a former or current representative of, that licensee—that mortgage intermediary;
- (3AB) The Reference Checking and Information Sharing Protocol may provide, in a case covered by paragraph (3A)(a) or (b), for the recruiting credit licensee or the prospective mortgage intermediary to request information about the individual from any or all of the following:
- (a) if the individual is a licensee or a financial services licensee—the individual;
  - (b) if the individual is a former or current representative of a licensee—that licensee;
  - (c) if the individual is a former or current representative of a financial services licensee—that financial services licensee;
  - (d) if a mortgage intermediary has previously acted or is acting as an intermediary in relation to a licensee where the individual is, or is a former or current representative of, that licensee—that mortgage intermediary.
- (3AC) The Reference Checking and Information Sharing Protocol may provide for keeping and retaining records of information shared, and the circumstances under which that information is shared.

## **90 Subsections 47(3C) and (3D)**

Repeal the subsections.

## **91 Subsection 47(3E)**

Omit “subsection (3D)”, substitute “paragraphs (3A)(c) and (3AB)(c)”.

## **92 Subsection 47(3F)**

Omit all the words after “Reference Checking and Information Sharing Protocol”.

*National Consumer Credit Protection (Transitional and  
Consequential Provisions) Act 2009*

**93 In the appropriate position**

Insert:

**Schedule 21—Transitional provisions relating  
to Division 18 of Part 1 of Schedule 4  
to the *Treasury Laws Amendment  
(Modernising Business  
Communications and Other Measures)  
Act 2023***

**1 Transitional—Reference Checking and Information Sharing  
Protocol**

A protocol determined under subsection 47(3A) of the *National Consumer Credit Protection Act 2009* in force immediately before the commencement of Division 18 of Part 1 of Schedule 4 to the *Treasury Laws Amendment (Modernising Business Communications and Other Measures) Act 2023* continues in force as if it had been determined under that subsection as amended by that Schedule.

**Division 19—Disclosure documents for offers in a MIS  
*Corporations Act 2001***

**94 Subsection 708(13)**

Repeal the subsection, substitute:

*Certain offers to present holder of securities*

- (13) An offer of securities for issue does not need disclosure to investors under this Part if it is an offer of fully-paid shares in a body to one or more existing holders of shares in the body under a dividend reinvestment plan or bonus share plan.

**95 Subsection 710(1) (table item 1)**

Omit “, debentures or interests in a managed investment scheme”, substitute “or debentures”.

**96 Subsection 710(1) (table item 1)**

Omit “the shares, debentures or interests”, substitute “the shares or debentures”.

**97 Paragraph 710(2)(b)**

Repeal the paragraph.

**98 Subparagraph 711(3)(b)(ii)**

Omit “; and”, substitute “.”.

**99 Paragraph 711(3)(c)**

Repeal the paragraph.

**100 Section 720 (table item 1)**

Omit “if securities interests in a managed investment scheme made available by a body—every director of that body  
if securities interests in a managed investment scheme made available by an individual—that individual”.

**101 Section 720 (table item 1A)**

Omit “if simple corporate bonds in a managed investment scheme made available by a body—every director of that body  
if simple corporate bonds in a managed investment scheme made available by an individual—that individual”.

**Division 20—Elections under section 110E of the  
Corporations Act 2001**

*Corporations Act 2001*

**102 Paragraphs 110H(1)(a) and 110J(1)(b)**

Omit “Part”, substitute “Division”.

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## Division 21—Continuing credit contracts exemption

### *National Consumer Credit Protection Regulations 2010*

#### 103 Regulation 51

Repeal the regulation, substitute:

#### 51 Exempt credit—maximum account charges

For the purposes of subsection 6(5) of the Code, for a continuing credit contract under which the only charge that is or may be made for providing credit:

- (a) is periodic or fixed; and
  - (b) does not vary according to the amount of credit provided;
- the prescribed maximum charge for the contract (the *eligible contract*) is as follows.

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Prescribed maximum charge		
Item	If:	Then the prescribed maximum charge is:
1	the debtor is not already a party to an eligible contract with the credit provider, or with an associate of the credit provider, when the eligible contract is entered into	(a) for the 12-month period commencing when the debtor enters into the eligible contract—\$200; and (b) for any later 12-month period during which the eligible contract is in effect—\$125
2	when the eligible contract (the <i>new eligible contract</i> ) is entered into: (a) the debtor: <ul style="list-style-type: none"><li>(i) is already; or</li><li>(ii) was within the previous 12 months;</li></ul> a party to an eligible contract with the credit provider or with an associate of the credit provider; and (b) neither the credit provider nor the associate of the credit provider is an ADI	(a) for the 12-month period commencing when the debtor enters into the new eligible contract—nil; and (b) for any later 12-month period during which the new eligible credit contract is in effect—nil

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Note: Under subsection 6(5) of the Code, the Code does not apply to the provision of credit under an eligible contract unless the only charge

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that is or may be made for providing credit under the contract exceeds the maximum charge prescribed by this regulation.

**104 In the appropriate position in Part 7-11**

Insert:

**Division 4—Transitional provisions for the Treasury Laws  
Amendment (Modernising Business  
Communications and Other Measures) Act 2023**

**115 Transitional arrangements**

Regulation 51 (as substituted by Schedule 4 to the *Treasury Laws Amendment (Modernising Business Communications and Other Measures) Act 2023*) applies in relation to contracts entered into on or after 13 June 2014.

## Part 2—Amendments commencing first day of next quarter

### Division 1—Asterisking

#### *A New Tax System (Goods and Services Tax) Act 1999*

##### **105 Subsection 25-5(3)**

Omit “register”, substitute “\*register”.

##### **106 Subsection 25-55(3)**

Omit “registration”, substitute “\*registration”.

##### **107 Subsection 25-57(3)**

Omit “registration”, substitute “\*registration”.

##### **108 Subsection 63-35(2)**

Omit “registration”, substitute “\*registration”.

##### **109 Amendments of listed provisions relating to asterisking—definition of *decreasing adjustment* in section 195-1**

The items of the table in the definition of *decreasing adjustment* in section 195-1 listed in the following table are amended as set out in the table.

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<b>Amendments relating to asterisking</b>			
<b>Item</b>	<b>Table item</b>	<b>Omit</b>	<b>Substitute</b>
1	Item 4AA	*real property under the *margin scheme	real property under the margin scheme
2	Item 4A	*compulsory third party schemes	compulsory third party schemes
3	Item 4B	*Decreasing adjustments under *compulsory third party schemes	Decreasing adjustments under compulsory third party schemes

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<b>Amendments relating to asterisking</b>			
<b>Item</b>	<b>Table item</b>	<b>Omit</b>	<b>Substitute</b>
4	Item 4C	*Decreasing adjustments under *compulsory third party schemes	Decreasing adjustments under compulsory third party schemes
5	Item 6A	*Decreasing adjustments for *additional consideration	Decreasing adjustments for additional consideration

**110 Amendments of listed provisions relating to asterisking—definition of *increasing adjustment* in section 195-1**

The items of the table in the definition of *increasing adjustment* in section 195-1 listed in the following table are amended as set out in the table.

<b>Amendments relating to asterisking</b>			
<b>Item</b>	<b>Table item</b>	<b>Omit</b>	<b>Substitute</b>
1	Item 4AAA	*real property under the *margin scheme	real property under the margin scheme
2	Item 4AA	*compulsory third party schemes	compulsory third party schemes
3	Item 4AB	*Increasing adjustments under *compulsory third party schemes	Increasing adjustments under compulsory third party schemes
4	Item 4AC	*Increasing adjustments under *compulsory third party schemes	Increasing adjustments under compulsory third party schemes
5	Item 4AD	*Increasing adjustments under *insurance policy settlement sharing arrangements	Increasing adjustments under insurance policy settlement sharing arrangements
6	Item 4AE	*Increasing adjustments under *nominal defendant settlement sharing arrangements	Increasing adjustments under nominal defendant settlement sharing arrangements

## **Division 2—Equal representation rules**

### ***Superannuation Industry (Supervision) Act 1993***

#### **111 Sub-subparagraph 117(5)(b)(i)(B)**

Omit “consisted of equal numbers of employer representatives and member representatives”, substitute “complied with the basic equal representation rules under Part 9”.

#### **112 Sub-subparagraph 117(5)(b)(ii)(B)**

Omit “consisted of equal numbers of employer representatives and member representatives”, substitute “complied with the basic equal representation rules under Part 9”.

#### **113 Subsection 117(9)**

Repeal the subsection.

## **Division 3—Registration requirements for GST**

### ***A New Tax System (Goods and Services Tax) Act 1999***

#### **114 Paragraph 84-55(2)(a)**

Repeal the paragraph, substitute:

- (a) \*registered and a party to a written agreement, where:
  - (i) the agreement is between the operator and at least one of the other operators of the platforms; and
  - (ii) the operator is to be treated as the supplier under the agreement; or

#### **115 Paragraphs 84-55(2)(b) and (c)**

Omit “if no such agreement has been made”, substitute “if paragraph (a) does not apply”.

## **116 Application of amendments**

The amendment of paragraph 84-55(2)(a) of the *A New Tax System (Goods and Services Tax) Act 1999* made by this Division applies in relation to a supply that is made on or after the commencement of this item.

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[*Minister's second reading speech made in—  
House of Representatives on 23 November 2022  
Senate on 7 February 2023*]

(125/22)

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