# Treasury Laws Amendment (2023 Law Improvement Package No. 1) Act 2023

# No. 76, 2023

**An Act to amend the law relating to corporations, insurance and other matters in the Treasury portfolio, to make miscellaneous and technical amendments of the law in the Treasury portfolio, 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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# Treasury Laws Amendment (2023 Law Improvement Package No. 1) Act 2023

**No. 76, 2023**

## An Act to amend the law relating to corporations, insurance and other matters in the Treasury portfolio, to make miscellaneous and technical amendments of the law in the Treasury portfolio, and for related purposes

[*Assented to 20 September 2023*]

The Parliament of Australia enacts:



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## 1 Short title

This Act is the *Treasury Laws Amendment (2023 Law Improvement Package No. 1) 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. | 20 September 2023 |
| 2. Schedules 1 and 2 | The later of:<br>(a) the start of the 30th day after this Act receives the Royal Assent; and<br>(b) immediately after the commencement of Schedule 2 to the *Treasury Laws Amendment (Modernising Business Communications and Other Measures) Act 2023*.<br>However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur. | 20 October 2023<br>(paragraph (a) applies) |
| 3. Schedule 3, Part 1 | The later of:<br>(a) at the same time as the provisions covered by table item 2; and<br>(b) immediately after the commencement of Schedule 2 to the *Treasury Laws Amendment (More Competition, Better Prices) Act 2022*. | 9 November 2023<br>(paragraph (b) applies) |
| 4. Schedule 3, | The later of: | 20 October 2023 |



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| Commencement information | | |
|---|---|---|
| **Column 1** | **Column 2** | **Column 3** |
| **Provisions** | **Commencement** | **Date/Details** |
| Part 2 | (a) at the same time as the provisions covered by table item 2; and<br>(b) immediately after the commencement of the *Financial Accountability Regime Act 2023*.<br>However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur. | (paragraph (a) applies) |
| 5. Schedule 3, Part 3, Division 1 | The later of:<br>(a) at the same time as the provisions covered by table item 2; and<br>(b) immediately after the commencement of the *Treasury Laws Amendment (Financial Services Compensation Scheme of Last Resort) Act 2023*.<br>However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur. | 20 October 2023<br>(paragraph (a) applies) |
| 6. Schedule 3, Part 3, Division 2 | The later of:<br>(a) at the same time as the provisions covered by table item 2; and<br>(b) immediately after the commencement of the *Financial Services Compensation Scheme of Last Resort Levy Act 2023*.<br>However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur. | 20 October 2023<br>(paragraph (a) applies) |
| 7. Schedule 3, Part 3, Division 3 | The later of:<br>(a) at the same time as the provisions covered by table item 2; and<br>(b) immediately after the commencement of the *Financial Services Compensation Scheme of Last Resort Levy (Collection) Act 2023*.<br>However, the provisions do not commence at all if the event mentioned in paragraph (b) | 20 October 2023<br>(paragraph (a) applies) |



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| Commencement information | | |
|---|---|---|
| **Column 1** | **Column 2** | **Column 3** |
| **Provisions** | **Commencement** | **Date/Details** |
| | does not occur. | |
| 8. Schedule 3, Part 4 | The later of:<br>(a) immediately after the provisions covered by table item 2; and<br>(b) immediately after the commencement of Schedule 6 to the *Treasury Laws Amendment (2022 Measures No. 4) Act 2023*.<br>However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur. | 20 October 2023<br>(paragraph (a) applies) |
| 9. Schedule 3, Part 5, Division 1 | At the same time as the provisions covered by table item 2.<br>However, the provisions do not commence at all if Part 4 of Schedule 1 to the *Treasury Laws Amendment (Modernising Business Communications and Other Measures) Act 2023* does not commence before that time. | |
| 10. Schedule 3, Part 5, Division 2 | At the same time as the provisions covered by table item 2.<br>However, the provisions do not commence at all if Part 4 of Schedule 1 to the *Treasury Laws Amendment (Modernising Business Communications and Other Measures) Act 2023* commences before the commencement of the provisions covered by table item 2. | |
| 11. Schedule 3, Part 6, Division 1 | At the same time as the provisions covered by table item 2.<br>However, the provisions do not commence at all if Schedule 3 to the *Treasury Laws Amendment (Modernising Business Communications and Other Measures) Act 2023* does not commence before that time. | 20 October 2023 |
| 12. Schedule 3, Part 6, Division 2 | At the same time as the provisions covered by table item 2.<br>However, the provisions do not commence | Never commenced |



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| Commencement information | | |
|---|---|---|
| **Column 1** | **Column 2** | **Column 3** |
| **Provisions** | **Commencement** | **Date/Details** |
| | at all if Schedule 3 to the *Treasury Laws Amendment (Modernising Business Communications and Other Measures) Act 2023* commences before the commencement of the provisions covered by table item 2. | |
| 13. Schedule 3, Part 6, Division 3 | The later of:<br>(a) immediately after the provisions covered by table item 2; and<br>(b) immediately after the commencement of Schedule 3 to the *Treasury Laws Amendment (Modernising Business Communications and Other Measures) Act 2023*.<br>However, the provisions do not commence at all if Schedule 3 to the *Treasury Laws Amendment (Modernising Business Communications and Other Measures) Act 2023* commences before the commencement of the provisions covered by table item 2. | Never commenced |
| 14. Schedule 3, Part 7 | The later of:<br>(a) immediately after the provisions covered by table item 2; and<br>(b) immediately after the commencement of Part 1 of Schedule 4 to the *Treasury Laws Amendment (Modernising Business Communications and Other Measures) Act 2023*.<br>However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur. | 20 October 2023<br>(paragraph (a) applies) |
| 15. Schedule 4, items 1 to 121 | A day or days to be fixed by Proclamation.<br>However, if any of 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. | |



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| Commencement information | | |
|---|---|---|
| **Column 1** | **Column 2** | **Column 3** |
| **Provisions** | **Commencement** | **Date/Details** |
| 16. Schedule 4, item 122 | The later of:<br>(a) at the same time as the provisions covered by table item 15; and<br>(b) immediately after the commencement of item 114 of Schedule 1 to the *Treasury Laws Amendment (Modernising Business Communications and Other Measures) Act 2023*.<br>However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur. | |
| 17. Schedule 4, items 123 to 136 | At the same time as the provisions covered by table item 15. | |
| 18. Schedule 4, Part 7 | The later of:<br>(a) at the same time as the provisions covered by table item 2; and<br>(b) immediately after the commencement of the provisions covered by table item 17.<br>However, the provisions do not commence at all if the event mentioned in paragraph (a) does not occur. | |
| 19. Schedule 5 | The day after this Act receives the Royal Assent. | 21 September 2023 |
| 20. Schedule 6, Part 1, Divisions 1 and 2 | The day after this Act receives the Royal Assent. | 21 September 2023 |
| 21. Schedule 6, Part 1, Division 3 | Immediately after the commencement of the provisions covered by table item 20. | 21 September 2023 |
| 22. Schedule 6, Part 1, Divisions 4 to 7 | The day after this Act receives the Royal Assent. | 21 September 2023 |
| 23. Schedule 6, 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 |



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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.

(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.



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# Schedule 1—ALRC Financial Services Interim Report: unfreezing the Acts Interpretation Act 1901

## *Australian Securities and Investments Commission Act 2001*

### 1 Section 5A

Repeal the section.

### 2 Subsection 12GNA(4) (definition of *modifications*)

Repeal the definition.

### 3 Paragraph 19(2)(b)

After "oath", insert "or affirmation".

### 4 Subsection 58(5)

After "oath", insert "or affirmation".

### 5 At the end of sections 116, 117, 118 and 182

Add:

Note: For rules that apply to acting appointments, see sections 33AB and 33A of the *Acts Interpretation Act 1901*.

### 6 Subsection 208(4)

Repeal the subsection, substitute:

Note: For rules that apply to acting appointments, see sections 33AB and 33A of the *Acts Interpretation Act 1901*.

### 7 Subsection 208A(1)

Omit "(1)".

### 8 Subsection 208A(2)

Repeal the subsection, substitute:

Note: For rules that apply to acting appointments, see sections 33AB and 33A of the *Acts Interpretation Act 1901*.



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### 9 Subsection 218(5)

After "oath", insert "or affirmation".

### 10 Subsections 236D(4) and 236H(4)

Repeal the subsections, substitute:

Note: For rules that apply to acting appointments, see sections 33AB and 33A of the *Acts Interpretation Act 1901*.

### 11 Section 245

Repeal the section.

## *Corporations Act 2001*

### 12 Subsection 3(2)

Omit "subsection 22(3)", substitute "section 2H".

### 13 Section 5C

Repeal the section.

### 14 Section 9

Repeal the following definitions:

(a) definition of ***affidavit***;
(b) definition of ***document***;
(c) definition of ***Judge***;
(d) definition of ***territorial sea***.

### 15 Section 105

Repeal the section, substitute:

### 105 Calculation of time

(1) A period of time referred to in the Corporations legislation, or an instrument made under the Corporations legislation, dating from a given day, act or event, is to be calculated exclusive of such day or of the day of such act or event.



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(2) Without limiting subsection (1), in calculating how many days a particular day, act or event is before or after another day, act or event:

(a) the first-mentioned day, or the day of the first-mentioned act or event, is to be counted; and

(b) the other day, or the day of the other act or event, is not to be counted.

(3) If:

(a) the Corporations legislation, or an instrument made under the Corporations legislation, requires or allows a thing to be done within a specified period; and

(b) the last day of the period is not a business day in the place where the thing must or may be done;

then the thing may instead be done on the next day that is a business day in that place.

## 16 Subsection 110(1) (note 1)

Omit "section 9", substitute "section 2B of the *Acts Interpretation Act 1901*".

## 17 Subsection 581(1)

Omit "Judges", substitute "judges".

## 18 Paragraph 596D(1)(b)

After "oath", insert "or affirmation".

## 19 Section 1020AE (note 2)

Repeal the note, substitute:

Note 2: For the definition of ***writing***, see section 2B of the *Acts Interpretation Act 1901*.

## 20 Subsection 1044B(4) (definition of *modifications*)

Repeal the definition.

## 21 Subsections 1057A(2) and (3)

Omit "Judge", substitute "judge".



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# Schedule 2—ALRC Financial Services Interim Report: single glossary of defined terms

## Part 1—Amendments

### Division 1—The single glossary

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

#### 1 Subsections 5(2) and (3)

Repeal the subsections, substitute:

(2) Subject to this Act, Part 1.2 (Interpretation) of the Corporations Act applies for the purposes of this Act as if the provisions of this Act were provisions of that Act.

Note: Part 1.2 of the Corporations Act includes the Dictionary in section 9 of that Act, so the definitions in that section apply for the purposes of this Act unless this Act otherwise provides.

### *Corporations Act 2001*

#### 2 Before section 6

Insert:

**5J Simplified outline of this Part**

This Part sets out the main interpretative provisions for this Act. Particular provisions of this Act may have different or additional interpretative provisions. Terms may be defined only for a particular purpose or have a different definition for different purposes.

The Dictionary in section 9 includes a definition for each term that is defined in this Act, except:

(a) terms that are defined for the purposes of a single section or part of a single section; and



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(b) terms that are defined for the purposes of Chapter 10 (transitional provisions), Schedule 2 (the Insolvency Practice Schedule) or Schedule 4 (transfer of financial institutions and friendly societies).

To the extent that a term used in a provision is not defined in this Act, it has its ordinary meaning.

## 3 Section 7

Repeal the section, substitute:

## 7 Identifying defined terms

(1) The Dictionary in section 9 includes a definition for each term that is defined in this Act, except:

(a) a term that is defined for the purposes of a single section or part of a single section; and

(b) a term that is defined for the purposes of Chapter 10 (transitional provisions) or Schedule 4 (transfer of financial institutions and friendly societies); and

(c) a term that is defined for the purposes of Schedule 2 (the Insolvency Practice Schedule).

In some cases, the definition is a signpost to another provision or Act which defines the term.

Note 1: An example for paragraph (a) is a definition that is expressed as being for the purposes of a section or subsection.

Note 2: Schedule 2 also has its own Dictionary: see section 5-5 of Schedule 2. Subject to Schedule 2, the Dictionary in section 9 also has effect for the purposes of Schedule 2.

Note 3: This Part, including the Dictionary in section 9, also has effect for the purposes of the ASIC Act: see subsection 5(2) of that Act.

(2) Within a definition, the defined term is identified by ***bold italics***.

Note: This Act also uses bold italics to "tag" a concept with a label for use as a narrative device.

(3) To the extent that a term used in a provision is not defined in this Act, it has its ordinary meaning.



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Example 1: The definition of ***complaint*** in section 9 defines the term only in Part 7.8A. The term has it its ordinary meaning in all other Parts of this Act.

Example 2: The definition of ***participant*** in section 9 defines the term only in relation to a clearing and settlement facility and in relation to a financial market. The term has it its ordinary meaning when used in relation to all other persons and things.

### 4 Section 9

Omit "Unless the contrary intention appears", substitute "In this Act".

### 5 Section 9 (definition of *resolution*)

Omit "when used in a provision outside Schedule 2".

### 6 Section 5-5 of Schedule 2 (heading)

Repeal the heading, substitute:

#### 5-5 The Dictionary

Note: A number of expressions used in this Schedule are defined in section 9 of this Act.

## Division 2—Terms in general use

## *Australian Securities and Investments Commission Act 2001*

### 7 Subsection 5(1) (definition of *APRA*)

Repeal the definition.

## *Corporations Act 2001*

### 8 Section 9 (at the end of the definition of *act*)

Add:

Note: See also ***doing*** an act or thing.

### 9 Section 9

Insert:

***asset*** has the meaning given by section 9AB.



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## 10 Section 9 (definition of *assets*)

Repeal the definition.

## 11 Section 9 (at the end of the definition of *body corporate*)

Add:

; and (c) for the purposes of Chapter 5 and Part 9.2—has a meaning affected by subsection 6(2) (about Part 5.7 bodies).

## 12 Section 9

Insert:

***borrow*** includes obtain credit and:

(a) in relation to a debenture—***borrower*** means the body that is or will be liable to repay money under the debenture; and

(b) in Part 7.7A (best interests obligations and remuneration)—***borrowed*** has the meaning given by section 964G.

## 13 Section 9 (definition of *borrower*)

Repeal the definition.

## 14 Section 9 (definition of *carry on*)

Repeal the definition, substitute:

***carry on***, in relation to a business, has a meaning affected by Division 3.

## 15 Section 9 (definition of *cause*)

Repeal the definition.

## 16 Section 9 (definition of *circulating security interest*)

Repeal the definition, substitute:

***circulating security interest*** means a security interest that is:

(a) a PPSA security interest, if:

(i) the security interest has attached to a circulating asset within the meaning of the *Personal Property Securities Act 2009*; and



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(ii) the grantor (within the meaning of that Act) has title to the asset; or

(b) a floating charge.

Note: Security interests are either PPSA security interests, or charges, liens or pledges: see ***security interest***.

## 17 Section 9

Insert:

***client***:

(a) for an issue situation—has the meaning given by paragraph 1012B(2)(c); and

(b) for a recommendation situation—has the meaning given by paragraph 1012A(2)(c); and

(c) for a sale situation—has the meaning given by paragraph 1012C(2)(c); and

(d) of a trustee company—has the meaning given by subsection 601RAB(3); and

Note: See also ***retail client*** and ***wholesale client***.

## 18 Section 9 (definition of *director*)

Repeal the definition, substitute:

***director*** has the meaning given by section 9AC.

## 19 Section 9

Insert:

***disclosing entity provisions*** has the meaning given by section 111AR.

***doing*** an act or thing includes causing or authorising the act or thing to be done.

***in default***:

(a) an officer of a body corporate who is ***in default***, in relation to a contravention, includes an officer of the body corporate who is involved in the contravention (including a person who later ceases to be such an officer); and



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(b) a person who is ***in default***, in relation to a contravention, includes a person who is involved in the contravention.

## 20 Section 9 (definition of *interest*)

Repeal the definition, substitute:

***interest***:

(a) ***interest*** in relation to land includes:

(i) a legal or equitable estate or interest in the land; or

(ii) a right, power or privilege over, or in relation to, the land; and

(b) ***interest*** in a managed investment scheme (including a notified foreign passport fund) means a right to benefits produced by the scheme (whether the right is actual, prospective or contingent and whether it is enforceable or not); and

(c) in Part 5D.5 (limit on control of licensed trustee companies) ***interests*** of clients of a licensed trustee company—has a meaning affected by section 601VCB.

## 21 Section 9

Insert:

***in this jurisdiction or elsewhere*** has a meaning affected by subsection 102B(1).

## 22 Section 9 (definition of *involved*)

Repeal the definition, substitute:

***involved***:

(a) in a contravention—has the meaning given by section 79; and

(b) in a market licensee, CS facility licensee, derivative trade repository licensee or a benchmark administrator licensee, or in an applicant for such a licence—has the meaning given by section 853B.

## 23 Section 9 (definition of *issue*)

Repeal the definition, substitute:



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***issue***:

(a) ***issue*** includes:

(i) in relation to interests in a managed investment scheme—make available; and

(ii) otherwise—circulate, distribute and disseminate; and

(b) in relation to a financial product—***issue*** has the meaning given by section 761E.

## 24 Section 9 (definition of *law*)

Repeal the definition, substitute:

***law***:

(a) ***law*** of a State or Territory means a law of, or in force in, the State or Territory; and

(b) in Chapter 5D (licensed trustee companies)—***law*** has the meaning given by section 601RAA.

Note: The definition in paragraph (a) does not affect the meaning of law when used otherwise than in a phrase such as "law of a State or Territory". Examples of such a use are in the phrase "any provision of any law" in section 100A and the phrase "law of the Commonwealth" in section 156.

## 25 Section 9 (note to the definition of *lease*)

Omit "in section 51 of this Act", substitute "in this section".

## 26 Section 9 (definition of *liabilities*)

Repeal the definition.

## 27 Section 9

Insert:

***liability***:

(a) ***liability*** (except in relation to a sub-fund of a CCIV):

(i) includes a duty or obligation of any kind (whether arising under an instrument or otherwise, and whether actual, contingent or prospective); and

(ii) in relation to a CCIV—has a meaning affected by section 1233A; and



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(b) ***liabilities***, in relation to a sub-fund of a CCIV, has the meaning given by section 1233L.

## 28 Section 9 (definition of *listed disclosing entity*)

Omit "subsection 111AL(1)", substitute "section 111AL".

## 29 Section 9 (definition of *lodge*)

Repeal the definition, substitute:

***lodge***:

(a) means lodge with ASIC in this jurisdiction; and

(b) in relation to a document lodged with ASIC in a prescribed form—has a meaning affected by subsection 350(2).

## 30 Section 9

Insert:

***number of shares***, in relation to a body corporate, has a meaning affected by section 101.

***offer***:

(a) ***offer*** a security (other than a financial product) includes:

(i) invite applications for the issue of the security; and

(ii) invite offers to purchase the security; and

(b) ***offer*** to issue or sell a financial product, for the purposes of Part 7.8A (design and distribution requirements) and Part 7.9 (financial product disclosure), has a meaning affected by subsection 1010C(2); and

(c) the person who ***offers*** a security:

(i) (unless subparagraph (ii) applies) is the person who has the capacity, or who agrees, to issue or transfer the security if the offer is accepted; or

(ii) for the purposes of Chapter 8 (mutual recognition of securities offers), if the offer is an offer of a kind prescribed by the regulations for the purposes of this subparagraph—is a person of a kind prescribed by the regulations for the purposes of this subparagraph;

and that person is the ***offeror*** of the security.



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Note: Section 1010C applies for the purposes of Part 7.8A: see subsection 994A(3).

***officer*** has the meaning given by section 9AD.

## 31 Section 9

Repeal the following definitions:

(a) definition of ***officer*** of a corporation (other than a CCIV);

(b) definition of ***officer*** of a corporation that is a CCIV;

(c) definition of ***officer*** of an entity that is neither an individual nor a corporation.

## 32 Section 9 (definition of *person*)

Repeal the definition, substitute:

***person***:

(a) in Division 2 of Part 2D.2—includes a superannuation fund; and

(b) for the purposes of Chapter 5 and Part 9.2—has a meaning affected by subsection 6(1) (which deals with Part 5.7 bodies); and

(c) in applying Chapter 7 and Part 6D.3A—has a meaning affected by section 761F (which deals with partnerships) and section 761FA (which deals with multiple trustees).

## 33 Section 9

Insert:

***possessory security interest***, in relation to property, means a security interest that is:

(a) a PPSA security interest in the property that is perfected by possession or control, within the meaning of the *Personal Property Securities Act 2009*; or

(b) a lien or a pledge in relation to the property.

Note: Security interests are either PPSA security interests, or charges, liens or pledges: see ***security interest***.

## 34 Section 9 (definition of *PPSA security interest*)

Repeal the definition, substitute:



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***PPSA security interest*** (short for Personal Property Securities Act security interest) means a security interest within the meaning of the *Personal Property Securities Act 2009* and to which that Act applies, other than a transitional security interest within the meaning of that Act.

Note 1: The *Personal Property Securities Act 2009* applies to certain security interests in personal property: see the following provisions of that Act:
(a) section 8 (interests to which the Act does not apply);
(b) section 12 (meaning of ***security interest***);
(c) Chapter 9 (transitional provisions).

Note 2: For the meaning of ***transitional security interest***, see section 308 of the *Personal Property Securities Act 2009*.

## 35 Section 9

Insert:

***prescribed form***: see section 350.

## 36 Section 9 (before paragraph (a) of the definition of *property*)

Insert:

(aaa) in Part 5.2 (receivers, and other controllers, of property of corporations)—has a meaning affected by section 416; and

## 37 Section 9 (paragraph (i) of the definition of *property*)

Repeal the paragraph, substitute:

(i) in Part 8B.5 (operation of a CCIV)—has a meaning affected by section 1233; and

(j) in Part 8B.6 (external administration and deregistration of CCIVs)—has a meaning affected by section 1236A.

## 38 Section 9 (note to the definition of *property*)

Omit "(a) to (h)", substitute "(a) to (i)".

## 39 Section 9 (definition of *receiver*)

Repeal the definition, substitute:

***receiver*** has a meaning affected by paragraph 434D(b) (which deals with 2 or more persons appointed as receivers) and:



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(a) in Part 5.2 (receivers, and other controllers, of property)—has a meaning affected by section 416; and
(b) in Part 5.3A (deeds of company arrangement)—has a meaning affected by section 435B; and
(c) in Part 8B.6 (external administration and deregistration of CCIVs)—has a meaning affected by section 1236A.

## 40 Section 9 (definition of *register*)

Repeal the definition, substitute:

***register***:
(a) ***register*** means register under this Act; and
(b) ***register*** kept by ASIC under this Act has a meaning affected by subsection 1214(4) (about the Register of Passport Funds).

Note: See also ***Business Names Register*** and ***Register of Relevant Providers***.

## 41 Section 9 (definition of *Registrar*)

Repeal the definition, substitute:

***Registrar*** means:
(a) if only one Commonwealth body is appointed as Registrar under section 1270—that body; or
(b) if more than one Commonwealth body is appointed under section 1270:
(i) for a reference in a provision that relates to one or more particular functions or powers—any Commonwealth body so appointed with any of those particular functions or powers; or
(ii) otherwise—any of the Commonwealth bodies appointed under section 1270.

## 42 Section 9 (note to the definition of *retention of title clause*)

Repeal the note, substitute:

Note: See also ***PPSA retention of title property*** and ***PPSA security interest***.



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## 43 Section 9 (definition of *secured creditor*)

Repeal the definition, substitute:

***secured creditor***:

(a) of a corporation—means a creditor of the corporation, if the debt owing to the creditor is secured by a security interest; and

(b) of a sub-fund of a CCIV—means a secured creditor of the CCIV, if the debt owing to the creditor is, to any extent, a liability of the sub-fund.

## 44 Section 9 (definition of *secured party*)

Repeal the definition, substitute:

***secured party***, in relation to a security interest, means:

(a) if the security interest is a PPSA security interest—a secured party within the meaning of the *Personal Property Securities Act 2009*; or

(b) if the security interest is not a PPSA security interest, but consists of a charge, lien or pledge in relation to the property—a chargee (including a person in whose favour a charge is to be given or executed, whether on demand or otherwise, under an agreement), lienee or pledgee in relation to the charge, lien or pledge.

Note: Security interests are either PPSA security interests, or charges, liens or pledges: see ***security interest***.

## 45 Section 9 (definition of *security interest*)

Repeal the definition, substitute:

***security interest*** means:

(a) a PPSA security interest; or

(b) a charge, lien or pledge.

## 46 Section 9

Insert:

***shares***: see ***number of shares***.



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## 47 Section 9 (definition of *unlisted disclosing entity*)

Repeal the definition.

## 48 After section 9AA

Insert:

### 9AB Meaning of *asset*

(1) An ***asset*** (except in relation to a sub-fund of a CCIV) is property, or a right, of any kind, and includes:

(a) any legal or equitable estate or interest (whether present or future, vested or contingent, tangible or intangible, in real or personal property) of any kind; and

(b) any chose in action; and

(c) any right, interest or claim of any kind including rights, interests or claims in or in relation to property (whether arising under an instrument or otherwise, and whether liquidated or unliquidated, certain or contingent, accrued or accruing); and

(d) any CGT asset within the meaning of the *Income Tax Assessment Act 1997*.

(2) The ***assets*** of a financial services licensee are all the licensee's assets (as defined in subsection (1)), whether or not the assets are used in connection with the licensee's Australian financial services licence.

(3) An ***asset*** of a sub-fund of a CCIV has the meaning given by section 1233H.

### 9AC Meaning of *director*

(1) A ***director*** of a company or other body is:

(a) a person who:

(i) is appointed to the position of a director; or

(ii) is appointed to the position of an alternate director and is acting in that capacity;

regardless of the name that is given to their position; and



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(b) unless the contrary intention appears, a person who is not validly appointed as a director if:

(i) they act in the position of a director; or

(ii) the directors of the company or body are accustomed to act in accordance with the person's instructions or wishes (excluding advice given by the person in the proper performance of functions attaching to the person's professional capacity or their business relationship with the directors or the corporation).

Note: Examples of provisions for which a person would not be a director because of paragraph (b) of this subsection include:

(a) section 205B (notice to ASIC of change of address); and

(b) section 249C (power to call meetings of a company's members); and

(c) subsection 251A(3) (signing minutes of meetings).

(2) In Part 5.1 (arrangements and reconstructions), the meaning of ***directors*** (as defined in subsection (1)) is affected by section 410.

## 9AD Meaning of *officer*

(1) An ***officer*** of a corporation (other than a CCIV) is:

(a) a director or secretary of the corporation; or

(b) a person:

(i) who makes, or participates in making, decisions that affect the whole, or a substantial part, of the business of the corporation; or

(ii) who has the capacity to affect significantly the corporation's financial standing; or

(iii) in accordance with whose instructions or wishes the directors of the corporation are accustomed to act (excluding advice given by the person in the proper performance of functions attaching to the person's professional capacity or their business relationship with the directors or the corporation); or

(c) a receiver, or receiver and manager, of the property of the corporation; or

(d) an administrator of the corporation; or

(e) an administrator of a deed of company arrangement executed by the corporation; or



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(f) a restructuring practitioner for the corporation; or
(g) a restructuring practitioner for a restructuring plan made by the corporation; or
(h) a liquidator of the corporation; or
(i) a trustee or other person administering a compromise or arrangement made between the corporation and someone else.

Note: Section 201B contains rules about who can be a director of a corporation.

(2) An ***officer*** of a corporation that is a CCIV has the meaning given by section 1224B.

(3) An ***officer*** of an entity that is neither an individual nor a corporation is:
(a) if the entity is a partnership—a partner in the partnership; or
(b) if the entity is an unincorporated association—an office holder of the unincorporated association; or
(c) in any case—a person:
(i) who makes, or participates in making, decisions that affect the whole, or a substantial part, of the business of the entity; or
(ii) who has the capacity to affect significantly the entity's financial standing.

## 49 Section 9C

Repeal the section.

## 50 At the end of section 21

Add:

(4) In working out whether someone carries on a financial services business disregard paragraph (3)(e).

Note: See also section 911D for when a financial services business is taken to be carried on in this jurisdiction.

## 51 Division 6A of Part 1.2 (heading)

Repeal the heading, substitute:



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## Division 7—Meaning of some other expressions

### 52 Sections 51 to 51E

Repeal the sections.

### 53 Division 6B of Part 1.2 (heading)

Repeal the heading.

### 54 Division 7 of Part 1.2 (heading)

Repeal the heading.

### 55 Section 52

Repeal the section.

### 56 Section 53 (heading)

Repeal the heading, substitute:

**53 Meaning of *affairs*—body corporate other than a CCIV**

### 57 Section 53AAA (heading)

Repeal the heading, substitute:

**53AAA Meaning of *affairs*—CCIV**

### 58 Section 53AA (heading)

Repeal the heading, substitute:

**53AA Meaning of *business affairs*—body corporate**

### 59 Section 53AB (heading)

Repeal the heading, substitute:

**53AB Meaning of *business affairs*—natural person**

### 60 Section 53AC (heading)

Repeal the heading, substitute:



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### 53AC Meaning of *business affairs*—partnership

### 61 Section 53AD (heading)

Repeal the heading, substitute:

### 53AD Meaning of *business affairs*—trust

### 62 Section 79

Omit "involved", substitute "***involved***".

### 63 Section 83

Repeal the section.

### 64 Paragraph 92(1)(f)

Omit "(as defined in Chapter 7)", substitute "(as defined in section 761D)".

### 65 Subsection 92(1) (note)

Omit "paragraph (d) of the definition of security in section 761A", substitute "paragraph (5)(d) of this section".

### 66 Paragraphs 92(2)(e) and (2A)(f)

Omit "(as defined in Chapter 7)", substitute "(as defined in section 761D)".

### 67 Subsection 92(3)

After "6CA (inclusive)", insert "and Part 8B.7".

### 68 Paragraph 92(3)(g)

Omit "(as defined in Chapter 7)", substitute "(as defined in section 761D)".

### 69 Subsection 92(4)

Repeal the subsection, substitute:

(4) In Chapter 6D, ***securities*** has the meaning given by section 700.

Note: However, in Chapter 6D, ***securities*** does not include securities in a CCIV: see section 1240G.



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(5) In Chapter 7 (except Part 7.11), ***security*** means:

(a) a share in a body; or

(b) a debenture of a body; or

(c) a legal or equitable right or interest in a security covered by paragraph (a) or (b); or

(d) an option to acquire, by way of issue, a security covered by paragraph (a), (b) or (c); or

(e) a right (whether existing or future and whether contingent or not) to acquire, by way of issue, the following under a rights issue:

(i) a security covered by paragraph (a), (b), (c) or (d);

(ii) a managed investment product;

(iii) a foreign passport fund product;

(iv) an interest or right covered by paragraph 764A(ba); or

(f) a CGS depository interest; or

(g) a simple corporate bonds depository interest;

but does not include an excluded security or a foreign passport fund product.

(6) In Part 7.11, ***security*** means:

(a) a security as defined in subsection (5); or

(b) a managed investment product; or

(c) a foreign passport fund product.

(7) In Chapter 8, ***securities*** means:

(a) a share in a body; or

(b) a debenture of a body; or

(c) an interest in a managed investment scheme; or

(d) a legal or equitable right or interest in a security or interest covered by paragraph (a), (b) or (c); or

(e) an option to acquire, by way of issue, an interest or right covered by paragraph (a), (b), (c) or (d).

## 70 Section 106

Repeal the section.



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### 71 Division 2 of Part 1.2A (heading)

Repeal the heading, substitute:

## Division 2—Meaning of disclosing entity and related terms

### 72 Section 111AB

Repeal the section.

### 73 Section 111AL

Repeal the section, substitute:

#### 111AL Meaning of *listed disclosing entity*

A disclosing entity is a ***listed disclosing entity*** if all or any ED securities of the entity are quoted ED securities.

### 74 Subsection 111AR(1)

Omit "For the purposes of this Division, the", substitute "The".

### 75 Paragraph 5.4 of the small business guide in Part 1.5

Omit "83,".

### 76 Section 328A (note)

Omit "(see section 83). Section 79 defines ***involved***", substitute ": see the definitions of ***in default*** and ***involved*** in section 9".

### 77 Subsection 328B(2) (note)

Omit "(see section 83). Section 79 defines ***involved***", substitute ": see the definitions of ***in default*** and ***involved*** in section 9".

### 78 Subsection 442B(1) (note 1)

Repeal the note, substitute:

Note 1: A circulating security interest can be either a PPSA security interest to which a circulating asset has attached or a floating charge: see the definition of ***circulating security interest*** in section 9.

### 79 Paragraph 700(1)(a)

Repeal the paragraph, substitute:



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(a) a security as defined in paragraph 92(5)(e) or (f); or

## 80 Subsections 700(2) and (3)

Repeal the subsections.

## 81 Subsections 910B(1) and (2)

Omit "***Control***", substitute "In this Part, ***control***".

## 82 Section 963A (note)

Omit "(see section 52)", substitute ": see the definition of ***doing*** in section 9".

## 83 Subsection 963B(1) (note)

Omit ", because of section 52 of this Act,".

## 84 Subsection 1010A(2) (note)

Omit "within the meaning of section 761A", substitute "as defined in subsection 92(5)".

## 85 Subsection 1240H(5)

Repeal the subsection, substitute:

(5) For the purposes of subsection (2), a security referred to in paragraph 95(c) or (d) is taken to be referable to the sub-fund of the CCIV to which the relevant security covered by paragraph 95(a) or (b) is, or would be, referable.

Note: For example, an option to acquire by way of issue a share in a CCIV (covered by paragraph 95(d)) is referable to the sub-fund of the CCIV to which the share (covered by paragraph 95(a)) is referable.

## 86 Paragraph 1240H(6)(a)

Repeal the paragraph, substitute:

(a) subsection 700(4);



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## Division 3—Terms relating to companies and audited bodies

### *Corporations Act 2001*

#### 87 Section 9 (definition of *annual transparency report*)

Repeal the definition, substitute:

***annual transparency report*** means a report required by section 332A.

#### 88 Section 9

Insert:

***auditor's report*** means:

(a) an auditor's report on an annual financial report required by section 308; or

(b) an auditor's report on a half-year financial report required by section 309.

***chief executive function*** has the meaning given by section 295A.

***chief financial officer function*** has the meaning given by section 295A.

***conflict of interest situation***, in Chapter 2M (financial reports and audit), has the meaning given by section 324CD.

***corporate responsibility provision*** has the meaning given by section 188.

***directors' report*** means:

(a) an annual directors' report required by section 292; or

(b) a half-year directors' report required by section 302.

***equal reduction*** has the meaning given by subsection 256B(2).

#### 89 Section 9 (definition of *financial benefit*)

Repeal the definition, substitute:

***financial benefit***: see ***giving a financial benefit***.



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## 90 Section 9 (definition of *financial report*)

Repeal the definition, substitute:

***financial report*** means:

(a) an annual financial report required by or under section 292, 293, 294, 294A or 294B; or

(b) a half-year financial report required by section 302.

## 91 Section 9

Insert:

***giving a financial benefit*** has a meaning that is affected by section 229.

## 92 Section 9

Insert:

***independent person***, in Part 2G.7 (independent reports on polls), has the meaning given by section 253UA.

## 93 Section 9 (subparagraph (a)(ii) of the definition of *play a significant role*)

Omit "audit report", substitute "auditor's report".

## 94 Section 9

Insert:

***replaceable rule***: see section 135.

***selective reduction*** has the meaning given by subsection 256B(2).

Note: For the purposes of applying this definition to an MCI mutual entity, see subsection 258G(2).

***shareholder***:

(a) in Part 2J.1 (share capital reductions and share buy-backs)—has a meaning affected by section 258G (about MCI mutual entities); and

(b) in Part 2J.3 (transactions affecting share capital)—has a meaning affected by section 260DA (about MCI mutual entities).



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***spill meeting*** has the meaning given by subsection 250V(1).

***spill resolution*** has the meaning given by subsection 250V(1).

## 95 Section 179

Repeal the section, substitute:

### 179 Simplified outline of this Part

This Part sets out some of the most significant duties of directors, secretaries, other officers and employees of corporations. Other duties are imposed by other provisions of this Act and other laws (including the general law).

Note: For a CCIV there are additional duties, see Divisions 2 and 3 of Part 8B.3.

The officers of a corporation include, as well as its directors and secretaries, some other people who manage the corporation or its property (such as receivers and liquidators).

Note: For the definitions of ***director*** and ***officer***, see sections 9AC and 9AD.

## 96 Subsection 208(1) (notes 1, 2 and 3)

Repeal the notes, substitute:

Note 1: For the criminal liability of a person dishonestly involved in a contravention of this subsection, see subsection 209(3).

Note 2: This section applies to a CCIV in a modified form: see section 1227A.

## 97 Subsection 229(1)

Omit "this Chapter", substitute "this Act".

## 98 Paragraph 250RA(1)(a)

Omit "audit report", substitute "auditor's report".

## 99 Paragraph 250RA(3)(c)

Omit "audit report", substitute "auditor's report".



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### 100 Subparagraph 307B(1)(c)(i)

Omit "audit report", substitute "auditor's report".

### 101 Subparagraph 307B(3)(b)(i)

Omit "audit report", substitute "auditor's report".

### 102 Subparagraph 307C(5)(a)(i)

Omit "audit report", substitute "auditor's report".

### 103 Subsection 324CH(1) (table items 8 and 9)

Omit "audit report", substitute "auditor's report".

### 104 Subsection 332A(2)

Omit "***annual transparency report***", substitute "annual transparency report".

### 105 Subsection 336(4)

Omit "audit report", substitute "auditor's report".

### 106 Section 601LC (note to subsection 208(1))

Repeal the note.

### 107 Subsection 601SCD(3) (definition of *financial benefit*)

Repeal the definition.

## Division 4—Terms relating to external administration and property

## *Corporations Act 2001*

### 108 Section 9

Insert:

> ***appropriate officer***, in Part 5.8 (offences), has the meaning given by subsection 589(5).



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## 109 Section 9 (definition of *eligibility criteria*) (first occurring)

Repeal the definition, substitute:

***eligibility criteria***:

(a) for restructuring a company—has the meaning given by section 453C; and

(b) for the simplified liquidation process—has the meaning given by section 500AA.

## 110 Section 9 (definition of *eligibility criteria*) (second occurring)

Repeal the definition.

## 111 Section 9

Insert:

***eligible unsecured creditor*** has the meaning given by section 579Q.

***employee*** of a company, in Part 5.8A (employee entitlements), has the meaning given by subsections 596AA(4) and (5).

## 112 Section 9

Insert:

***section 486B warrant*** means a warrant issued under section 486B.

***section 513CA day*** has the meaning given by section 513CA.

## 113 Section 9

Insert:

***triggering event*** has the meaning given by section 500AAA.

## 114 Section 416

Repeal the section, substitute:

### 416 Meaning of *property* and *receiver*

In this Part:



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***property***, in relation to a corporation, means property:

(a) in the case of a company—in Australia or outside Australia; or

(b) in the case of a registered foreign company—in this jurisdiction or an external Territory; or

(c) in the case of a registrable Australian body—in this jurisdiction but outside the body's place of origin.

Note: See section 9 (definition of ***property***).

***receiver***, in relation to property of a corporation, includes a receiver and manager.

## 115 After paragraph 422(1)(a)

Insert:

(aa) if the corporation is a registered foreign company—a past or present local agent of the corporation may have been guilty of an offence in relation to the corporation; or

## 116 After paragraph 422(3)(a)

Insert:

(aa) that a past or present local agent of a corporation:

(i) that is a registered foreign company; and

(ii) in respect of property of which a receiver has been appointed;

has been guilty of an offence in relation to the corporation; or

## 117 After subparagraph 422(4)(b)(i)

Insert:

(ia) if the corporation is a registered foreign company—a past or present local agent of the corporation has been guilty of an offence in relation to the corporation; or

## 118 Section 429 (heading)

Omit "**Officers**", substitute "**Reporting officers**".

## 119 After paragraph 430(1)(a)

Insert:



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(aa) if the corporation is a registered foreign company—persons who are past or present local agents of the corporation;

## 120 At the end of subsection 430(1)

Add:

; (e) if the corporation is a registered foreign company—persons who:

(i) are present local agents of another corporation and that other corporation is an officer of the corporation or a past or present local agent of the corporation; or

(ii) have been, within one year before the control day, local agents of another corporation and that other corporation is an officer of the corporation or a past or present local agent of the corporation.

## 121 Section 435B

Repeal the section, substitute:

### 435B Meaning of *property* and *receiver*

In this Part:

***property*** of a company includes any PPSA retention of title property of the company.

Note: See sections 9 (definition of ***property***) and 51F (PPSA retention of title property). An extended definition of ***property*** applies in subsection 444E(3): see subsection 444E(4).

***receiver*** includes a receiver and manager.

## 122 Section 452B

Repeal the section, substitute:

### 452B Meaning of *property*

In this Part:

***property*** of a company includes any PPSA retention of title property of the company.



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Note: See sections 9 (definition of ***property***) and 51F (PPSA retention of title property).

## 123 Section 465 (heading)

Repeal the heading, substitute:

### 465 Meaning of *property*

## 124 Section 489F

Repeal the section, substitute:

### 489F Meaning of *property*

In this Part:

***property*** of a company includes PPSA retention of title property, if the security interest in the property is vested in the company because of the operation of any of the following provisions:

(a) section 267 or 267A of the *Personal Property Securities Act 2009* (property subject to unperfected security interests);

(b) section 588FL of this Act (collateral not registered within time).

Note: See sections 9 (definition of ***property***) and 51F (PPSA retention of title property).

## 125 Before section 500A

Insert:

### 500AAA Meaning of *triggering event*

Each of the following is a ***triggering event*** in relation to a company:

(a) a special resolution under section 491 that the company be wound up voluntarily is passed;

(b) if section 446A applies in relation to the company because of paragraph 446A(1)(a)—the resolution referred to in that paragraph is passed;



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(c) if section 446A applies in relation to the company because of paragraph 446A(1)(b)—the company first contravenes subsection 444B(2);

(d) if section 446A applies in relation to the company because of paragraph 446A(1)(c)—the resolution referred to in subparagraph 446A(1)(c)(ii) is passed;

(e) if section 446AA applies in relation to the company because of paragraph 446AA(1)(a)—the Court makes an order under section 445D terminating a deed of company arrangement in relation to the company;

(f) if section 446AA applies in relation to the company because of paragraph 446AA(1)(b)—the circumstances specified in the deed of company arrangement in which the deed is to terminate and the company is to be wound up first exist;

(g) if regulations made for the purposes of section 446B have the effect that the company is taken to have passed a special resolution under section 491 that the company be wound up voluntarily—that special resolution is taken to have passed, under the regulations;

(h) any other event prescribed by the regulations.

## 126 Paragraph 500A(2)(a)

Omit "(see section 489F)".

## 127 Section 513AA (heading)

Repeal the heading, substitute:

### 513AA Meaning of *property*

## 128 Section 513CA (heading)

Repeal the heading, substitute:

### 513CA Meaning of *section 513CA day*

## 129 Section 580

Repeal the section.



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## 130 Subsection 581(1)

Omit all the words after "each other in", substitute:

all matters (***external administration matters***) relating to:

(a) winding up, under this Chapter, a company or a Part 5.7 body; or

(b) winding up, outside Australia, a body corporate or a Part 5.7 body; or

(c) the insolvency of a body corporate or of a Part 5.7 body.

## 131 Subparagraph 581(2)(a)(iii)

Repeal the subparagraph, substitute:

(iii) countries prescribed for the purposes of this subparagraph; and

(iv) colonies, overseas territories or protectorates of such countries;

## 132 Section 588C (heading)

Repeal the heading, substitute:

### 588C Meaning of *property*

## 133 Section 588FK

Repeal the section, substitute:

### 588FK Interpretation and application

(1) A word or expression used in this Division (other than the expression PPSA security interest) has the same meaning as in the *Personal Property Securities Act 2009*.

Note 1: As a result of this section, in this Division, ***company*** has the same meaning as in the *Personal Property Securities Act 2009*.

Note 2: For ***PPSA security interest***, see section 9.

(2) Subsection (1) applies despite any other provision of this Act.

(3) For the purposes of this Division, whether or not a person has acquired actual or constructive knowledge of a circumstance is to



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be determined in accordance with sections 297 to 300 of the *Personal Property Securities Act 2009*.

### 134 Before subsection 589(5)

Insert:

*Meaning of **appropriate officer** and **property***

### 135 Subsection 589(5) (definition of *relevant day*)

Repeal the definition.

### 136 At the end of section 590

Add:

*Meaning of **relevant day***

(8) In this section:

***relevant day*** means the day on which:

(a) in relation to a company that has been wound up, has been in the course of being wound up, or is being wound up:

(i) if, because of Division 1A of Part 5.6, the winding up is taken to have begun on the day when an order that the company be wound up was made—the application for the order was filed; or

(ii) otherwise—the winding up is taken because of Division 1A of Part 5.6 to have begun; or

(b) in relation to a company of which a provisional liquidator has been appointed—the provisional liquidator was appointed; or

(c) in relation to a company that is or has been under administration—the administration began; or

(d) in relation to a company that has executed a deed of company arrangement—the deed was executed; or

(e) in relation to a company that is or has been under restructuring—the restructuring began; or

(f) in relation to a company that has made a restructuring plan—the plan was made; or

(g) in relation to a company affairs of which are or have been under investigation:



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(i) if paragraph 589(2)(a) applies—the investigation began; or

(ii) if paragraph 589(2)(b) applies—a direction was given to the NCSC to arrange for the investigation; or

(h) in relation to a company in respect of property of which a receiver, or a receiver and manager, has been appointed—the receiver, or the receiver and manager, was appointed; or

(i) in relation to a company that is unable to pay its debts—the execution or other process was returned unsatisfied in whole or in part; or

(j) in relation to a company that has ceased to carry on business—a notice was first published in relation to the company under subsection 601AA(4) or 601AB(3); or

(k) in relation to a company that has entered into a compromise or arrangement with its creditors—the compromise or arrangement was approved by the Court.

### 137 Section 601 (heading)

Repeal the heading, substitute:

**601 Meaning of *property***

### 138 Section 601C (heading)

Repeal the heading, substitute:

**601C Meaning of *property***

## Division 5—Terms relating to managed investment schemes

## *Corporations Act 2001*

### 139 Section 9

Insert:

***compliance committee*** means a compliance committee established under section 601JA.



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***liquid***:

(a) for a registered scheme—has the meaning given by subsection 601KA(4); and

(b) for a sub-fund—has the meaning given by subsection 1230H(1).

### 140 Paragraphs 601GA(4)(b) and (c)

Omit "(as defined in section 601KA)".

## Division 6—Terms relating to licensed trustee companies

## *Australian Securities and Investments Commission Act 2001*

### 141 Subsection 5(1)

Repeal the following definitions:

(a) definition of ***traditional trustee company services***;

(b) definition of ***trustee company***.

## *Corporations Act 2001*

### 142 Section 9

Insert:

***certificate of transfer*** has the meaning given by subsection 601WBG(1).

***common fund***, in Chapter 5D (licensed trustee companies), has the meaning given by subsection 601SCA(2).

***compulsory transfer determination*** has the meaning given by subsection 601WBA(1).

***estate assets and liabilities*** has the meaning given by section 601WAA.

***estate management functions*** has the meaning given by subsection 601RAC(2).

***estate that is administered or managed*** has the meaning given by subsection 601SBB(1A).



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***fees***, in Chapter 5D (licensed trustee companies), has the meaning given by section 601RAA.

## 143 Section 9 (definition of *licensed trustee company*)

Repeal the definition, substitute:

***licensed trustee company*** means a trustee company that holds an Australian financial services licence covering the provision of one or more traditional trustee company services.

Note: Traditional trustee company services are financial services: see subsection 766A(1A).

## 144 Section 9

Insert:

***person with a proper interest***, in relation to an estate, has a meaning affected by section 601RAD.

***receiving company*** has the meaning given by subsection 601WBA(1).

***traditional trustee company services*** has the meaning given by subsection 601RAC(1).

***transfer determination*** has the meaning given by subsection 601WBA(1).

***transferring company*** has the meaning given by subsection 601WBA(1).

***trustee company*** has the meaning given by subsection 601RAB(1).

***trustee company provisions*** has the meaning given by section 601RAE.

***voluntary transfer determination*** has the meaning given by subsection 601WBA(1).

***will*** includes a codicil and any other testamentary writing.

## 145 Paragraph 490(1)(c)

Omit "(within the meaning of Chapter 5D)".



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### 146 Subsection 490(2)

Omit "(within the meaning of Chapter 5D)".

### 147 Section 601RAA

Repeal the section, substitute:

### 601RAA Meaning of *fees* and *law*—Chapter 5D

In this Chapter:

***fees*** means fees in the nature of remuneration (including commission).

***law*** means an Australian law and includes a rule of common law or equity.

### 148 Section 601RAB (heading)

Omit "**of trustee company**".

### 149 Paragraph 601RAB(2A)(e)

Omit "(as defined in section 601VAA)".

### 150 After subsection 601SBB(1)

Insert:

(1A) An ***estate that is administered or managed*** by a trustee company, is all or any of the estate of a person (whether living or dead) that is administered or managed by the trustee company in the course of performing estate management functions.

### 151 Subsection 601SCA(2)

Omit "A fund", substitute "For the purposes of this Chapter, a fund".

### 152 Section 601VAC (heading)

Repeal the heading, substitute:



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### 601VAC Orders to remedy unacceptable control situation

## 153 Section 601WAA

Repeal the section, substitute:

### 601WAA Meaning of *estate assets and liabilities*

A company's ***estate assets and liabilities*** are assets (including assets in common funds) and liabilities of an estate, or incurred in relation to an estate, in relation to which the company was performing estate management functions, if the assets and liabilities were vested in or otherwise belonged to the company:

(a) because of its performance of those functions; and

(b) immediately before:

(i) if ASIC has under Part 7.6 cancelled the company's Australian financial services licence or varied the conditions of the company's Australian financial services licence so that the licence ceases to cover traditional trustee company services—the cancellation or variation; or

(ii) otherwise—a relevant certificate of transfer comes into force.

Note: This Part does not apply to liabilities for breach of trust etc.: see section 601WBK.

## 154 Paragraph 601WBA(1)(a)

Repeal the paragraph, substitute:

(a) ASIC has under Part 7.6 cancelled the transferring company's Australian financial services licence or varied the conditions of the transferring company's Australian financial services licence so that the licence ceases to cover traditional trustee company services (the determination is a ***compulsory transfer determination***); or

## 155 Subsection 601WCA(1)

Omit "An authorised ASIC officer", substitute "A person authorised under section 601WCI".



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### 156 Subparagraph 601WCB(b)(i)

Omit "an authorised ASIC officer", substitute "a person authorised under section 601WCI".

### 157 Subparagraph 601WCC(1)(b)(i)

Omit "an authorised ASIC officer", substitute "a person authorised under section 601WCI".

### 158 At the end of Division 3 of Part 5D.6

Add:

#### 601WCI Authorisation to perform functions or exercise powers in this Part

ASIC may, in writing, authorise a person who is a member, or staff member, of ASIC to perform functions or exercise powers under section 601WCA, 601WCB or 601WCC.

### 159 Paragraph 792A(1)(h)

Omit "(within the meaning of Division 1 of Part 7.4)".

### 160 Paragraph 792A(1)(h)

Omit "within the meaning of that Division".

### 161 Paragraph 821A(1)(g)

Omit "(within the meaning of Division 1 of Part 7.4)".

### 162 Paragraph 821A(1)(g)

Omit "within the meaning of that Division".

## Division 7—Terms relating to takeovers and acquisitions

## *Australian Securities and Investments Commission Act 2001*

### 163 Paragraph 43(1)(e)

Omit "Part 6.9", substitute "Subdivision B of Division 2 of Part 6.10".



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## *Corporations Act 2001*

### 164 Section 9 (paragraphs (a) and (b) of the definition of *enter into*)

Omit "voting".

### 165 Section 9 (paragraph (b) of the definition of *enter into*)

Before "issued", insert "allotted,".

### 166 Section 64

Repeal the section.

### 167 Paragraphs 617(1)(a) and (3)(a)

Omit "***bid class***", substitute "bid class".

## Division 8—References to Panel

## *Australian Securities and Investments Commission Act 2001*

### 168 Subsection 5(1) (paragraph (a) of the definition of *member*)

Omit "the Panel", substitute "the Takeovers Panel".

### 169 Subsection 5(1) (paragraph (c) of the definition of *member*)

Omit "Panel" (wherever occurring), substitute "Takeovers Panel".

### 170 Subsection 5(1) (definition of *Panel*)

Repeal the definition.

### 171 Subsection 5(1) (definition of *Panel proceedings*)

Repeal the definition.

### 172 Subsection 5(1) (definition of *President*)

Omit "Panel", substitute "Takeovers Panel".



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### 173 Subsection 5(1)

Insert:

***Takeovers Panel*** means the Takeovers Panel continued in existence by section 261.

***Takeovers Panel proceedings*** means proceedings before the Takeovers Panel on:

(a) an application made to the Takeovers Panel under the Corporations Act; or

(b) a reference of a decision to the Takeovers Panel for review under the Corporations Act.

### 174 Subsection 5(1) (paragraph (b) of the definition of *witness*)

Omit "Panel", substitute "Takeovers Panel".

### 175 Subsection 190(3)

Repeal the subsection, substitute:

(3) In this section:

***Takeovers Panel proceedings*** includes a part of Takeovers Panel proceedings.

## *Corporations Act 2001*

### 176 Section 9 (definition of *Panel*)

Repeal the definition.

### 177 Section 9

Insert:

***Takeovers Panel*** means the Takeovers Panel continued in existence by section 261 of the ASIC Act.



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## Division 9—Terms relating to financial services and markets

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

#### 178 Subsection 5(1)

Insert:

***arrangement*** has the meaning given by subsection 761B(1) of the Corporations Act.

#### 179 Subsection 5(1) (definition of *crowd-funding service*)

Repeal the definition.

#### 180 Subsection 5(1)

Insert:

***dealing*** in a financial product has the meaning given by section 766C of the Corporations Act and ***deal*** in a financial product has a corresponding meaning.

#### 181 Subsection 5(1) (paragraph (b) of the definition of *financial product*)

Repeal the paragraph, substitute:

(b) in the other provisions of this Act—has the meaning given by Division 3 of Part 7.1 of the Corporations Act.

#### 182 Subsection 5(1) (paragraph (b) of the definition of *financial service*)

Omit "Chapter 7 of".

#### 183 Subsection 5(1) (note to the definition of *financial service*)

Omit "Chapter 7 of that Act", substitute "of the Corporations Act".

#### 184 Subsection 5(1)

Insert:



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***person*** has the same meaning as in Chapter 7 of the of the Corporations Act.

Note: See sections 761F (which deals with partnerships) and 761FA (which deals with multiple trustees) of the Corporations Act.

### 185 Subsection 5(1) (definition of *proposed action notice*)

Repeal the definition.

### 186 Subsection 5(1)

Repeal the following definitions:

(a) definition of ***relevant provider***;

(b) definition of ***restricted civil penalty provision***.

### 187 Subsection 5(1)

Insert:

***security*** has the meaning given by subsection 92(5) of the Corporations Act.

### 188 Subsection 5(1) (definition of *Tax Practitioners Board*)

Repeal the definition.

### 189 Subsection 12BA(1) (definition of *superannuation trustee service*)

Omit "Chapter 7 of the *Corporations Act 2001*", substitute "the Corporations Act".

### 190 Paragraphs 12BAA(8)(h), (i) and (j)

Repeal the paragraphs, substitute:

(h) so much of an arrangement as is not a derivative because of paragraph 761D(3)(a) of the Corporations Act;

(i) an arrangement that is not a derivative because of paragraph 761D(3)(b) of the Corporations Act;

(j) an arrangement that is not a derivative because of subsection 761D(4) of the Corporations Act;

### 191 Subparagraph 12BAA(8)(k)(i)

Repeal the subparagraph, substitute:



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(i) an interest in something that is not a managed investment scheme because of paragraph (c), (e), (f), (k), (l) or (m) of the definition of ***managed investment scheme*** in section 9 of the Corporations Act;

### 192 Paragraph 12BAB(14)(c)

Repeal the paragraph, substitute:

(c) the operation of:

(i) a regulated superannuation fund; or

(ii) an AFCA regulated superannuation scheme; or

(iii) an approved deposit fund; or

(iv) a pooled superannuation trust;

### 193 Paragraph 12DU(a)

Omit "(within the meaning of Chapter 7 of the *Corporations Act 2001*)".

### 194 Subparagraph 127(4)(aa)(i)

Omit "(within the meaning of Chapter 7 of the *Corporations Act 2001*)".

## *Corporations Act 2001*

### 195 Section 9

Insert:

***able to be traded*** on a market:

(a) includes (but is not limited to) admitted to quotation on the market; and

(b) for the purposes of Division 3 (insider trading prohibitions) of Part 7.10—has a meaning affected by section 1042E.

### 196 Section 9 (definition of *acquire*)

Repeal the definition, substitute:

***acquire***, in relation to a financial product, has the meaning given by section 761E.



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## 197 Section 9

Insert:

***adequate***, in relation to compensation arrangements or proposed compensation arrangements, has the meaning given by section 885B.

***AFCA*** (short for the Australian Financial Complaints Authority) has the meaning given by section 761A.

***AFCA regulated superannuation scheme*** has the meaning given by section 761A.

***AFCA scheme*** has the meaning given by section 761A.

***AFCA staff member*** has the meaning given by section 761A.

***anniversary day*** for an ongoing fee arrangement has the meaning given by subsection 962G(3).

## 198 Section 9 (definition of *annual turnover*)

Repeal the definition, substitute:

***annual turnover***, of a body corporate during a 12-month period, means the sum of the values of all the supplies that the body corporate, and any body corporate related to the body corporate, have made, or are likely to make, during the 12-month period, other than:

(a) supplies made from any of those bodies corporate to any other of those bodies corporate; or

(b) supplies that are input taxed; or

(c) supplies that are not for consideration (and are not taxable supplies under section 72-5 of the *A New Tax System (Goods and Services Tax) Act 1999*); or

(d) supplies that are not made in connection with an enterprise that the body corporate carries on; or

(e) supplies that are not connected with Australia.

Expressions used in this definition that are also used in the *A New Tax System (Goods and Services Tax) Act 1999* have the same meaning as in that Act.



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## 199 Section 9

Insert:

***annuity policy*** has the meaning given by section 761A.

***apportionable claim***, in Division 2A (proportionate liability for misleading and deceptive conduct) of Part 7.10, has the meaning given by subsection 1041L(1).

***appropriate***, in relation to a target market determination, has the meaning given by subsection 994B(8A).

***approved deposit fund*** has the same meaning as in the *Superannuation Industry (Supervision) Act 1993*.

## 200 Section 9 (definition of *arrangement*)

Repeal the definition, substitute:

***arrangement***:

(a) in Part 5.1 (arrangements and reconstructions)—***arrangement*** includes a reorganisation of the share capital of a body corporate by the consolidation of shares of different classes, by the division of shares into shares of different classes, or by both of those methods; and

(b) for the purposes of Chapter 7 (financial services and markets)—***arrangement*** has the meaning given by subsection 761B(1).

Note: In Part 7.1, see also subsection 761B(2).

## 201 Section 9

Insert:

***asset-based fee*** has the meaning given by section 964F.

## 202 Section 9 (definition of *Australian CS facility licence*)

Repeal the definition, substitute:

***Australian CS facility licence*** means a licence under section 824B that authorises a person to operate a clearing and settlement facility.



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### 203 Section 9 (definition of *Australian derivative trade repository licence*)

Repeal the definition, substitute:

> ***Australian derivative trade repository licence*** means a licence under section 905C that authorises a body corporate to operate a derivative trade repository.

### 204 Section 9 (definition of *Australian financial services licence*)

Repeal the definition, substitute:

> ***Australian financial services licence*** means a licence under section 913B that authorises a person who carries on a financial services business to provide financial services.

### 205 Section 9 (definition of *Australian market licence*)

Repeal the definition, substitute:

> ***Australian market licence*** means a licence under section 795B that authorises a person to operate a financial market.

### 206 Section 9

Insert:

> ***authorised clearing and settlement facility*** has the meaning given by section 761A.
>
> ***authorised representative*** of a financial services licensee means a person authorised in accordance with section 916A or 916B to provide a financial service or financial services on behalf of the licensee.

### 207 Section 9 (definition of *BAS agent*)

Repeal the definition.

### 208 Section 9

Insert:

> ***basic banking product*** has the meaning given by section 961F.



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***basic deposit product*** means a deposit product that is a facility in relation to which the following conditions are satisfied:

(a) the terms applicable to the facility (the ***governing terms***) do not permit the amount from time to time standing to the credit of the facility to be reduced otherwise than in consequence of one or more of the following:

(i) a withdrawal, transfer or debit on the instruction of, or by authority of, the depositor, not being on account of entry fees, exit fees or charges for the management of the funds (but this does not exclude charges for the maintenance of the facility itself);

(ii) a payment of charges or duties on deposits into, or withdrawals from, the facility that are payable under a law of the Commonwealth or of a State or Territory;

(iii) a payment that a law of the Commonwealth, or of a State or Territory, requires to be made out of the facility;

(iv) a payment that an order of a court requires to be made out of the facility;

(v) the exercise of a right to combine accounts;

(vi) the correction of an error;

(vii) any other circumstances specified in regulations made for the purposes of this subparagraph; and

(b) any return to be generated for the depositor on the amount from time to time standing to the credit of the facility is an amount that is set out in, or that is calculated by reference to a rate or rates that are set out in, the governing terms; and

(c) either:

(i) there is no minimum period before which funds cannot be withdrawn or transferred from the facility without a reduction in the return generated for the depositor; or

(ii) if there is such a period, it expires on or before the end of the period of 5 years starting on the day on which funds were first deposited in the facility; and

(d) unless subparagraph (c)(ii) applies and the period referred to in that subparagraph expires on or before the end of the period of 2 years starting on the day on which funds were first deposited in the facility—funds are able to be withdrawn



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or transferred from the facility on the instruction of, or by authority of, the depositor:

(i) without any prior notice to the ADI that makes the facility available; or

(ii) if the ADI that makes the facility available is included in a class of ADIs specified in regulations made for the purposes of this subparagraph—subject to a prior notice requirement that does not exceed the period specified in those regulations in relation to that class of ADIs;

whether or not the withdrawal or transfer will attract a reduction in the return generated for the depositor as mentioned in subparagraph (c)(i); and

(e) any other conditions specified in regulations made for the purposes of this paragraph.

***benefit ratio*** has the meaning given by subsection 963B(3A).

***benefit ratio requirements*** has the meaning given by subsection 963BA(1).

***binder*** has the meaning given by section 761A.

***body corporate licensee*** has the meaning given by section 910A.

***cancellation time***, in relation to a registration prohibition order, has the meaning given by subparagraph 921L(1)(c)(i).

***Cash Settlement Fact Sheet*** means a Cash Settlement Fact Sheet required by section 948C to be given in accordance with Division 3A of Part 7.7.

***CGS depository interest*** has the meaning given by section 761A.

***CGS depository interest information website*** has the meaning given by subsection 1020AH(1).

***choice product*** has the same meaning as in the *Superannuation Industry (Supervision) Act 1993*.

***claimant intermediary*** has the meaning given by section 761CAA.



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## 209 Section 9 (definition of *claims handling and settling service*)

Repeal the definition, substitute:

***claims handling and settling service*** has the meaning given by section 766G.

## 210 Section 9 (at the end of the definition of *class*)

Insert:

; and (d) in relation to financial products or financial services—has a meaning affected by regulations made for the purposes of section 761CA.

## 211 Section 9

Insert:

***class of product advice*** has the meaning given by section 910A.

***clawback requirements*** has the meaning given by subsection 963BA(3).

***clearing and settlement arrangements*** for transactions effected through a financial market has the meaning given by section 790A.

## 212 Section 9 (definition of *clearing and settlement facility*)

Repeal the definition, substitute:

***clearing and settlement facility***:

(a) has the meaning given by section 768A; and

(b) in relation to an Australian CS facility licence—has a meaning affected by section 824E.

## 213 Section 9

Insert:

***clearing requirements***, in relation to derivative transactions, has the meaning given by subsection 901A(7).

***client money reporting rules*** has the meaning given by section 981J.



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***Code of Ethics*** means the Code of Ethics in force under section 921E.

***compensation arrangements*** has the meaning given by section 880B.

***compensation rules*** has the meaning given by section 880B.

***complaint***, in Part 7.8A (design and distribution requirements), has the meaning given by subsection 994A(2).

***concurrent wrongdoer***, in Division 2A (proportionate liability for misleading and deceptive conduct) of Part 7.10, has the meaning given by subsection 1041L(3).

***conflicted remuneration*** has the meaning given by section 963A, as affected by sections 963AA, 963B, 963C and 963D.

***consumer credit insurance*** has the same meaning as in the *Insurance Contracts Act 1984*.

***contract of insurance***, in Division 4 (special provisions relating to insurance) of Part 7.8, has a meaning affected by subsection 985A(1).

***core obligation*** has the meaning given by subsection 912D(3).

***CPD provision*** (short for continuing professional development provision) means:

(a) subsection 921BA(4); or

(b) subsection 921BB(3).

***CPD year*** (short for continuing professional development year) has the meaning given by section 910A.

***crowd-funding service*** that a person provides has the meaning given by section 766F.

***CS facility licensee*** means a person who holds an Australian CS facility licence.

***current LVR***:

(a) of a standard margin lending facility—has the meaning given by subsection 761EA(3); and



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(b) of a non-standard margin lending facility—has the meaning given by subsection 761EA(6).

***custodial arrangement***, in Subdivision A (volume-based shelf-space fees) of Division 5 of Part 7.7A, has the meaning given by subsection 964(2).

Note: Subsection 964(2) incorporates a modified version of the definition of ***custodial arrangement*** in section 1012IA.

***custodian***, in relation to a registrable superannuation entity, has the same meaning as in the *Superannuation Industry (Supervision) Act 1993*.

## 214 Section 9 (definition of *dealing*)

Repeal the definition, substitute:

***dealing*** in a financial product:

(a) except in Part 7.8A—has the meaning given by section 766C; and

(b) in Part 7.8A (design and distribution requirements)—has the meaning given by subsection 994A(2);

and ***deal*** in a financial product has corresponding meanings.

## 215 Section 9

Insert:

***death benefit decision-maker*** has the meaning given by section 761A.

## 216 Section 9 (definition of *defective*)

Repeal the definition, substitute:

***defective***:

(a) in relation to a CSF offer document, has the meaning given by subsection 738U(1); and

(b) in relation to a disclosure document or statement:

(i) in Subdivision A (financial services disclosure offences) of Division 7 of Part 7.7—has the meaning given by subsection 952B(1); and



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(ii) in Subdivision B (financial services disclosure civil lability) of Division 7 of Part 7.7—has the meaning given by subsection 953A(1); and

(iii) in Subdivision A (financial product disclosure offences) of Division 7 of Part 7.9—has the meaning given by subsection 1021B(1); and

(iv) in Subdivision B (financial product disclosure civil lability) of Division 7 of Part 7.9—has the meaning given by subsection 1022A(1).

## 217 Section 9

Insert:

***deposit product*** means a financial product described in paragraph 764A(1)(i).

## 218 Section 9 (definition of *derivative*)

Repeal the definition, substitute:

***derivative*** (except for the purposes of Chapter 8A) has the meaning given by section 761D.

## 219 Section 9

Insert:

***derivative retail client money*** has the meaning given by section 761A.

***derivative trade data*** has the meaning given by section 761A.

***derivative trade repository***:

(a) means a facility to which information about derivative transactions, or about positions relating to derivative transactions, can be reported (whether or not other information or data can also be reported to the facility); and

(b) in relation to an Australian derivative trade repository licence—has a meaning affected by subsection 905E(2).

***derivative trade repository licensee*** means a person who holds an Australian derivative trade repository licence.



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## 220 Section 9 (definition of *derivative trade repository rules*)

Repeal the definition, substitute:

***derivative trade repository rules*** means rules made by ASIC under subsection 903A(1).

## 221 Section 9

Insert:

***derivative transaction*** means:

(a) the entry into of an arrangement (as defined in subsection 761B(1)) that is a derivative; or

(b) the modification or termination of such an arrangement; or

(c) the assignment, by a party to such an arrangement, of some or all of the party's rights and obligations under the arrangement; or

(d) any other transaction that relates to a derivative and that is in a class of transactions prescribed by the regulations for the purposes of this paragraph.

## 222 Section 9 (definition of *derivative transaction rules*)

Repeal the definition, substitute:

***derivative transaction rules*** means rules made by ASIC under subsection 901A(1).

## 223 Section 9

Insert:

***disclosure document or statement***:

(a) in Subdivision A (financial services disclosure offences) of Division 7 of Part 7.7—has the meaning given by subsection 952B(1); and

(b) in Subdivision B (financial services disclosure civil lability) of Division 7 of Part 7.7—has the meaning given by subsection 953A(1); and

(c) in Subdivision A (financial product disclosure offences) of Division 7 of Part 7.9—has the meaning given by subsection 1021B(1); and



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(d) in Subdivision B (financial product disclosure civil lability) of Division 7 of Part 7.9—has the meaning given by subsection 1022A(1).

## 224 Section 9 (paragraph (a) of the definition of *dispose*)

Repeal the paragraph, substitute:

(a) when used in relation to financial products, otherwise than in a situation to which paragraph (b) applies, ***dispose*** includes terminate or close out the legal relationship that constitutes the financial product;

## 225 Section 9

Insert:

***disqualified individual*** has the meaning given by section 853A.

***distribution condition*** has the meaning given by paragraph 994B(5)(c).

***distribution information***, in relation to a financial product, has the meaning given by subsection 994F(3).

***Division 3 arrangements*** has the meaning given by section 880B.

Note: This definition refers to Division 3 (approved compensation arrangements) of Part 7.5.

***Division 3 financial products*** has the meaning given by subsection 1042A(1).

Note 1: This definition refers to Division 3 (insider trading prohibitions) of Part 7.10.

Note 2: In Part 7.10 (market misconduct etc.) bank accepted bills and negotiable certificates of deposit are treated as if they were Division 3 financial products: see section 1040B.

***Division 3 loss*** has the meaning given by section 880B.

Note: This definition refers to Division 3 (approved compensation arrangements) of Part 7.5.

***Division 4 arrangements*** has the meaning given by section 880B.

Note: This definition refers to Division 4 (NGF Compensation regime) of Part 7.5.



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***education and training standards*** has the meaning given by section 921B.

***employer-sponsor*** has the same meaning as in the *Superannuation Industry (Supervision) Act 1993*.

***excluded conduct*** has the meaning given by subsection 994A(1).

***execution requirements***, in relation to derivative transactions, has the meaning given by subsection 901A(5).

***exempt public sector superannuation scheme*** has the same meaning as in the *Superannuation Industry (Supervision) Act 1993*.

***facility*** has a meaning affected by section 762C.

***fee disclosure statement*** has the meaning given by subsection 962H(1).

***fee recipient*** has the meaning given by section 962C.

***fidelity fund*** has the meaning given by section 880B.

## 226 Section 9 (definition of *financial benchmark*)

Repeal the definition, substitute:

***financial benchmark***:

(a) has the meaning given by section 908AB; and

(b) in relation to a benchmark administrator licence—has a meaning affected by section 908BE.

## 227 Section 9

Insert:

***financial investment***: see ***makes a financial investment***.

## 228 Section 9 (definition of *financial market*)

Repeal the definition, substitute:

***financial market*** (except for the purposes of Chapter 8A) has the meaning given by section 767A.



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## 229 Section 9 (definition of *financial product*)

Repeal the definition, substitute:

***financial product*** has the meaning given by Division 3 of Part 7.1 and:

(a) in Part 7.8A (design and distribution requirements)—has a meaning affected by subsection 994AA(1); and

(b) in Part 7.9A (product intervention orders)—has a meaning affected by section 1023B.

Note: In Part 7.10 (market misconduct etc.) bank accepted bills and negotiable certificates of deposit are treated as if they were financial products: see section 1040B.

## 230 Section 9

Insert:

***financial product advice*** has the meaning given by section 766B.

***financial risk***: see ***manages financial risk***.

## 231 Section 9 (definition of *financial service*)

Repeal the definition, substitute:

***financial service*** has the meaning given by Division 4 of Part 7.1.

## 232 Section 9 (definition of *Financial Services and Credit Panel*)

Repeal the definition, substitute:

***Financial Services and Credit Panel*** means a panel convened under subsection 139(1) of the ASIC Act.

## 233 Section 9 (definition of *financial services business)*

Repeal the definition.

## 234 Section 9

Insert:



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***Financial Services Guide*** means a Financial Services Guide required by section 941A or 941B to be given in accordance with Division 2 of Part 7.7.

***financial services law*** has the meaning given by section 761A.

## 235 Section 9 (definition of *financial services licensee*)

Repeal the definition, substitute:

***financial services licensee*** means a person who holds an Australian financial services licence.

## 236 Section 9 (definition of *financial year*)

Repeal the definition, substitute:

***financial year***:

(a) of a company, registered scheme or disclosing entity (other than a notified foreign passport fund)—has the meaning given by section 323D; and

(b) of a notified foreign passport fund—has the meaning given by section 323DAA; and

(c) of a financial services licensee that is a body corporate and is not covered by paragraph (a)—means a financial year of the body corporate; and

(d) for a financial services licensee that is not covered by paragraph (a) or (c)—means a year ending on 30 June.

## 237 Section 9

Insert:

***foreign exchange contract*** has the meaning given by section 761A.

## 238 Section 9 (definition of *foreign passport fund product*)

Repeal the definition, substitute:

***foreign passport fund product*** means a financial product described in paragraph 764A(1)(bb).



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## 239 Section 9

Insert:

***foreign qualification*** has the meaning given by section 910A.

***funeral benefit*** has the meaning given by section 761A.

***further market-related advice*** means advice to which subsection 946B(1) applies.

***general advice*** has the meaning given by subsection 766B(4).

***general insurance product*** means a financial product described in paragraph 764A(1)(d).

Note: See also ***insurance product*** and ***risk insurance product***.

***generally available*** in relation to information:

(a) for the purposes of sections 674, 674A, 675 and 675A (continuous disclosure)—has the meaning given by section 676; and

(b) for the purposes of Division 3 (insider trading prohibitions) of Part 7.10—has the meaning given by section 1042C.

***holder***:

(a) in relation to a financial product—means the person to whom the financial product was issued, or if it has (since issue) been disposed of to another person who has not themselves disposed of it, that other person; and

(b) in relation to an RSA—has the same meaning as in the *Retirement Savings Accounts Act 1997*;

and ***hold*** has corresponding meanings.

***information***, in Division 3 (insider trading prohibitions) of Part 7.10, has a meaning affected by subsection 1042A(2).

***information statement*** for a class of CGS depository interests has the meaning given by subsection 1020AH(1).

***inside information*** has the meaning given by subsection 1042A(1).

***insurance claims manager*** has the meaning given by section 761DA.



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***insurance product*** means a financial product described in paragraph 764A(1)(d), (e) or (f).

Note: See also ***general insurance product***, ***investment life insurance product***, ***life risk insurance product*** and ***risk insurance product***.

***insure***:

(a) in relation to a contract of life insurance—***insured***, for the purposes of Division 4 (special provisions relating to insurance) of Part 7.8, has the meaning given by section 985A; and

(b) in relation to a superannuation complaint—***insurer*** has the meaning given by section 761A.

***investment life insurance product*** means a financial product described in paragraph 764A(1)(f).

Note: See also ***insurance product***.

***issue situation*** has the meaning given by paragraph 1012B(2)(a).

***issue Statement*** has the meaning given by subsection 1013A(1).

***kind***, in relation to financial products or financial services, has a meaning affected by regulations made for the purposes of section 761CA.

***licensed CS facility*** means a clearing and settlement facility the operation of which is authorised by an Australian CS facility licence.

***licensed derivative trade repository*** has the meaning given by section 761A.

***licensed market*** means a financial market the operation of which is authorised by an Australian market licence.

***life policy*** has the same meaning as in the *Life Insurance Act 1995*.

***life policy fund*** has the meaning given by section 761A.

***life risk insurance product*** means a financial product described in paragraph 764A(1)(e).

Note: See also ***insurance product*** and ***risk insurance product***.



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***limit*** of a margin lending facility has the meaning given by subsection 761EA(11).

***limited-service time-sharing adviser*** has the meaning given by section 910A.

## 240 Section 9 (definition of *listing rules*)

Repeal the definition, substitute:

***listing rules*** of a financial market, or proposed financial market, means any rules (however described) that are made by the operator of the market, or contained in the operator's constitution, and that deal with:

(a) admitting entities to, or removing entities from, the market's official list, whether for the purpose of enabling financial products of those entities to be traded on the market or for other purposes; or

(b) the activities or conduct of entities that are included on that list.

## 241 Section 9

Insert:

***makes a financial investment*** has the meaning given by section 763B.

***makes a market*** for a financial product has the meaning given by section 766D.

***makes non-cash payments*** has the meaning given by section 763D.

## 242 Section 9 (definition of *managed investment product*)

Repeal the definition, substitute:

***managed investment product*** means a financial product described in paragraph 764A(1)(b).



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## 243 Section 9 (paragraph (h) of the definition of *managed investment scheme*)

Omit ", or a public sector superannuation scheme, within the meaning of the *Superannuation Industry (Supervision) Act 1993*", substitute "or a public sector superannuation scheme".

## 244 Section 9 (paragraph (mb) of the definition of *managed investment scheme*)

Omit "(as defined in section 766F)".

## 245 Section 9

Insert:

***manages financial risk*** has the meaning given by section 763C.

***margin call***:

(a) in relation to a standard margin lending facility—has the meaning given by subsection 761EA(4); and

(b) in relation to a non-standard margin lending facility—has the meaning given by subsection 761EA(7); and

(c) in relation to a facility that ASIC has declared to be a margin lending facility under subsection 761EA(8)—has the meaning given in the declaration.

***margin lending facility*** has the meaning given by subsection 761EA(1).

***market***, in relation to an Australian market licence, has a meaning affected by section 795E.

Note: See also ***makes a market***.

## 246 Section 9 (definition of *market integrity rules*)

Repeal the definition, substitute:

***market integrity rules*** means the rules made by ASIC under section 798G.

## 247 Section 9

Insert:



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***market licensee*** means a person who holds an Australian market licence.

***material effect***, for the purposes of Division 3 (insider trading prohibitions) of Part 7.10, has the meaning given by section 1042D.

***MySuper product*** has the same meaning as in the *Superannuation Industry (Supervision) Act 1993*.

***NGF*** means the National Guarantee Fund that continues in existence under section 889A.

***non-cash payments***: see ***makes non-cash payments***.

***non-standard margin lending facility*** has the meaning given by subsection 761EA(5).

***ongoing fee*** has the meaning given by section 962B.

***ongoing fee arrangement*** has the meaning given by section 962A.

## 248 Section 9 (definition of *operated in this jurisdiction*)

Repeal the definition, substitute:

***operated in this jurisdiction***:

(a) in relation to a financial market—has a meaning affected by section 791D; and

(b) in relation to a clearing and settlement facility—has a meaning affected by section 820D.

## 249 Section 9 (definition of *operating rules*)

Repeal the definition, substitute:

***operating rules***:

(a) of a clearing and settlement facility, or proposed clearing and settlement facility—means any rules (however described) made by the operator of the facility, or contained in the operator's constitution, that deal with:

(i) the activities or conduct of the facility; or

(ii) the activities or conduct of persons in relation to the facility;



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but does not include any such rules that deal with matters in respect of which licensed CS facilities must have written procedures under regulations made for the purposes of subsection 822A(2); and

(b) of a financial market, or proposed financial market—means any rules (however described), including the market's listing rules (if any), that are made by the operator of the market, or contained in the operator's constitution, and that deal with:

(i) the activities or conduct of the market; or

(ii) the activities or conduct of persons in relation to the market;

but does not include:

(iii) any such rules that deal with matters in respect of which licensed markets must have written procedures under regulations made for the purposes of subsection 793A(2); or

(iv) compensation rules; and

(c) of the SEGC—means the rules referred to in section 890D.

## 250 Section 9

Insert:

***Part 7.5 authority*** has the meaning given by section 892A.

***Part 7.5 regulated fund*** has the meaning given by section 892A.

***pension*** has the same meaning as in the *Superannuation Industry (Supervision) Act 1993*.

## 251 Section 9

Insert:

***personal advice*** has the meaning given by subsections 766B(3) and (3A).

***policy cost*** for a life risk insurance product, or life risk insurance products, for a year has the meaning given by subsections 963B(3B) and (3C).

***pooled superannuation trust*** has the same meaning as in the *Superannuation Industry (Supervision) Act 1993*.



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***prescribed CS facility*** means a licensed CS facility that is prescribed by regulations made for the purposes of this definition.

## 252 Section 9 (definition of *prescribed derivative trade repository*)

Repeal the definition, substitute:

***prescribed derivative trade repository*** means a facility that is (or that is in a class that is) prescribed by the regulations for the purposes of paragraph 901A(6)(b).

## 253 Section 9 (definition of *procure*)

Repeal the definition, substitute:

***procure*** for the purposes of Division 3 (insider trading prohibitions) of Part 7.10 has a meaning affected by section 1042F.

## 254 Section 9 (definition of *Product Disclosure Statement*)

Repeal the definition, substitute:

***Product Disclosure Statement***:

(a) means a Product Disclosure Statement:

(i) required by section 1012A, 1012B, 1012C, 1012I or 1012IA to be given in accordance with Division 2 of Part 7.9; or

(ii) that section 1012H requires an issuer of a financial product to take reasonable steps to ensure is given to a new group member in accordance with Division 2 of Part 7.9; and

(b) has a meaning affected by section 1014J (about Replacement Product Disclosure Statements).

## 255 Section 9

Insert:

***product intervention order*** means an order made under subsection 1023D(1) or (3).



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## 256 Section 9 (paragraph (b) of the definition of *professional investor*)

Omit "(within the meaning of the *Superannuation Industry (Supervision) Act 1993*)".

## 257 Section 9 (paragraph (d) of the definition of *professional investor*)

Omit "within the meaning of the *Superannuation Industry (Supervision) Act 1993*".

## 258 Section 9

Insert:

***prohibition end day***, in relation to a registration prohibition order, has the meaning given by subparagraph 921L(1)(c)(ii).

## 259 Section 9 (definition of *proposed action notice*)

Repeal the definition, substitute:

***proposed action notice*** has the meaning given by subsection 921P(1).

## 260 Section 9

Insert:

***provide***:

(a) in relation to a financial product—***provide*** has a meaning affected by section 761E; and

(b) in Subdivision A (volume-based shelf-space fees) of Division 5 of Part 7.7A—***provider*** has the meaning given by subsection 964(2).

***provisional relevant provider*** means a relevant provider who is undertaking work and training in accordance with subsection 921B(4).

***public sector superannuation scheme*** has the same meaning as in the *Superannuation Industry (Supervision) Act 1993*.



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***purchase*** of a financial product, for the purposes of Part 7.8A (design and distribution requirements) and Part 7.9 (financial product disclosure), has the meaning given by subsection 1010C(1).

Note: Section 1010C applies for the purposes of Part 7.8A: see subsection 994A(3).

***qualified tax relevant provider*** has the meaning given by section 910A.

***reasonable investigation*** into financial products has a meaning affected by section 961D.

***reasonably apparent***:

(a) for the purposes of Division 2 (best interests obligations) of Part 7.7A—has the meaning given by section 961C; and

(b) for the purposes of Subdivision B (asset-based fees on borrowed amounts) of Division 5 of Part 7.7A—has the meaning given by section 964H.

***recent advising history*** has the meaning given by section 922G.

***recommendation situation*** has the meaning given by paragraph 1012A(2)(a).

***Reference Checking and Information Sharing Protocol*** means the protocol determined by ASIC under subsection 912A(3A).

***registered tax agent or BAS agent*** has the same meaning as in the *Tax Agent Services Act 2009*.

***Register of Relevant Providers*** means the Register of Relevant Providers maintained under section 922Q.

***registration prohibition order*** has the meaning given by paragraph 921L(1)(c).

***registration suspension order*** has the meaning given by paragraph 921L(1)(b).

***regulated person***:

(a) in relation to a financial product:



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(i) in Part 7.8A (design and distribution requirements)—has the meaning given by subsection 994A(2); and

(ii) in Divisions 2 (Product Disclosure Statements) and 7 (enforcement) of Part 7.9—has the meaning given by section 1011B; and

(c) in relation to a CGS depository interest, in Division 5C (information about CGS depository interests) of Part 7.9—has the meaning given by subsection 1020AH(2).

***regulated sale*** means a sale:

(a) that, under subsection 707(2), (3) or (5), needs disclosure to investors under Part 6D.2; or

(b) in relation to which a Product Disclosure Statement must be given under subsection 1012C(5), (6) or (8); or

(c) made in circumstances prescribed by regulations made for the purposes of this paragraph.

***regulated superannuation fund*** has the same meaning as in the *Superannuation Industry (Supervision) Act 1993*.

***relevant conduct***:

(a) for an issue situation—has the meaning given by paragraph 1012B(2)(b); and

(b) for a recommendation situation—has the meaning given by paragraph 1012A(2)(b); and

(c) for a sale situation—has the meaning given by paragraph 1012C(2)(b).

***relevant Division 3 financial products*** has the meaning given by subsection 1042A(1).

Note: This definition refers to Division 3 (insider trading prohibitions) of Part 7.10.

***relevant financial products*** has the meaning given by section 910A.

***relevant personal circumstances*** has the meaning given by section 761A.

***relevant provider*** has the meaning given by section 910A.



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***renewal period*** for an anniversary day for an ongoing fee arrangement has the meaning given by section 962L.

## 261 Section 9 (definition of *Replacement Product Disclosure Statement*)

Repeal the definition, substitute:

***Replacement Product Disclosure Statement*** has the meaning given by section 1014H.

## 262 Section 9

Insert:

***reportable situation*** has the meaning given by section 912D.

***reporting period***, in Part 7.8A (design and distribution requirements), has the meaning given by subsection 994A(2).

***reporting requirements***, in relation to derivative transactions, has the meaning given by subsection 901A(6).

***representative*** of a person means:

(a) if the person is a financial services licensee:
  (i) an authorised representative of the licensee; or
  (ii) an employee or director of the licensee; or
  (iii) an employee or director of a related body corporate of the licensee; or
  (iv) any other person acting on behalf of the licensee; or

(b) in any other case:
  (i) an employee or director of the person; or
  (ii) an employee or director of a related body corporate of the person; or
  (iii) any other person acting on behalf of the person.

## 263 Section 9 (definition of *response period*)

Repeal the definition, substitute:

***response period*** for a proposed action notice has the meaning given by paragraph 921P(2)(b).



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## 264 Section 9

Insert:

***responsible licensee***, in relation to a contravention of a provision of Part 7.7A, has the meaning given by section 961P.

***responsible person*** for a Product Disclosure Statement has the meaning given by subsection 1013A(3).

## 265 Section 9 (definition of *restricted civil penalty provision*)

Repeal the definition, substitute:

***restricted civil penalty provision*** has the meaning given by subsection 921Q(3).

## 266 Section 9 (definition of *retail client*)

Repeal the definition, substitute:

***retail client***:

(a) except in relation to a CSF offer—has the meaning given by sections 761G and 761GA; and

(b) in relation to a CSF offer—has the meaning given by section 738D.

## 267 Section 9

Insert:

***retail product distribution conduct*** has the meaning given by subsection 994A(1).

***review period*** for a target market determination has the meaning given by subsection 994A(1).

***review triggers*** for a target market determination has the meaning given by paragraph 994B(5)(d).

***risk insurance product*** means a financial product described in paragraph 764A(1)(d) or (e).

Note: See also ***general insurance product***, ***insurance product*** and ***life risk insurance product***.



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***RSA*** has the same meaning as in the *Retirement Savings Accounts Act 1997*.

Note: RSA is short for retirement savings account.

***RSA provider*** has the same meaning as in the *Retirement Savings Accounts Act 1997*.

Note: RSA is short for retirement savings account.

## 268 Section 9 (at the end of the definition of *RSE licensee*)

Add:

Note: RSE is short for registrable superannuation entity.

## 269 Section 9

Insert:

***sale***:

(a) in relation to an annuity policy—has the meaning given by section 761A; and

(b) of a financial product, for the purposes of Part 7.8A (design and distribution requirements) and Part 7.9 (financial product disclosure)—has the meaning given by subsection 1010C(1).

Note: Section 1010C applies for the purposes of Part 7.8A: see subsection 994A(3).

***sale situation*** has the meaning given by paragraph 1012C(2)(a).

***sale Statement*** has the meaning given by subsection 1013A(2).

***section 1020B products*** has the meaning given by subsection 1020B(1).

***securities lending arrangement*** (except for the purposes of Chapter 8A) has the meaning given by section 1020AA.

***SEGC*** (short for Securities Exchanges Guarantee Corporation) has the meaning given by section 880B.

***self managed superannuation fund*** has the same meaning as in the *Superannuation Industry (Supervision) Act 1993*.



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***sinking fund policy*** has the same meaning as in the *Life Insurance Act 1995*.

***standard employer-sponsor*** has the same meaning as in the *Superannuation Industry (Supervision) Act 1993*.

***standard employer-sponsored fund*** has the same meaning as in the *Superannuation Industry (Supervision) Act 1993*.

***standard employer-sponsored member*** has the same meaning as in the *Superannuation Industry (Supervision) Act 1993*.

***standard margin lending facility*** has the meaning given by subsection 761EA(2).

***Statement of Advice*** means a Statement of Advice required by section 946A to be given in accordance with Subdivisions C and D of Division 3 of Part 7.7.

***superannuation complaint*** has the meaning given by subsections 1053(3) and (4).

***superannuation entity*** has the same meaning as in the *Superannuation Industry (Supervision) Act 1993*.

***superannuation product*** means a superannuation interest within the meaning of the *Superannuation Industry (Supervision) Act 1993*.

***superannuation provider*** means a person who is a superannuation provider within the meaning of:

(a) the *Superannuation Contributions Tax (Assessment and Collection) Act 1997*; or

(b) the *Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Assessment and Collection Act 1997*.

***superannuation trustee service*** that a person provides has the meaning given by section 766H.

***supervisor*** of a provisional relevant provider has the meaning given by subsection 921F(2).



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***Supplementary Financial Services Guide*** has the meaning given by section 943A.

## 270 Section 9 (definition of *Supplementary Product Disclosure Statement*)

Repeal the definition, substitute:

***Supplementary Product Disclosure Statement*** has the meaning given by section 1014A.

## 271 Section 9

Insert:

***suspension period***, in relation to a registration suspension order, has the meaning given by paragraph 921L(1)(b).

***target market*** for a financial product means the class of retail clients described in the target market determination for the product under paragraph 994B(5)(b).

***target market determination*** means a determination that:

(a) is made as required by section 994B; and

(b) meets the requirements of subsections 994B(5) and (8).

***tax (financial) advice service*** has the same meaning as in the *Tax Agent Services Act 2009*.

***Tax Practitioners Board*** means the Tax Practitioners Board established by section 60-5 of the *Tax Agent Services Act 2009*.

***title document*** for a financial product has the meaning given by section 761A.

***transfer*** of a financial product, in Divisions 3 (transfer of certain securities) and 4 (transfer of certain financial products) of Part 7.11, has the meaning given by section 1073B.

***trustee***:

(a) in relation to a superannuation entity—means the person who is the trustee of the entity for the purposes of the *Superannuation Industry (Supervision) Act 1993*; or



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(b) in relation to the scheme provided for by the *Australian Defence Force Cover Act 2015*—means CSC (within the meaning of the *Governance of Australian Government Superannuation Schemes Act 2011*).

***unsolicited contact*** has the meaning given by subsection 992A(4).

***volume-based shelf-space fee*** has a meaning affected by section 964A.

***wholesale client*** has the meaning given by section 761G.

***widely held market body*** has the meaning given by section 850A.

***within authority***, in Division 6 (liability of financial services licensees for representatives) of Part 7.6, has a meaning given by subsections 917A(2) and (3).

## 272 Paragraph 324CH(6A)(b)

Omit "(within the meaning of section 761A)".

## 273 Subparagraph 440JA(b)(iv)

Omit "(as defined in Chapter 7)".

## 274 Subparagraph 440JA(d)(ii)

Omit "(within the meaning of section 768A)".

## 275 Subparagraph 453X(b)(iv)

Omit "(as defined in Chapter 7)".

## 276 Subparagraph 453X(d)(ii)

Omit "(within the meaning of section 768A)".

## 277 Subsection 601RAB(3)

Omit ", within the meaning of Chapter 7,".

## 278 Paragraph 601RAC(3)(e)

Omit "(within the meaning of the *Superannuation Industry (Supervision) Act 1993*)".



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### 279 Subsection 609(9A)

Omit "(within the meaning of Chapter 7)".

### 280 Paragraph 636(1)(ga)

Omit "(within the meaning of section 1012B)".

### 281 Section 676 (heading)

Repeal the heading, substitute:

### 676 Meaning of *generally available*

### 282 Subsections 676(2) and (3)

Omit "generally available", substitute "***generally available***".

### 283 Section 703A

Omit "(within the meaning of Chapter 7)".

### 284 Section 738C (note 1)

Repeal the note.

### 285 Section 738C (note 2)

Omit "Note 2", substitute "Note".

### 286 Section 738D

Omit "for the purposes of Chapter 7".

### 287 Section 760B (table item 1)

Repeal the item, substitute:

| | | |
|---|---|---|
| 1 | 7.1 | meaning of some terms relating to financial services and markets |

### 288 Division 2 of Part 7.1 (heading)

Repeal the heading, substitute:



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## Division 2—Meaning of some terms relating to financial services and markets

### 289 Sections 761A and 761B

Repeal the sections, substitute:

### 761A Meaning of some terms relating to financial services and markets

In this Act:

***AFCA*** (short for the Australian Financial Complaints Authority) means the operator of the AFCA scheme.

***AFCA regulated superannuation scheme*** means:

(a) the scheme provided for by the *Australian Defence Force Cover Act 2015*; and

(b) if, under the AFCA scheme, an exempt public sector superannuation scheme may elect to join the AFCA scheme, and such a superannuation scheme so elects—that superannuation scheme.

***AFCA scheme*** means the external dispute resolution scheme for which an authorisation under Part 7.10A is in force.

***AFCA staff member*** means:

(a) a director, officer or employee of AFCA; or

(b) a person engaged as a consultant to, or to perform services for, AFCA for the purposes of the AFCA scheme.

***annuity policy*** means a life policy in relation to an annuity that is declared to be a superannuation policy under regulations made for the purposes of paragraph (b) of the definition of ***superannuation policy*** in the Schedule to the *Life Insurance Act 1995*.

***authorised clearing and settlement facility*** means:

(a) a licensed CS facility; or

(b) a clearing and settlement facility that satisfies the following requirements:



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(i) the operator of the facility is authorised to operate the facility in the foreign country in which the operator's principal place of business is located;

(ii) any requirements specified in regulations made for the purposes of this subparagraph.

***binder*** means an authorisation given to a person by a financial services licensee who is an insurer to do either or both of the following:

(a) enter into contracts that are risk insurance products on behalf of the insurer as insurer;

(b) provide a claims handling and settling service, on behalf of the insurer as insurer, in relation to risk insurance products;

but does not include an authorisation of a kind referred to in paragraph (a) that is limited to effecting contracts of insurance by way of interim cover unless there is also in existence an authority given by the insurer to the person to enter into, on behalf of the insurer and otherwise than by way of interim cover, contracts of insurance.

***CGS depository interest*** means a depository interest (within the meaning of the *Commonwealth Inscribed Stock Act 1911*) that can be transferred through a licensed CS facility.

***death benefit decision-maker*** means any of the following persons:

(a) the trustee of:

(i) a regulated superannuation fund; or

(ii) an AFCA regulated superannuation scheme; or

(iii) an approved deposit fund;

(b) an insurer in relation to a superannuation complaint;

(c) an RSA provider.

***derivative retail client money***: money paid as mentioned in subsection 981A(1) is ***derivative retail client money*** if:

(a) either:

(i) the financial service referred to in subparagraph 981A(1)(a)(i) is or relates to a dealing in a derivative; or



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(ii) the financial product referred to in subparagraph 981A(1)(a)(ii) is a derivative; and

(b) the financial service or product would be provided to the client as a retail client if:

(i) the service or product were provided to the client when the money is paid; and

(ii) section 761GA (about sophisticated investors) did not apply.

***derivative trade data*** means:

(a) information about derivative transactions, or about positions relating to derivative transactions; or

(b) information (including statistical data) that is created or derived from information referred to in paragraph (a).

***financial services law*** means:

(a) a provision of this Chapter or of Chapter 5C, 5D, 6, 6A, 6B, 6C, 6D, 8A or 8B; or

(b) a provision of Chapter 9 as it applies in relation to a provision referred to in paragraph (a); or

(c) a provision of the Passport Rules for this jurisdiction; or

(d) a provision of Division 2 of Part 2 of the ASIC Act; or

(e) any other Commonwealth, State or Territory legislation that covers conduct relating to the provision of financial services (whether or not it also covers other conduct), but only in so far as it covers conduct relating to the provision of financial services; or

(f) in relation to a financial services licensee that is a licensed trustee company (in addition to paragraphs (a) to (e))—any rule of common law or equity that covers conduct relating to the provision of financial services that are traditional trustee company services (whether or not it also covers other conduct), but only in so far as it covers conduct relating to the provision of such services.

***foreign exchange contract*** means a contract:

(a) to buy or sell currency (whether Australian or not); or

(b) to exchange one currency (whether Australian or not) for another (whether Australian or not).



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***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.

***insurer***, in relation to a superannuation complaint, means the life company (within the meaning of the *Life Insurance Act 1995*) that is a party to the policy to which the complaint relates.

***licensed derivative trade repository*** means a derivative trade repository the operation of which is authorised by an Australian derivative trade repository licence.

***life policy fund*** means a regulated superannuation fund, or an AFCA regulated superannuation scheme, for the purpose of which the trustee maintains, in relation to at least some of the members of the fund:

(a) individual life policies covering each of those members; or

(b) a single life policy covering all of those members.

***relevant personal circumstances***, in relation to advice provided or to be provided to a person in relation to a matter, are such of the person's objectives, financial situation and needs as would reasonably be considered to be relevant to the advice.

***sale***, in relation to an annuity policy, includes any activity undertaken, or representation made:

(a) at the time of, or preliminary to, the entry into the policy, so that the policy as so entered into extends to a particular person; and

(b) at the time of, or preliminary to, the variation of the policy, so that the policy as so varied affects a particular person.

***title document*** for a financial product means a certificate or other document evidencing ownership of the financial product.



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### 761B Meaning of *arrangement*

(1) For the purposes of this Chapter, ***arrangement*** means a contract, agreement, understanding, scheme or other arrangement (as existing from time to time):

(a) whether formal or informal, or partly formal and partly informal; and

(b) whether written or oral, or partly written and partly oral; and

(c) whether or not enforceable, or intended to be enforceable, by legal proceedings and whether or not based on legal or equitable rights.

(2) For the purposes of this Part, if:

(a) an arrangement (as defined in subsection (1)), when considered by itself, does not constitute a derivative, or some other kind of financial product; and

(b) that arrangement, and one or more other arrangements, if they had instead been a single arrangement, would have constituted a derivative or other financial product; and

(c) it is reasonable to assume that the parties to the arrangements regard them as constituting a single scheme;

the arrangements are to be treated as if they together constituted a single arrangement.

## 290 Section 761C

Repeal the section.

## 291 Section 761CA

Omit "this Chapter", substitute "this Act".

## 292 Subsection 761D(1)

Omit "For the purposes of this Chapter, subject", substitute "Subject".

## 293 Subsection 761D(2)

Omit "for the purposes of this section is a derivative for the purposes of this Chapter", substitute "is a ***derivative***".



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### 294 Subsection 761D(3)

Omit "the following are not derivatives for the purposes of this Chapter even if they are covered by the definition in subsection (1)", substitute "none of the following is a ***derivative*** even if covered by subsection (1)".

### 295 Paragraph 761D(3)(d)

Omit "for the purposes of this Chapter".

### 296 Subsection 761D(4)

Omit "is not a derivative for the purposes of this Chapter", substitute "is not a ***derivative***".

### 297 Section 761E (heading)

Repeal the heading, substitute:

**761E Meaning of *acquire*, *issue* and *provide***

### 298 Subsection 761E(3) (table item 2)

Omit "RSA product", substitute "RSA".

### 299 Subsection 761E(7)

Omit "for the purposes of this Chapter".

### 300 Subsections 761G(1) and (2)

Omit "For the purposes of this Chapter, a", substitute "A".

### 301 Subsection 761G(3)

Omit ", for the purposes of this Chapter,".

### 302 Subsection 761G(4)

Omit "For the purposes of this Chapter, a", substitute "A".

### 303 Subsection 761G(5)

Omit "For the purposes of this Chapter, if", substitute "If".



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### 304 Subsection 761G(6)

Omit "this Chapter", substitute "this Act".

### 305 Paragraph 761G(6)(a)

Omit "RSA product", substitute "RSA".

### 306 Paragraph 761G(6)(aa)

Omit "(within the meaning of the *Superannuation Industry (Supervision) Act 1993)*".

### 307 Paragraph 761G(6)(b)

Omit "RSA product", substitute "RSA".

### 308 Subparagraph 761G(6)(c)(i)

Omit "(within the meaning of the *Superannuation Industry (Supervision) Act 1993)*".

### 309 Subparagraph 761G(6)(c)(ii)

Omit "(within the meaning of the *Retirement Savings Accounts Act 1997*)".

### 310 Paragraph 761G(6)(c)

Omit "RSA product", substitute "RSA".

### 311 Subsection 761G(6A)

Omit "For the purpose of this Chapter, if", substitute "If".

### 312 Subsection 761G(7)

Omit "For the purposes of this Chapter, if", substitute "If".

### 313 Subsection 761G(7)

Omit "RSA product", substitute "RSA".

### 314 Paragraph 761G(7)(c)

Omit "(as defined in section 9)".



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### 315 Subsection 761G(9) (note 1)

Omit "RSA product", substitute "RSA".

### 316 Section 761GA

Omit "For the purposes of this Chapter, a", substitute "A".

### 317 Paragraph 761GA(b)

Omit "RSA product", substitute "RSA".

### 318 Section 762B

Omit "this Chapter", substitute "this Act".

### 319 Section 762C

Omit "this Division", substitute "this Act".

### 320 Section 762C (note)

Omit "—see section 761B", substitute ": see subsection 761B(2)".

### 321 Subsection 763A(1)

Omit "For the purposes of this Chapter, a", substitute "A".

### 322 Paragraphs 763A(1)(a), (b) and (c)

Repeal the paragraphs, substitute:

(a) makes a financial investment;
(b) manages financial risk;
(c) makes non-cash payments.

### 323 Subsection 763A(2)

Omit "For the purposes of this Chapter, a", substitute "A".

### 324 Section 763B

Omit "For the purposes of this Chapter, a", substitute "A".

### 325 Section 763C

Omit "For the purposes of this Chapter, a", substitute "A".



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### 326 Subsection 763D(1)

Omit "For the purposes of this Chapter, a", substitute "A".

### 327 Subsection 763D(2)

Omit "For the purposes of this Chapter, the", substitute "The".

### 328 Subsection 764A(1)

Omit "***financial products*** for the purposes of this Chapter", substitute "***financial products***".

### 329 Paragraphs 764A(1)(d), (e) and (f)

Omit "within the meaning of the *Life Insurance Act 1995*,".

### 330 Paragraph 764A(1)(g)

Repeal the paragraph, substitute:

(g) a superannuation product; or

### 331 Paragraph 764A(1)(h)

Repeal the paragraph, substitute:

(h) an RSA; or

### 332 Paragraph 764A(1)(m)

Omit "for the purposes of this Chapter".

### 333 Subsection 764A(3)

Omit "this Chapter", substitute "this Act".

### 334 Subsection 765A(1)

Omit "for the purposes of this Chapter".

### 335 Subparagraphs 765A(1)(h)(ii) and (i)(ii)

Omit "(see section 763D)".

### 336 Paragraph 765A(1)(k)

Omit "(see section 763D)".



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### 337 Subparagraph 765A(1)(v)(ii)

Omit "within the meaning of the *Life Insurance Act 1995*,".

### 338 Subsection 765A(2)

Omit "for the purposes of this Chapter".

### 339 Subsection 766A(1)

Omit "For the purposes of this Chapter, subject", substitute "Subject".

### 340 Paragraphs 766A(1)(a) to (c)

Repeal the paragraphs, substitute:

(a) provide financial product advice; or
(b) deal in a financial product; or
(c) make a market for a financial product; or

### 341 Paragraphs 766A(1)(e) to (ec)

Repeal the paragraphs, substitute:

(e) provide a custodial or depository service; or
(ea) provide a crowd-funding service; or
(eb) provide a claims handling and settling service; or
(ec) provide a superannuation trustee service; or

### 342 Subsection 766B(1)

Omit "For the purposes of this Chapter, ***financial product advice***", substitute "***Financial product advice***".

### 343 Subsection 766B(3)

Omit "For the purposes of this Chapter, ***personal advice***", substitute "***Personal advice***".

### 344 Subsection 766B(3A)

Omit "(as defined in subsection 994A(1))".

### 345 Subsection 766B(4)

Omit "For the purposes of this Chapter, ***general advice***", substitute "***General advice***".



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### 346 Subsection 766C(1)

Omit "For the purposes of this Chapter,", substitute "The".

### 347 Subsection 766D(1)

Omit "For the purposes of this Chapter, a", substitute "A".

### 348 Paragraph 766E(3)(c)

Repeal the paragraph, substitute:

(c) the operation of:

(i) a regulated superannuation fund; or

(ii) an AFCA regulated superannuation scheme; or

(iii) an approved deposit fund; or

(iv) a pooled superannuation trust;

by the trustees of that fund, scheme or trust;

### 349 Subsection 767A(1)

Omit "For the purposes of this Chapter, a", substitute "A".

### 350 Subsection 767A(2)

Omit "for the purposes of this Chapter".

### 351 Subsection 768A(1)

Omit "For the purposes of this Chapter, a", substitute "A".

### 352 Subsection 768A(2)

Omit "for the purposes of this Chapter".

### 353 Paragraph 768A(2)(h)

Omit "(see section 763D)".

### 354 Section 790A

Repeal the section, substitute:

### 790A Meaning of *clearing and settlement arrangements*

***Clearing and settlement arrangements*** for a transaction effected through a financial market are arrangements for the clearing and



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settlement of those transactions. The arrangements may be part of the market's operating rules or be separate from those operating rules.

### 355 Section 791D (heading)

Repeal the heading, substitute:

**791D Meaning of *operated in this jurisdiction*—financial market**

### 356 Subsection 791D(1)

Omit "For the purposes of this Chapter, a", substitute "A".

### 357 Subsections 791D(1) and (2)

Omit "operated ***in this jurisdiction***", substitute "***operated in this jurisdiction***".

### 358 Subsection 791D(2)

Omit "for the purposes of this Chapter".

### 359 Subsections 793D(1) and (3)

After "lodge with ASIC", insert "in a prescribed form".

### 360 Subsection 795A(1)

After "lodging with ASIC", insert "in a prescribed form".

### 361 Subsection 795E(2)

Omit "in this Chapter".

### 362 Paragraph 796A(2)(b)

After "lodges with ASIC", insert "in a prescribed form".

### 363 Subsection 797A(1)

After "lodges with ASIC", insert "in a prescribed form".

### 364 Section 820D (heading)

Repeal the heading, substitute:



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### 820D Meaning of *operated in this jurisdiction*—clearing and settlement facility

### 365 Subsection 820D(1)

Omit "For the purposes of this Chapter, a", substitute "A".

### 366 Subsections 820D(1) and (2)

Omit "operated ***in this jurisdiction***", substitute "***operated in this jurisdiction***".

### 367 Subsection 820D(2)

Omit "for the purposes of this Chapter".

### 368 Subsections 822D(1) and (3)

After "lodge with ASIC", insert "in a prescribed form".

### 369 Subsection 824A(1)

After "lodging with ASIC", insert "in a prescribed form".

### 370 Subsection 824E(2)

Omit "in this Chapter".

### 371 Paragraph 825A(2)(b)

After "lodges with ASIC", insert "in a prescribed form".

### 372 Subsection 826A(1)

After "lodges with ASIC", insert "in a prescribed form".

### 373 Section 850A

Repeal the section, substitute:

### 850A Meaning of *widely held market body*

A ***widely held market body*** is a body corporate that:

(a) either:

(i) has an Australian market licence or an Australian CS facility licence; or



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(ii) is the holding company of a body corporate that has an Australian market licence or an Australian CS facility licence; and

(b) is specified in regulations made for the purposes of this paragraph.

### 374 Subsection 850B(1)

Omit "For the purposes of this Division, an", substitute "An".

### 375 Section 850D (heading)

Repeal the heading, substitute:

**850D Orders to remedy unacceptable control situation**

### 376 Subsection 851D(4)

After "lodged with ASIC", insert "in a prescribed form".

### 377 Section 851I (heading)

Omit "**section 850A**", substitute "**paragraph 850A(b)**".

### 378 Subsection 851I(3) (definition of *specification time*)

Omit "section 850A", substitute "paragraph 850A(b)".

### 379 Section 853A (heading)

Repeal the heading, substitute:

**853A Meaning of *disqualified individual***

### 380 Section 853A

Omit "For the purposes of this Division, an individual is ***disqualified***", substitute "An individual is a ***disqualified individual***".

### 381 Section 853B (heading)

Repeal the heading, substitute:



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### 853B Meaning of *involved*—in some licensees or applicants for a licence

### 382 Section 853B

Omit "For the purposes of this Division, an individual is ***involved in***", substitute "An individual is ***involved*** in".

### 383 Subsection 853C(1)

Omit "***disqualified***", substitute "disqualified".

### 384 Section 853G

Omit "is disqualified", substitute "is a disqualified individual".

### 385 Section 880B

Repeal the section, substitute:

### 880B Meaning of some terms relating to compensation regimes for financial markets

In this Act:

***compensation arrangements*** means arrangements that consist of:

(a) a set of rules about compensation; and

(b) a source of funds from which compensation is to be paid or provided; and

(c) associated administrative and monitoring arrangements.

Note: In Subdivision D (approved compensation arrangements) of Division 3 of Part 7.5, see also section 885A.

***compensation rules*** means the set of rules forming part of compensation arrangements.

Note: In Subdivision D (approved compensation arrangements) of Division 3 of Part 7.5, see also section 885A.

***Division 3 arrangements*** means compensation arrangements approved under Division 3 (approved compensation arrangements) of Part 7.5.



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***Division 3 loss*** means a loss described in section 885C, other than a loss that section 885D provides is to be taken not to be a Division 3 loss.

***Division 4 arrangements*** means the arrangements constituted by Division 4 (NGF Compensation regime) of Part 7.5.

***fidelity fund***, in relation to a financial market, means a fund consisting principally of contributions made by:

(a) participants and past participants in the market; or

(b) participants and past participants in:

(i) the market; and

(ii) one or more other financial markets;

the purpose, or the main purpose, of which is to provide a source of funds for the payment or provision of compensation to clients of participants. Any investments made using money in the fund are taken to form part of the fund.

***SEGC*** (short for Securities Exchanges Guarantee Corporation) means the body corporate in relation to which a nomination as the Securities Exchanges Guarantee Corporation is in force under section 890A.

## 386 Paragraph 882B(2)(b)

After "lodging the application with ASIC", insert "in a prescribed form".

## 387 Subparagraph 883B(1)(c)(i)

Omit "(as defined in section 790A)".

## 388 Section 883C

After "pay compensation", insert "or provide compensation".

## 389 Subsection 884B(2)

After "lodge with ASIC", insert "in a prescribed form".

## 390 Subsection 884B(4)

After "lodged with ASIC", insert "in a prescribed form".



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### 391 Paragraph 884C(2)(b)

After "lodging the application with ASIC", insert "in a prescribed form".

### 392 Subsection 885A(2)

Omit "***arrangements***", substitute "arrangements".

### 393 Subsection 885A(3)

Omit "***compensation rules***", substitute "compensation rules".

### 394 Paragraph 885B(1)(e)

After "paying compensation", insert ", or providing compensation in a form other than money,".

### 395 Subsection 885E(1)

After "amount of compensation to be paid", insert ", or the value of compensation to be provided in a form other than money".

### 396 Subsection 885E(7)

Repeal the subsection.

### 397 Subsection 885F(1)

After "to be paid", insert "or provided".

### 398 Paragraph 886A(a)

After "for compensation", insert "(including interest referred to in subsection 885E(5))".

### 399 Subsection 890A(1)

Omit "***Securities Exchanges Guarantee Corporation***", substitute "Securities Exchanges Guarantee Corporation (the ***SEGC***)".

### 400 Subsection 890G(1)

After "lodge with ASIC", insert "in a prescribed form".

### 401 Subsection 890G(3)

After "lodged with ASIC", insert "in a prescribed form".



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## 402 Section 892A

Repeal the section, substitute:

### 892A Meaning of *Part 7.5 authority* and *Part 7.5 regulated fund*

In this Act:

***Part 7.5 authority***:

(a) in relation to Division 3 arrangements of a financial market—means the operator of the market; and

(b) in relation to Division 4 arrangements—means the SEGC.

***Part 7.5 regulated fund*** means:

(a) a fidelity fund that is the source, or a source, of funds under Division 3 arrangements; or

(b) the NGF; or

(c) an account kept as required by subsection 892B(3).

## 403 Section 892B (heading)

Omit "**regulated funds**", substitute "**Part 7.5 regulated funds**".

## 404 Subsection 892B(1)

Omit "relevant authority", substitute "Part 7.5 authority".

## 405 Subsection 892B(2)

Omit "regulated fund", substitute "Part 7.5 regulated fund".

## 406 Subsection 892B(3)

Omit "relevant authority", substitute "Part 7.5 authority".

## 407 Section 892C

Repeal the section, substitute:

### 892C Money in a Part 7.5 regulated fund may be invested

(1) Money in a Part 7.5 regulated fund that is not immediately required for the purposes of meeting claims may be invested in any way in which trustees are for the time being authorised by law in force in a State or Territory in this jurisdiction to invest trust funds.



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(2) The Part 7.5 authority may, with the approval of ASIC, appoint a person to invest on behalf of the authority money to which subsection (1) applies.

(3) ASIC must not grant approval to the appointment of a person under subsection (2) unless it is satisfied that:

(a) the person has appropriate qualifications and expertise to perform the duties of the appointment; and

(b) the Part 7.5 authority has adequate indemnity insurance in respect of its liabilities for any negligence, or any defalcation or fraudulent misuse of property, by the person in the performance of those duties, or has made other satisfactory provisions for meeting those liabilities.

(4) A person appointed under subsection (2) must perform the duties of the appointment in accordance with the directions of the Part 7.5 authority and subject to such conditions (if any) as the authority imposes.

## 408 Section 892D (heading)

Omit "**relevant authority**", substitute "**Part 7.5 authority**".

## 409 Subsection 892D(1)

Omit "relevant authority in relation to Part 7.5 arrangements", substitute "Part 7.5 authority in relation to Division 3 arrangements or Division 4 arrangements".

## 410 Subsection 892D(1)

Omit "the relevant authority" (wherever occurring), substitute "the Part 7.5 authority".

## 411 Subsections 892D(4), (5) and (6)

Omit "relevant authority", substitute "Part 7.5 authority".

## 412 Subsection 892D(6)

Omit "the Part 7.5 arrangements", substitute "the Division 3 arrangements or Division 4 arrangements".



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## 413 Subsections 892D(7) and (8)

Omit "the relevant authority" (wherever occurring), substitute "the Part 7.5 authority".

## 414 Section 892F (heading)

Omit "**Relevant authority's**", substitute "**Part 7.5 authority's**".

## 415 Subsection 892F(1)

Omit "Part 7.5 arrangements, the relevant authority", substitute "Division 3 arrangements or Division 4 arrangements, the Part 7.5 authority".

## 416 Subsection 892F(2)

Omit "relevant authority", substitute "Part 7.5 authority".

## 417 Section 892G (heading)

Omit "**compensation funds**", substitute "**Part 7.5 regulated funds**".

## 418 Subsections 892G(1) and (2)

Omit "regulated fund", substitute "Part 7.5 regulated fund".

## 419 Section 892H

Repeal the section, substitute:

### 892H Accounting and reporting

(1) The Part 7.5 authority in relation to Division 3 arrangements or Division 4 arrangements must, in relation to each Part 7.5 regulated fund established in connection with the arrangements, keep written financial records that:

(a) correctly record and explain the fund's transactions and financial position and performance; and

(b) would enable true and fair financial statements to be prepared and audited;

and must retain the financial records for 7 years after the transactions covered by the records are completed.

Note: Failure to comply with this subsection is an offence (see subsection 1311(1)).



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(2) Within 2 months after the end of each financial year of the Part 7.5 authority, the authority must cause financial statements and notes to those financial statements (within the meaning of section 295) for the Part 7.5 regulated fund to be made out as at the end of that financial year.

Note: Failure to comply with this subsection is an offence (see subsection 1311(1)).

(3) A registered company auditor, or authorised audit company, must be appointed to audit the accounts of the Part 7.5 regulated fund in accordance with whichever of the following paragraphs applies:

(a) if there is only one Part 7.5 authority for the fund, that authority must appoint a registered company auditor, or authorised audit company, to audit the fund's accounts;

(b) if there is more than one Part 7.5 authority for the fund:

(i) each of those Part 7.5 authorities must ensure that a registered company auditor, or authorised audit company, is appointed in accordance with subparagraph (ii) to audit the fund's accounts; and

(ii) the appointment is to be made by one or more of the Part 7.5 authorities, with the consent of such of the authorities (if any) as do not make the appointment; and

(iii) a Part 7.5 authority must not purport to appoint a person to audit the fund's accounts unless each other Part 7.5 authority (if any) who has not also made the appointment has consented to the appointment.

Note: Failure to comply with this subsection is an offence (see subsection 1311(1)).

(4) If there is more than one Part 7.5 authority for a fund and they cannot agree on which auditor to appoint, ASIC may, on the written application of any of the authorities, appoint an auditor who consents to being so appointed.

(5) The auditor must:

(a) audit the accounts of the Part 7.5 regulated fund and the financial statements; and

(b) do the things required by sections 307 and 308 in relation to those documents, as if the audit were being done under Chapter 2M.



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(6) The Part 7.5 authority for the Part 7.5 regulated fund must, within 14 days after receiving the auditor's report, lodge with ASIC in a prescribed form a copy of the report and a copy of the financial statements. If there is more than one Part 7.5 authority for the Part 7.5 regulated fund, the copy must be given to ASIC by at least one of those authorities, or else they all contravene this subsection.

Note: Failure to comply with this subsection is an offence (see subsection 1311(1)).

(7) If the regulated fund is the NGF, the Part 7.5 authority (being the SEGC) must:

(a) give a copy of the audited financial statements to each member of the SEGC; and

(b) cause a copy of the audited financial statements to be laid before the annual general meeting of each member of the SEGC next following the making of that report.

Note: Failure to comply with this subsection is an offence (see subsection 1311(1)).

## 420 Section 892I

Repeal the section, substitute:

### 892I Division 3 arrangements—reporting in situations where compensation does not come out of a Part 7.5 regulated fund

The regulations may impose reporting requirements to be complied with by the Part 7.5 authority in relation to Division 3 arrangements in relation to situations in which compensation under the arrangements is provided otherwise than out of a Part 7.5 regulated fund.

## 421 Subsection 901A(5)

Omit "For the purpose of this Chapter, ***execution***", substitute "***Execution***".

## 422 Subsection 901A(6)

Omit "For the purpose of this Chapter, ***reporting***", substitute "***Reporting***".



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### 423 Subsection 901A(7)

Omit "For the purpose of this Chapter, ***clearing***", substitute "***Clearing***".

### 424 Subsection 905E(2)

Omit "in this Chapter".

### 425 Subsection 908BD(1)

Omit "that is in a form approved by ASIC in writing", substitute "in a prescribed form".

### 426 Subsection 908BD(2)

After "lodge with ASIC", insert "in a prescribed form".

### 427 Subsection 908BE(2)

Omit "in this Chapter".

### 428 Paragraph 908DA(2)(b)

Repeal the paragraph, substitute:

(b) the acts or omissions result, or are likely to result, in any of the following suffering financial or other disadvantage from use of the financial benchmark:

(i) an Australian citizen;

(ii) a resident of Australia (within the meaning of the *Criminal Code*);

(iii) a body corporate incorporated by or under a law of the Commonwealth or of a State or Territory.

### 429 Paragraph 908DB(2)(b)

Repeal the paragraph, substitute:

(b) making the statements or disseminating the information results, or is likely to result, in any of the following suffering financial or other disadvantage from use of the financial benchmark:

(i) an Australian citizen;

(ii) a resident of Australia (within the meaning of the *Criminal Code*);



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(iii) a body corporate incorporated by or under a law of the Commonwealth or of a State or Territory.

## 430 Paragraph 908DD(2)(c)

Repeal the paragraph, substitute:

(c) the person's conduct that allegedly contravenes the provision occurs wholly outside Australia and, at the time of the alleged contravention, the person is:

(i) an Australian citizen; or

(ii) a resident of Australia (within the meaning of the *Criminal Code*); or

(iii) a body corporate incorporated by or under a law of the Commonwealth or of a State or Territory.

## 431 Section 910A

Repeal the section, substitute:

### 910A Meaning of some terms relating to licensing of providers of financial services

In this Act:

***body corporate licensee*** means a body corporate that:

(a) is a financial services licensee; and

(b) is authorised to provide personal advice to retail clients in relation to relevant financial products.

***class of product advice*** means financial product advice about a class of products, but does not include a recommendation about a specific product in the class.

***CPD year*** (short for continuing professional development year): a financial services licensee's ***CPD year*** is the 12-month period beginning on the day of the year included in the most recent notice given by the licensee under section 922HA.

***foreign qualification*** means a bachelor or higher degree, or equivalent qualification, awarded by a tertiary education institution outside Australia.



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***limited-service time-sharing adviser***: a person is a ***limited-service time-sharing adviser*** if:

(a) the person is a relevant provider; and

(b) the only relevant financial product that the person provides advice in relation to is a time-sharing scheme; and

(c) the person has not met any one or more of the education and training standards in subsections 921B(2) to (4).

***qualified tax relevant provider***: a person is a ***qualified tax relevant provider*** if:

(a) the person is a relevant provider; and

(b) if a determination is in force under subsection 921BB(1)—the person meets each requirement set out in the determination that is of a kind mentioned in any of paragraphs (a) to (d) of that subsection.

***relevant financial products*** means financial products other than:

(a) basic banking products; or

(b) general insurance products; or

(c) consumer credit insurance; or

(d) a combination of any of those products.

***relevant provider***: a person is a ***relevant provider*** if the person:

(a) is an individual; and

(b) is:

(i) a financial services licensee; or

(ii) an authorised representative of a financial services licensee; or

(iii) an employee or director of a financial services licensee; or

(iv) an employee or director of a related body corporate of a financial services licensee; and

(c) is authorised to provide personal advice to retail clients, as the licensee or on behalf of the licensee, in relation to relevant financial products.

## 432 Section 910D

Omit "An insurance fulfilment provider who:", substitute:



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A person who:

(aa) carries on a business of providing goods or services to persons insured under insurance products in satisfaction of the liability of the insurers under those products; and

## 433 Paragraph 910D(a)

Repeal the paragraph, substitute:

(a) in carrying on that business, provides goods or services to a person insured under an insurance product in satisfaction of the liability of the insurer under the product; and

## 434 Subparagraph 911A(2)(ek)(ii)

Repeal the subparagraph, substitute:

(ii) a person who has authority from the insurer to reject all or part of a claim under the insurance product and who carries on a business of providing goods or services to persons insured under insurance products in satisfaction of the liability of the insurers under those products;

## 435 Subparagraph 911B(1)(c)(iv)

Omit "(see section 763D)".

## 436 Subsection 911D(1)

Omit "For the purposes of this Chapter, a financial services business is taken to be carried on ***in this jurisdiction***", substitute "A financial services business is taken to be carried on in this jurisdiction".

## 437 Subsection 911D(2)

Omit "carried on ***in this jurisdiction*** for the purposes of this Chapter", substitute "carried on in this jurisdiction".

## 438 Subparagraph 912A(1)(ca)(i)

Omit "insurance fulfilment providers", substitute "persons who carry on a business of providing goods or services to persons insured under insurance products in satisfaction of the liability of the insurers under those products".



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## 439 Paragraph 912A(1)(cb)

Repeal the paragraph, substitute:

(cb) comply with the law of each host economy for an Australian passport fund, if the licensee is:

(i) the operator of the fund; or

(ii) a person (other than a regulator) who has functions or duties in relation to the fund under the Passport Rules for this jurisdiction; and

## 440 Subsection 912A(6)

Repeal the subsection.

## 441 Section 912B (heading)

Omit "**Compensation arrangements**", substitute "**Arrangements for compensation**".

## 442 At the end of section 912DAA

Add:

*Meaning of **knowledge** and **recklessness***

(8) For the purposes of this section:

***knowledge*** has the meaning given by section 5.3 of the *Criminal Code*.

***recklessness*** has the meaning given by section 5.4 of the *Criminal Code*.

## 443 At the end of section 912DAB

Add:

*Meaning of **knowledge** and **recklessness***

(9) For the purposes of this section:

***knowledge*** has the meaning given by section 5.3 of the *Criminal Code*.



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***recklessness*** has the meaning given by section 5.4 of the *Criminal Code*.

## 444 At the end of section 912EA

Add:

*Meaning of **knowledge** and **recklessness***

(6) For the purposes of this section:

***knowledge*** has the meaning given by section 5.3 of the *Criminal Code*.

***recklessness*** has the meaning given by section 5.4 of the *Criminal Code*.

## 445 At the end of section 912EB

Add:

*Meaning of **knowledge** and **recklessness***

(12) For the purposes of this section:

***knowledge*** has the meaning given by section 5.3 of the *Criminal Code*.

***recklessness*** has the meaning given by section 5.4 of the *Criminal Code*.

## 446 Section 913A

After "lodging an application with ASIC", insert "in a prescribed form".

## 447 Subsections 913B(3) and (4B)

After "lodge with ASIC", insert "in a prescribed form".

## 448 Paragraph 914A(2)(b)

After "lodges with ASIC", insert "in a prescribed form".

## 449 Subsections 914B(3) and (6)

After "lodge with ASIC", insert "in a prescribed form".



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### 450 Subsection 915A(1)

After "lodges with ASIC", insert "in a prescribed form".

### 451 Paragraphs 915B(1)(e), (2)(d) and (3)(d)

After "lodges with ASIC", insert "in a prescribed form".

### 452 Paragraph 915B(4)(d)

After "lodge with ASIC", insert "in a prescribed form".

### 453 Paragraph 915C(1)(e)

Omit "or a person with responsibilities in relation to an Australian passport fund", substitute "or a person (other than a regulator) who has functions or duties in relation to an Australian passport fund under the Passport Rules for this jurisdiction".

### 454 Subsection 915C(5)

Repeal the subsection.

### 455 Subsection 916F(1)

After "lodge with ASIC", insert "in a prescribed form".

### 456 Subsection 917A(2)

Omit "***within authority***", substitute "within authority".

### 457 Paragraphs 917A(3)(d) and (e)

Omit "***within authority***", substitute "within authority".

### 458 Paragraph 920D(2)(b)

After "lodges with ASIC", insert "in a prescribed form".

### 459 Subsection 921B(4) (note)

Omit "section 910A", substitute "section 9".

### 460 Subsection 922L(1) (not including the notes)

Repeal the subsection, substitute:

(1) A notice lodged with ASIC under any of the following provisions (a ***notice provision***) must be in a prescribed form:



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(a) section 922D;
(b) section 922H;
(c) section 922HA;
(d) section 922HB;
(e) section 922J;
(f) section 922K.

### 461 Paragraph 922M(1)(a)

Omit "notice provision", substitute "provision referred to in subsection 922L(1)".

### 462 Subsection 922M(1) (note)

Repeal the note.

### 463 Subsection 923C(10) (heading)

Omit "*compensation arrangements*", substitute "*arrangements for compensation*".

### 464 Subsection 923C(10) (note)

Omit "compensation arrangements", substitute "arrangements for compensation".

### 465 Paragraph 941C(2)(b)

Omit "(see section 766C)".

### 466 Subsection 941C(6)

Omit "(see section 766C)".

### 467 Subsection 941C(6)

Omit "(see section 766B)".

### 468 Paragraph 941C(6)(b)

Omit "(see section 763D)".

### 469 Paragraph 946AA(1)(c)

Omit "RSA product", substitute "RSA".



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### 470 Paragraph 946B(5)(b)

Omit "(see section 763D)".

### 471 Paragraph 947D(1)(b)

After "regulated superannuation fund", insert ", or by an AFCA regulated superannuation scheme,".

### 472 Subsection 947D(5)

Repeal the subsection.

### 473 Section 952B (heading)

Repeal the heading substitute:

**952B Meaning of *defective* and *disclosure document or statement***

### 474 Section 953A (heading)

Repeal the heading substitute:

**953A Meaning of *defective* and *disclosure document or statement***

### 475 Section 960

Repeal the section.

### 476 Section 961C

Omit "Something", substitute "For the purposes of this Division, something".

### 477 Paragraph 961F(b)

Omit "(see section 763D)".

### 478 Section 961P

Omit "For the purposes of this Part, the", substitute "The".

### 479 Subparagraph 963B(1)(b)(ii)

Repeal the subparagraph, substitute:

(ii) none of the products is a life risk insurance product covered by subsection (2);



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## 480 Sub-subparagraph 963B(1)(b)(iii)(B)

Omit "in section 963BA".

## 481 Subsections 963B(2) and (3)

Repeal the subsections, substitute:

(2) A life risk insurance product is covered by this subsection if:

(a) the product is issued to an RSE licensee of a registrable superannuation entity, or a custodian in relation to a registrable superannuation entity, for the benefit of a class of members of the entity; or

(b) both of the following apply:

(i) the product is issued to an RSE licensee of a registrable superannuation entity, or a custodian in relation to a registrable superannuation entity, for the benefit of a person who is a member of the entity;

(ii) the person has not given written notice to an employer of the person that the fund is the person's chosen fund, but the employer of the person makes contributions to the fund for the benefit of the person.

Note: Superannuation guarantee surcharge may be imposed on an employer if the employer does not make contributions to a superannuation fund for the benefit of its employees. If an employee does not notify the employer of the employee's chosen fund, the employer is still able to satisfy its obligations by making contributions to certain funds: see the *Superannuation Guarantee (Administration) Act 1992*.

## 482 Section 963BA (heading)

Repeal the heading, substitute:

### 963BA Meaning of *benefit ratio requirements* and *clawback requirements*

## 483 Section 964H

Omit "Something", substitute "For the purposes of this Division, something".

## 484 Division 7 of Part 7.7A

Repeal the Division.



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### 485 Subsection 984B(3)

Repeal the subsection, substitute:

(3) However, if the financial service or product, in connection with the property given, would be provided to the client as a retail client if:

(a) the service or product were provided to the client when the property is given; and

(b) section 761GA (about sophisticated investors) did not apply; and

then subsection (2) only applies to an obligation if:

(c) the entry into of the derivative referred to in paragraph (2)(a) or (b) was or will be cleared through an authorised clearing and settlement facility; and

(d) the licensee incurred the obligation, in connection with the derivative, under the operating rules of the facility.

### 486 Section 985A (heading)

Repeal the heading.

**985A Meaning of *contract of insurance* and *insured***

### 487 Paragraph 985A(2)(a)

Omit "(within the meaning of the *Life Insurance Act 1995*)".

### 488 Section 989A

Repeal the section.

### 489 Subsection 989B(2)

After "with ASIC", insert "in a prescribed form".

### 490 Subsection 990K(1)

After "with ASIC", insert "in a prescribed form".

### 491 Section 994A

Repeal the section, substitute:



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## 994A Meaning of some terms relating to design and distribution requirements

(1) In this Act:

***excluded conduct*** means:

(a) a dealing in a financial product that consists of arranging for a retail client to apply for or acquire the product, where the arranging is undertaken:

(i) by a person, or by an associate of a person; and

(ii) for the purpose of implementing personal advice that the person has given to the retail client; or

(b) providing personal advice.

***retail product distribution conduct***, in relation to a financial product, means any of the following:

(a) dealing in the product in relation to a retail client;

(b) giving under Part 6D.2 a disclosure document in relation to an offer of the product to a retail client;

(c) giving under Part 7.9 a Product Disclosure Statement for the product to a retail client;

(d) providing financial product advice in relation to the product to a retail client.

***review period*** for a target market determination means each of the following:

(a) the period starting on the day the determination is made and ending on the earlier of:

(i) the day that a review of the determination under section 994C is started; and

(ii) the last day of the maximum period specified in the determination under paragraph 994B(5)(e);

(b) a period starting on the day after a review of the determination under section 994C is finished and ending on the earlier of:

(i) the day on which the next review of the determination under section 994C is started; and

(ii) the last day of the maximum period specified in the determination under paragraph 994B(5)(f).



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(2) In this Part:

***complaint***, in relation to a financial product, means a complaint made to a regulated person about the product, which is covered by a dispute resolution system complying with subsection 912A(2).

***dealing*** in a financial product has the meaning given by section 766C, subject to the following:

(a) paragraphs 766C(1)(d) and (e) do not apply;

(b) despite subsection 766C(3), a person deals in a financial product if the dealing is a regulated sale of the product on the person's own behalf;

(c) paragraph 766C(4)(c) does not apply if the dealing is an offer of securities that needs disclosure to investors under Part 6D.2.

***regulated person***, in relation to a financial product, means:

(a) the seller of the financial product, if a sale takes place in circumstances described in subsection 707(2), (3) or (5) or 1012C(5), (6) or (8); or

(b) a regulated person as defined in section 1011B (modified so that the references to financial products include references to securities); or

(c) a person prescribed, in relation to the product, by regulations made for the purposes of this paragraph.

***reporting period*** means:

(a) for information about the number of complaints about a financial product—a period specified under paragraph 994B(5)(g), in the target market determination for the product, as a reporting period for that kind of information; or

(b) for other kinds of information that must be reported under subsection 994F(5)—a period specified under subparagraph 994B(5)(h)(ii), in the target market determination for the product, as a reporting period for those other kinds of information.

(3) Section 1010C (references to offer, purchase and sale) applies for the purposes of this Part.



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## 492 Subsection 994AA(1)

Repeal the subsection, substitute:

(1) In this Part, ***financial product*** includes a financial product within the meaning of Division 2 of Part 2 of the ASIC Act.

Note: Whether a target market determination is required to be made in relation to financial products covered by this extended definition is determined under section 994B, including any regulations made for the purposes of paragraph 994B(3)(f).

## 493 Paragraph 994B(1)(ba)

Repeal the paragraph, substitute:

(ba) the product is not a financial product (as defined in Division 3 of Part 7.1) and:

(i) the person issues the product to another person as a retail client; or

(ii) the person sells the product under a regulated sale; or

## 494 After subsection 994B(8)

Insert:

(8A) A target market determination for a financial product is ***appropriate*** if it satisfies the requirements of subsection (8).

## 495 Paragraph 994G(b)

Omit "(except an excluded dealing)", substitute "(except a dealing of a kind referred to in paragraph (a) of the definition of ***excluded conduct*** in subsection 994A(1))".

## 496 Section 994K

Repeal the section.

## 497 At the end of section 994L

Add:

(8) For the purposes of this section, the ***provisions of this Part*** include definitions in this Act as they apply to references in this Part.



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### 498 Section 1010C (heading)

Repeal the heading, substitute:

### 1010C Meaning of *offer*, *purchase* and *sale*—Part 7.9

### 499 Paragraph 1010C(2)(a)

Omit "offering", substitute "***offer***".

### 500 Paragraph 1010C(2)(a)

Omit "inviting", substitute "***invite***".

### 501 Paragraph 1010C(2)(b)

Omit "offering", substitute "***offer***".

### 502 Paragraph 1010C(2)(b)

Omit "inviting", substitute "***invite***".

### 503 Section 1011B

Repeal the section, substitute:

### 1011B Meaning of *regulated person*

In this Division, a ***regulated person***, in relation to a financial product, is:

(a) an issuer of the financial product; or

(b) a seller of the financial product if the sale takes place in circumstances described in subsection 1012C(5), (6) or (8) (secondary sales that require a Product Disclosure Statement); or

(c) any financial services licensee; or

(d) any authorised representative of a financial services licensee; or

(e) any person who is not required to hold an Australian financial services licence because the person is covered by:

(i) paragraph 911A(2)(j); or

(ii) an exemption in regulations made for the purposes of paragraph 911A(2)(k); or



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(iii) an exemption specified by ASIC for the purposes of paragraph 911A(2)(l); or

(f) any person who is required to hold an Australian financial services licence but who does not hold such a licence.

### 504 Subsection 1012A(2)

Omit "this Division", substitute "this Act".

### 505 Subsection 1012B(2)

Omit "this Division", substitute "this Act".

### 506 Subsection 1012C(2)

Omit "this Division", substitute "this Act".

### 507 Subparagraph 1012G(1)(b)(ii)

Omit "(see section 763D)".

### 508 Section 1012I (heading)

Omit "**RSA products**", substitute "**RSAs**".

### 509 Subsection 1012I(2)

Omit "RSA product" (wherever occurring), substitute "RSA".

### 510 Subsections 1013A(1) and (2)

Omit "in this Division referred to as".

### 511 Subsection 1013A(3)

Omit ", in this Division, referred to as".

### 512 Subsection 1015B(1)

After "lodged with ASIC", insert "in a prescribed form".

### 513 Subsection 1016A(1) (paragraph (d) of the definition of *relevant financial product*)

Repeal the paragraph, substitute:

(d) an RSA; or

### 514 Subsection 1016A(1)

Repeal the following definitions:

(a) definition of ***RSA provider***;
(b) definition of ***standard employer-sponsor***;
(c) definition of ***standard employer-sponsored fund***;
(d) definition of ***standard employer-sponsored member***.

### 515 Subparagraphs 1016A(2)(e)(i) and (iii)

Omit "RSA product", substitute "RSA".

### 516 Subsection 1017B(9) (definition of *MySuper product*)

Repeal the definition.

### 517 Subsection 1017BA(5)

Repeal the following definitions:

(a) definition of ***choice product***;
(b) definition of ***life policy***;
(c) definition of ***MySuper product***;
(d) definition of ***pension***;
(e) definition of ***regulated superannuation fund***.

### 518 Subsection 1017BB(6)

Repeal the following definitions:

(a) definition of ***MySuper product***;
(b) definition of ***pooled superannuation trust***.

### 519 Subsection 1017BB(6) (definition of *small APRA fund*)

Omit "(within the meaning of the *Superannuation Industry (Supervision) Act 1993*)".

### 520 Section 1017C (heading)

Omit "**RSA products**", substitute "**RSAs**".

### 521 Paragraph 1017C(1)(b)

Omit "RSA product", substitute "RSA".



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### 522 Subsection 1017C(2A) (heading)

Omit "*RSA product*", substitute "*RSA*".

### 523 Subsection 1017C(2A)

Omit "RSA product" (wherever occurring), substitute "RSA".

### 524 Subsection 1017C(3A) (heading)

Omit "*RSA product*", substitute "*RSA*".

### 525 Subsection 1017C(3A)

Omit "RSA product" (wherever occurring), substitute "RSA".

### 526 Subsection 1017C(5)

Omit "RSA product", substitute "RSA".

### 527 Subsection 1017C(9) (paragraph (b) of the definition of *concerned person*)

Repeal the paragraph, substitute:

(b) in relation to an RSA—means a person who:

(i) is, or was within the preceding 12 months, a holder of the RSA; or

(ii) has a right or a claim under the RSA.

### 528 Subparagraph 1017D(1)(b)(iii)

Repeal the subparagraph, substitute:

(iii) an RSA; or

### 529 Subparagraphs 1017DA(1)(b)(i) and (ii)

Omit "RSA product", substitute "RSA".

### 530 Subsection 1017DA(4)

Repeal the subsection.

### 531 Subparagraph 1019A(1)(a)(v)

Repeal the subparagraph, substitute:

(v) RSAs; and



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## 532 Section 1019C

Repeal the section.

## 533 Subsection 1019I(1)

Omit "(this date is the ***date of offer***)".

## 534 Section 1020AA

Repeal the section, substitute:

### 1020AAA Treatment of transactions relating to section 1020B products

(1) For the purposes of this Division, treat the following as being made on a licensed market:

(a) a sale of section 1020B products made by a financial services licensee on behalf of both the buyer and the seller of the products;

(b) a sale of section 1020B products made by a financial services licensee on behalf of the buyer of the products and on its own behalf as seller of the products;

(c) a sale of section 1020B products made by a financial services licensee on behalf of the seller of the products and on its own behalf as buyer of the products.

(2) To avoid doubt, for the purposes of this Division, treat the entering into of an agreement to sell section 1020B products as the sale of the products.

(3) To avoid doubt, for the purposes of this Division, treat a financial services licensee as making a sale on behalf of a person if the sale is, in economic substance, made by the licensee for the person.

Example: A request that the sale be made is passed from the person to the financial services licensee through a chain of intermediaries.

### 1020AA Meaning of *securities lending arrangement*

A ***securities lending arrangement*** is an arrangement under which:

(a) one entity (the ***lender***) agrees that it will:



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(i) deliver particular securities, managed investment products, foreign passport fund products or other financial products to another entity (the ***borrower***) or to an entity nominated by the borrower; and

(ii) vest title in those products in the entity to which they are delivered; and

(b) the borrower agrees that it will, after the lender does the things mentioned in paragraph (a):

(i) deliver the products (or equivalent products) to the lender or to an entity nominated by the lender; and

(ii) vest title in those products (or those equivalent products) in the entity to which they are delivered.

## 535 Section 1020AH

Repeal the section, substitute:

### 1020AH Meaning of *CGS depository interest information website*, *information statement* and *regulated person*

(1) In this Act:

***CGS depository interest information website*** means a website that is prescribed by the regulations for the purposes of this definition.

***information statement*** for a class of CGS depository interests means a document that:

(a) contains a statement that the document is an information statement for that class; and

(b) contains information about all CGS depository interests of that class (whether or not it also contains information about CGS depository interests of another class); and

(c) is prepared by the Commonwealth; and

(d) is published on the CGS depository interest information website.

(2) In this Division and Division 7:

***regulated person***, in relation to a CGS depository interest, means:

(a) an issuer of the CGS depository interest; or

(b) any financial services licensee; or



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(c) any authorised representative of a financial services licensee; or

(d) any person who is not required to hold an Australian financial services licence because the person is covered by:

(i) paragraph 911A(2)(j); or

(ii) an exemption in regulations made for the purposes of paragraph 911A(2)(k); or

(iii) an exemption specified by ASIC for the purposes of paragraph 911A(2)(l); or

(e) any person who is required to hold an Australian financial services licence but who does not hold such a licence.

### 536 Subsection 1020B(1)

Omit "In this section and in Division 5B", substitute "In this Act".

### 537 Section 1021B (heading)

Repeal the heading, substitute:

**1021B Meaning of *defective* and *disclosure document or statement***

### 538 Subsection 1021B(1) (definition of *regulated person*)

Repeal the definition.

### 539 Section 1022A (heading)

Repeal the heading, substitute:

**1022A Meaning of *defective* and *disclosure document or statement***

### 540 Subsection 1022A(1) (definition of *regulated person*)

Repeal the definition.

### 541 Section 1023B

Repeal the section, substitute:

**1023B Meaning of *financial product*—Part 7.9A**

In this Part, ***financial product***:



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(a) includes a financial product within the meaning of Division 2 of Part 2 of the ASIC Act; but

(b) does not include:

(i) a financial product issued, or offered for regulated sale, by an exempt body corporate of a State or Territory or by an exempt public authority; or

(ii) a financial product specified in regulations made for the purposes of this subparagraph.

## 542 Paragraph 1040B(1)(b)

Omit "(within the meaning of Division 3)".

## 543 Paragraphs 1041F(3)(a) and (b)

Repeal the paragraphs, substitute:

(a) applying to become a standard employer-sponsor of a superannuation entity;

(b) permitting a person to become a standard employer-sponsor of a superannuation entity;

## 544 Paragraph 1041F(3)(c)

Omit "RSA product", substitute "RSA".

## 545 Subparagraphs 1041H(2)(b)(iv) to (ix)

Repeal the subparagraphs, substitute:

(iv) applying to become a standard employer-sponsor of a superannuation entity;

(v) permitting a person to become a standard employer-sponsor of a superannuation entity;

(vi) a trustee of a superannuation entity dealing with a beneficiary of that entity as such a beneficiary;

(vii) a trustee of a superannuation entity dealing with an employer-sponsor or an associate (within the meaning of the *Superannuation Industry (Supervision) Act 1993*) of an employer-sponsor, of that entity as such an employer-sponsor or associate;

(viii) applying, on behalf of an employee (within the meaning of the *Retirement Savings Accounts Act 1997*), for the employee to become the holder of an RSA;



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(ix) an RSA provider dealing with an employer (within the meaning of the *Retirement Savings Accounts Act 1997*), or an associate (within the meaning of that Act) of an employer, who makes an application, on behalf of an employee (within the meaning of that Act) of the employer, for the employee to become the holder of an RSA, as such an employer;

## 546 Section 1042A

Repeal the section, substitute:

### 1042A Meaning of some terms relating to the insider trading prohibitions

(1) In this Act:

***Division 3 financial products*** means:

(a) securities; or
(b) derivatives; or
(c) interests in a managed investment scheme; or
(d) debentures, stocks or bonds issued or proposed to be issued by a government; or
(e) superannuation products, other than those prescribed by regulations made for the purposes of this paragraph; or
(f) any other financial products that are able to be traded on a financial market.

***inside information*** means information in relation to which the following paragraphs are satisfied:

(a) the information is not generally available;
(b) if the information were generally available—a reasonable person would expect it to have a material effect on the price or value of particular Division 3 financial products.

***relevant Division 3 financial products***, in relation to particular inside information, means the Division 3 financial products referred to in paragraph (b) of the definition of ***inside information*** in this subsection.

(2) In this Division:



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***information*** includes:

(a) matters of supposition and other matters that are insufficiently definite to warrant being made known to the public; and

(b) matters relating to the intentions, or likely intentions, of a person.

## 547 Section 1042C (heading)

Repeal the heading, substitute:

### 1042C Meaning of *generally available*

## 548 Section 1042D (heading)

Repeal the heading, substitute:

### 1042D Meaning of *material effect*

## 549 Section 1042E (heading)

Repeal the heading, substitute:

### 1042E Meaning of *able to be traded*

## 550 Section 1042F (heading)

Repeal the heading, substitute:

### 1042F Meaning of *procure*

## 551 Paragraphs 1043A(1)(b) and (2)(b)

Omit "section 1042A", substitute "subsection 1042A(1)".

## 552 Paragraph 1052E(1)(b)

Repeal the paragraph, substitute:

(b) a contravention of the governing rules of any of the following may have occurred:

(i) a regulated superannuation fund;

(ii) an AFCA regulated superannuation scheme;

(iii) an approved deposit fund; or



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## 553 Paragraph 1053(1)(a)

Omit "or of an approved deposit fund", substitute ", an AFCA regulated superannuation scheme or an approved deposit fund".

## 554 Subparagraph 1053(1)(a)(i)

Repeal the subparagraph, substitute:

(i) a particular member, or a particular former member, of a regulated superannuation fund or an AFCA regulated superannuation scheme; or

## 555 Subsection 1053(1) (note 2)

After "regulated superannuation funds", insert ", AFCA regulated superannuation schemes".

## 556 Section 1053A (heading)

After "**regulated superannuation funds**", insert "**, AFCA regulated superannuation schemes**".

## 557 Section 1053A

After "regulated superannuation fund", insert ", an AFCA regulated superannuation scheme".

## 558 Paragraph 1054(1)(b)

Repeal the paragraph, substitute:

(b) a trustee of:

(i) a regulated superannuation fund; or

(ii) an AFCA regulated superannuation scheme; or

(iii) an approved deposit fund;

## 559 Paragraph 1055(7)(b)

After "regulated superannuation fund", insert ", an AFCA regulated superannuation scheme".

## 560 After subsection 1058(2)

Insert:



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(2A) For the purposes of subsection (1), ***investigating authority*** means a tribunal, authority or person having power to require the production of documents or the answering of questions.

## 561 Section 1073B

Repeal the section, substitute:

### 1073B Meaning of *transfer*

In this Division and Division 4 ***transfer*** of a financial product means:

(a) a change in the ownership of the financial product; or

(b) if the financial product is a right—the renunciation and transfer of the right.

## 562 Section 1074B

Repeal the section.

## 563 Paragraph 1074F(a)

Repeal the paragraph, substitute:

(a) a person contravenes the provisions of a prescribed CS facility's operating rules that deal with:

(i) the cancellation of documents of title to financial products transferred through the facility; and

(ii) matters incidental to the cancellation of those documents;

in relation to the transfer of a particular financial product through the facility; and

## 564 Subsection 1101B(12) (definition of *compensation rules*)

Repeal the definition.

## 565 Subsection 1200F(1) (table item 4)

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

## 566 Paragraph 1240C(2)(b) (paragraph 636(1)(gb))

Omit "(within the meaning of section 1012B)".



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### 567 Subsection 1241B(3)

Omit "(within the meaning of Part 7.6)".

### 568 Subsection 1241F(6)

Repeal the subsection.

### 569 Subsection 1317GA(1)

Omit "person (the ***fee recipient***)", substitute "a person who is a fee recipient".

### 570 Subsection 1317GB(1)

Omit "person (the ***fee recipient***)", substitute "a person who is a fee recipient".

## Division 10—Terms relating to mutual recognition of securities offers

## *Corporations Act 2001*

### 571 Section 9

Insert:

***foreign recognition scheme*** has the meaning given by subsection 1200A(1).

***law of a recognised jurisdiction*** has the meaning given by subsection 1200A(1).

***recognised jurisdiction*** has the meaning given by subsection 1200A(1).

### 572 Section 1200A (heading)

Repeal the heading, substitute:



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### 1200A Meaning of some terms relating to mutual recognition of securities offers

### 573 Subsection 1200A(1)

Repeal the subsection, substitute:

(1) In this Act:

***foreign recognition scheme*** means the provisions of a law of a recognised jurisdiction that are prescribed by the regulations as comprising a foreign recognition scheme.

***law of a recognised jurisdiction*** includes law of part of a recognised jurisdiction.

***recognised jurisdiction*** means a foreign country prescribed by the regulations as a recognised jurisdiction.

## Division 11—Terms relating to Asia Region Funds Passport

## *Corporations Act 2001*

### 574 Section 9

Insert:

***APFRN***: see ***Australian Passport Fund Registration Number***.

***Australian Passport Fund Registration Number*** means the number assigned to an Australian passport fund under paragraph 1212A(2)(a).

***collective investment fund*** has the meaning given by subsection 1212(1).

***consideration period*** for a notice of intention to offer interests in a foreign passport fund in this jurisdiction has the meaning given by section 1213D.

### 575 Section 9 (definition of *home economy*)

Repeal the definition, substitute:



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***home economy*** for a passport fund means:

(a) if the passport fund is a regulated CIS, or a sub-fund of a regulated CIS, in only one participating economy—that participating economy; and

(b) if the passport fund is a regulated CIS, or a sub-fund of a regulated CIS, in more than one participating economy—the participating economy in which the fund is first registered or approved as a regulated CIS (however that registration or approval is described).

## 576 Section 9 (definition of *home regulator*)

Repeal the definition, substitute:

***home regulator*** for a passport fund means the entity that is the Passport Regulator for the home economy for the passport fund under the Passport Rules for this jurisdiction.

## 577 Section 9 (definition of *host economy*)

Repeal the definition, substitute:

***host economy***: a participating economy is a ***host economy*** for a passport fund if:

(a) the participating economy is not the home economy for the fund; and

(b) either:

(i) it is permitted under the law of the participating economy to offer interests in the fund in that economy, on the basis that the fund is a passport fund; or

(ii) an application has been made under the law of the participating economy for permission to offer interests in the fund in that economy, on the basis that the fund is a passport fund.

## 578 Section 9 (definition of *host regulator*)

Repeal the definition, substitute:

***host regulator*** for a passport fund means the entity that is the Passport Regulator for a host economy for the passport fund under the Passport Rules for this jurisdiction.



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## 579 Section 9 (definition of *Memorandum of Cooperation*)

Repeal the definition, substitute:

> ***Memorandum of Cooperation*** means the Memorandum of Cooperation on the Establishment and Implementation of the Asia Region Funds Passport signed on behalf of Australia on 28 April 2016, as it applies in relation to Australia from time to time.

## 580 Section 9 (definition of *operator*)

Repeal the definition, substitute:

> ***operator*** of a passport fund means the entity that is the operator of the fund under the Passport Rules for this jurisdiction.

## 581 Section 9

Insert:

> ***participating economy*** has the meaning given by section 1210.

## 582 Section 9 (definition of *passport fund*)

Repeal the definition, substitute:

> ***passport fund*** means a regulated CIS, or a sub-fund of a regulated CIS, registered as a passport fund in a participating economy.

## 583 Section 9

Insert:

> ***proposed operator*** of a collective investment fund has the meaning given by subsection 1212(1).
>
> ***regulated CIS*** has the same meaning as in the Passport Rules for this jurisdiction.

## 584 Section 9 (definition of *sub-fund*)

Repeal the definition, substitute:

> ***sub-fund***:
>
> (a) of a CCIV—has the meaning given by subsection 1222Q(1); and



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(b) in relation to a regulated CIS—has the same meaning as in the Passport Rules for this jurisdiction.

## 585 Section 1210

Repeal the section, substitute:

### 1210 Meaning of *participating economy*

A Participant, within the meaning of the Memorandum of Cooperation, is a ***participating economy*** at a particular time if:

(a) the Asia Region Funds Passport Joint Committee established under the Memorandum of Cooperation has published notification on the Passport website under subparagraph 5.6 of the Memorandum, at or before that time, that the Participant has effected implementation; and

(b) at that time:

(i) the Memorandum of Cooperation has not been terminated; and

(ii) the Participant has not withdrawn from the Memorandum of Cooperation.

## 586 Section 1211A (heading)

Repeal the heading, substitute:

### 1211A Meaning of *Passport Rules*

## 587 Section 1213D (heading)

Repeal the heading, substitute:

### 1213D Meaning of *consideration period*

## 588 Subsection 1213E(1)

Omit "***managed investment scheme***", substitute "managed investment scheme".



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## Division 12—Terms relating to CCIVs

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

#### 589 Subsection 12BAB(14) (note)

Omit "(within the meaning of section 1233H of Corporations Act)".

### *Corporations Act 2001*

#### 590 Section 9

Insert:

> ***property recovery provisions*** has the meaning given by subsection 1238A(2).
>
> ***winding up provisions*** has the meaning given by subsection 1237B(2).

#### 591 Section 1233 (heading)

Repeal the heading, substitute:

**1233 Meaning of *property***

#### 592 Section 1233H (heading)

Omit "**of a sub-fund**", substitute "**—sub-fund of a CCIV**".

#### 593 Section 1233L (heading)

Omit "**of a sub-fund**", substitute "**—sub-fund of a CCIV**".

#### 594 Section 1236A (heading)

Repeal the heading, substitute:

**1236A Meaning of *property* and *receiver*—sub-fund of a CCIV**

#### 595 Section 1240

Repeal the section.



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### 596 Paragraph 1241J(1)(a)

Omit "***non-licensee***", substitute "non-licensee".

### 597 Paragraph 1241J(1)(b)

Omit "***client***", substitute "client".

### 598 Subsection 1241J(1)

Omit "***corporate director***", substitute "corporate director".

## Division 13—Miscellaneous

## *Australian Securities and Investments Commission Act 2001*

### 599 Subsection 5(1)

Insert:

***penalty applicable***:

(a) to an offence committed by an individual:

(i) in Division 2 of Part 2—has the meaning given by section 12GBCA; and

(ii) in the other provisions of this Act——has the meaning given by section 93D; and

(b) to an offence committed by a body corporate:

(i) in Division 2 of Part 2—has the meaning given by section 12GBCA; and

(ii) in the other provisions of this Act——has the meaning given by section 93E.

## *Corporations Act 2001*

### 600 Section 9

Insert:

***compensation proceedings*** has the meaning given by section 1317DAAA.

***compliance period*** for an infringement notice issued under section 1317DAC has the meaning given by section 1317DAH.



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***contravention proceedings*** means proceedings under section 1101B by a person referred to in paragraph 1101B(1)(b) or (d).

***decision***, in Part 9.4A (review by Administrative Appeals Tribunal), has the meaning given by section 1317A.

***detriment***, in sections 1317AC and 1317AD, has a meaning affected by section 1317ADA.

***enforcement proceedings*** means proceedings under section 793C by a person referred to in paragraph 793C(1)(b), (c) or (d).

***infringement notice***:

(a) in Part 7.5B—means an infringement notice issued under Part 5 of the Regulatory Powers Act; and

(b) in Part 9.1A—means an infringement notice under Part 5 of the Regulatory Powers Act; and

(c) in Part 9.4AA and Chapter 6CA—means an infringement notice issued under section 1317DAC; and

(d) in Part 9.4AB, Part 7.6 and Part 9.4B—means an infringement notice given under section 1317DAM.

Note: For the provisions subject to the infringement notice:

(a) in Part 7.5B, see section 908CH; and

(b) in Part 9.1A, see section 1272F;

(c) for an infringement notice issued under section 1317DAC, see section 1317DAC; and

(d) for an infringement notice given under section 1317DAM, see section 1317DAN (under which the provisions include all strict liability offences and absolute liability offences against this Act and certain other offences and civil penalty provisions).

***pecuniary penalty applicable***:

(a) to the contravention of a civil penalty provision by an individual—has the meaning given by section 1317G; and

(b) to the contravention of a civil penalty provision by a body corporate—has the meaning given by section 1317G.

***penalty applicable***:

(a) to an offence committed by an individual—has the meaning given by section 1311B; and



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(b) to an offence committed by a body corporate—has the meaning given by section 1311C; and

(c) in section 1314 (continuing offences)—has the meaning given by subsection 1314(5).

***public interest proceedings*** means proceedings under section 50 of the ASIC Act.

***specified***, in relation to a penalty for an offence, has the meaning given by section 1311E.

## 601 Division 1 of Part 9.2

Repeal the Division.

## 602 Paragraphs 1311E(3)(a) and (b)

After "availability", insert ", under any law of the Commonwealth or of a State or Territory,".

## 603 Paragraph 1317AAB(f)

Omit "(within the meaning of the *Superannuation Industry (Supervision) Act 1993*)".

## 604 Section 1317ADA (heading)

Repeal the heading, substitute:

### 1317ADA Meaning of *detriment*

## 605 Before section 1317DAA

Insert:

### 1317DAAA Meaning of *compensation proceedings*

***Compensation proceedings*** are:

(a) proceedings under section 1317H, 1317HA, 1317HB, 1317HC or 1317HE; and

(b) proceedings under section 12GF of the ASIC Act in relation to a contravention of section 12DA of that Act; and

(c) any other proceedings by a person for compensation for loss or damage suffered by the person.



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### 606 Section 1317DAA (heading)

Repeal the heading, substitute:

**1317DAA Application of this Part to disclosing entities**

### 607 Subsection 1317DAA(1)

Repeal the subsection.

### 608 Subsection 1317DAG(3) (heading)

Omit "*other*".

### 609 Subparagraphs 1317DAG(4)(b)(i) and (iii) and (d)(i) and (iii)

Repeal the subparagraphs.

### 610 Section 1317DAH (heading)

Repeal the heading, substitute:

**1317DAH Meaning of *compliance period***

### 611 Subsection 1317DAH(1)

Omit "compliance period", substitute "***compliance period***".

### 612 Section 1363

Repeal the section.

### 613 Section 1367

Omit "in such cases as are prescribed", substitute "in such cases as are specified in the regulations".

## Division 14—Multiple amendments

## *Australian Securities and Investments Commission Act 2001*

### 614 Amendments of listed provisions



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| **Amendments relating to the Takeovers Panel** | | | |
|---|---|---|---|
| **Item** | **Provision** | **Omit** | **Substitute** |
| 1 | Paragraph 11(2)(a) | Panel (wherever occurring) | Takeovers Panel |
| 2 | Paragraph 127(4)(a) | Panel | Takeovers Panel |
| 3 | Section 172 | Panel (wherever occurring) | Takeovers Panel |
| 4 | Section 173 | Panel | Takeovers Panel |
| 5 | Section 174 (heading) | **Panel** | **Takeovers Panel** |
| 6 | Section 174 | Panel | Takeovers Panel |
| 7 | Subsection 183(1) | Panel (wherever occurring) | Takeovers Panel |
| 8 | Division 2 of Part 10 (heading) | **Panel's** | **Takeovers Panel's** |
| 9 | Section 184 (heading) | **Panel** | **Takeovers Panel** |
| 10 | Section 184 | Panel (wherever occurring) | Takeovers Panel |
| 11 | Subsection 185(1) | Panel | Takeovers Panel |
| 12 | Paragraph 185(1)(b) | Panel's | Takeovers Panel's |
| 13 | Subsection 185(1A) | Panel's | Takeovers Panel's |
| 14 | Subsections 185(2) and (3) | Panel | Takeovers Panel |
| 15 | Section 186 | Panel (wherever occurring) | Takeovers Panel |
| 16 | Division 3 of Part 10 (heading) | **Panel** | **Takeovers Panel** |
| 17 | Section 187 | Panel's | Takeovers Panel's |
| 18 | Section 187 | Panel (wherever occurring) | Takeovers Panel |
| 19 | Section 188 | Panel (wherever occurring) | Takeovers Panel |
| 20 | Section 190 (heading) | **Panel** | **Takeovers Panel** |
| 21 | Subsections 190(1) and (2) | Panel (wherever occurring) | Takeovers Panel |
| 22 | Section 192 | Panel (wherever occurring) | Takeovers Panel |



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| Amendments relating to the Takeovers Panel | | | |
|---|---|---|---|
| **Item** | **Provision** | **Omit** | **Substitute** |
| 23 | Section 193 | Panel | Takeovers Panel |
| 24 | Section 194 (heading) | **Panel** | **Takeovers Panel** |
| 25 | Section 194 | Panel (wherever occurring) | Takeovers Panel |
| 26 | Section 195 | Panel (wherever occurring) | Takeovers Panel |
| 27 | Section 197 | Panel (wherever occurring) | Takeovers Panel |
| 28 | Section 199 | Panel (wherever occurring) | Takeovers Panel |
| 29 | Section 200 (heading) | **Panel** | **Takeovers Panel** |
| 30 | Paragraph 200(1)(a) | Panel | Takeovers Panel |
| 31 | Paragraph 200(1)(a) | Panel's | Takeovers Panel's |
| 32 | Paragraph 200(1)(b) | Panel | Takeovers Panel |
| 33 | Section 201 | Panel (wherever occurring) | Takeovers Panel |
| 34 | Section 201A (heading) | **Panel** | **Takeovers Panel** |
| 35 | Section 201A | Panel (wherever occurring) | Takeovers Panel |
| 36 | Subparagraph 243(a)(i) | Panel | Takeovers Panel |
| 37 | Paragraph 246(1)(e) | Panel | Takeovers Panel |

## *Corporations Act 2001*

### 615 Amendments of listed provisions

| Amendments relating to the Takeovers Panel | | | |
|---|---|---|---|
| **Item** | **Provision** | **Omit** | **Substitute** |
| 1 | Subsection 655A(1) (note) | Panel | Takeovers Panel |
| 2 | Paragraph 655B(1)(b) | Panel | Takeovers Panel |
| 3 | Subsections 656A(1), | Panel (wherever | Takeovers Panel |



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| Amendments relating to the Takeovers Panel | | | |
|---|---|---|---|
| **Item** | **Provision** | **Omit** | **Substitute** |
| | (2) and (3) | occurring) | |
| 4 | Subsection 656A(5) | Panel (first occurring) | Takeovers Panel |
| 5 | Paragraph 656A(5)(a) | Panel | Takeovers Panel |
| 6 | Paragraph 656A(5)(b) | Panel's | Takeovers Panel's |
| 7 | Subsection 656A(5) | Panel (last occurring) | Takeovers Panel |
| 8 | Section 656B | Panel (wherever occurring) | Takeovers Panel |
| 9 | Subsections 657A (1), (2), (3) and (4) | Panel (wherever occurring) | Takeovers Panel |
| 10 | Subsection 657A(6) | Panel | Takeovers Panel |
| 11 | Paragraph 657A(6)(b) | Panel's | Takeovers Panel's |
| 12 | Subsection 657A(7) | Panel | Takeovers Panel |
| 13 | Section 657B (heading) | **Panel** | **Takeovers Panel** |
| 14 | Section 657B | Panel (wherever occurring) | Takeovers Panel |
| 15 | Section 657C | Panel (wherever occurring) | Takeovers Panel |
| 16 | Section 657D (heading) | **Panel** | **Takeovers Panel** |
| 17 | Section 657D | Panel (wherever occurring) | Takeovers Panel |
| 18 | Section 657E | Panel (wherever occurring) | Takeovers Panel |
| 19 | Section 657EA (heading) | **Panel** | **Takeovers Panel** |
| 20 | Section 657EA | Panel (wherever occurring) | Takeovers Panel |
| 21 | Section 657EB | Panel (wherever occurring) | Takeovers Panel |
| 22 | Section 657F (heading) | **Panel** | **Takeovers Panel** |
| 23 | Section 657G (heading) | **Panel** | **Takeovers Panel** |
| 24 | Subsection 657G(1) | Panel | Takeovers Panel |
| 25 | Subsection 657G(1) | Panel's | Takeovers Panel's |



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| **Amendments relating to the Takeovers Panel** | | | |
|---|---|---|---|
| **Item** | **Provision** | **Omit** | **Substitute** |
| 26 | Paragraph 657G(2)(b) | Panel | Takeovers Panel |
| 27 | Paragraphs 657G(2)(c) and (d) | Panel's | Takeovers Panel's |
| 28 | Section 657H (heading) | **Panel** | **Takeovers Panel** |
| 29 | Section 657H | Panel (wherever occurring) | Takeovers Panel |
| 30 | Section 658A (heading) | **Panel** | **Takeovers Panel** |
| 31 | Section 658A | Panel (wherever occurring) | Takeovers Panel |
| 32 | Section 658B (heading) | **Panel** | **Takeovers Panel** |
| 33 | Section 658B | Panel (wherever occurring) | Takeovers Panel |
| 34 | Section 658C (heading) | **Panel's** | **Takeovers Panel's** |
| 35 | Section 658C | Panel (wherever occurring) | Takeovers Panel |
| 36 | Section 658D (heading) | **Panel** | **Takeovers Panel** |
| 37 | Section 659A (heading) | **Panel** | **Takeovers Panel** |
| 38 | Section 659A | Panel (wherever occurring) | Takeovers Panel |
| 39 | Section 659AA | Panel | Takeovers Panel |
| 40 | Paragraph 659B(3)(b) | Panel | Takeovers Panel |
| 41 | Subsection 659C(1) | Panel (wherever occurring) | Takeovers Panel |
| 42 | Section 1240D | Panel | Takeovers Panel |



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# Part 2—Application and transitional provisions

## *Australian Securities and Investments Commission Act 2001*

### 616 In the appropriate position in Part 40

Insert:

## Division 2—Schedules 1 and 2 to the Treasury Laws Amendment (2023 Law Improvement Package No. 1) Act 2023

### 344B Definitions

In this Division:

***commencement time*** means the time when Schedule 2 to the *Treasury Laws Amendment (2023 Law Improvement Package No. 1) Act 2023* commences.

### 344C 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 1 or 2 to the *Treasury Laws Amendment (2023 Law Improvement Package No. 1) Act 2023*; and

(c) either of the following contains a corresponding provision:



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(i) the Corporations legislation as amended by those Schedules;
(ii) the *Acts Interpretation Act 1901* as in force at the commencement time;

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) If:
(a) immediately before the commencement time, the affected instrument contained a reference to a term defined in section 9, 416, 489F, 580, 589, 601RAA, 601WAA, 761A, 880B, 892A, 910A, 960, 994A, 994K, 1011B, 1019C, 1020AA, 1020AH, 1021B, 1022A, 1023B, 1042A, 1073B, 1074B, 1200A, 1210, 1276, 1317DAA or 1363 of the Corporations Act; and
(b) the definition of that term was repealed by Schedule 2 to the *Treasury Laws Amendment (2023 Law Improvement Package No. 1) Act 2023*; and
(c) neither of the following contains a corresponding definition:
(i) section 9 of the Corporations Act as amended by those Schedules;
(ii) the *Acts Interpretation Act 1901* as in force at the commencement time;

then, despite the repeal of the definition, the definition continues, at and after the commencement time, to have effect for the purposes of the affected instrument as if the definition had not been repealed.

## 344D Calculation of time

(1) Despite the repeal of section 5A of this Act and section 105 of the Corporations Act by Schedule 1 to the *Treasury Laws Amendment (2023 Law Improvement Package No. 1) Act 2023*, those sections continue to apply at and after the commencement time, as if those sections had not been repealed, in relation to:
(a) a period of time that starts before the commencement time; and



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(b) a calculation of how many days a particular day, act or event is before or after another day, act or event if:

(i) the first mentioned day, or the day of the first mentioned act or event, starts before the commencement time; or

(ii) the other day, or the day of the other act or event, starts before the commencement time.

(2) Otherwise, section 105 of the Corporations Act (as inserted by that Schedule) applies on and after the commencement time.

## *Corporations Act 2001*

### 617 In the appropriate position in Part 10.68

Insert:

## Division 2—Schedules 1 and 2 to the Treasury Laws Amendment (2023 Law Improvement Package No. 1) Act 2023

### 1698B Definitions

In this Division:

***commencement time*** means the time when Schedule 2 to the *Treasury Laws Amendment (2023 Law Improvement Package No. 1) Act 2023* commences.

### 1698C 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:



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(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 1 or 2 to the *Treasury Laws Amendment (2023 Law Improvement Package No. 1) Act 2023*; and

(c) either of the following contains a corresponding provision:

(i) the Corporations legislation as amended by those Schedules;

(ii) the *Acts Interpretation Act 1901* as in force at the commencement time;

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) If:

(a) immediately before the commencement time, the affected instrument contained a reference to a term defined in section 9, 416, 489F, 580, 589, 601RAA, 601WAA, 761A, 880B, 892A, 910A, 960, 994A, 994K, 1011B, 1019C, 1020AA, 1020AH, 1021B, 1022A, 1023B, 1042A, 1073B, 1074B, 1200A, 1210, 1276, 1317DAA or 1363 of this Act; and

(b) the definition of that term was repealed by Schedule 2 to the *Treasury Laws Amendment (2023 Law Improvement Package No. 1) Act 2023*; and

(c) neither of the following contains a corresponding definition:

(i) section 9 of this Act as amended by those Schedules;

(ii) the *Acts Interpretation Act 1901* as in force at the commencement time;

then, despite the repeal of the definition, the definition continues, at and after the commencement time, to have effect for the purposes of the affected instrument as if the definition had not been repealed.



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### 1698D Calculation of time

(1) Despite the repeal of sections 5C and 105 by Schedule 1 to the *Treasury Laws Amendment (2023 Law Improvement Package No. 1) Act 2023*, those sections continue to apply at and after the commencement time, as if those sections had not been repealed, in relation to:

(a) a period of time that starts before the commencement time; and

(b) a calculation of how many days a particular day, act or event is before or after another day, act or event if:

(i) the first mentioned day, or the day of the first mentioned act or event, starts before the commencement time; or

(ii) the other day, or the day of the other act or event, starts before the commencement time.

(2) Otherwise, section 105 of this Act (as inserted by that Schedule) applies on and after the commencement time.

### 1698E Saving of Part 5D.6 authorisations

An authorisation that:

(a) was made under subsection 601WAA(2); and

(b) was in force immediately before the commencement time;

has effect, at and after the commencement time, as if it had been made under section 601WCI, as inserted by Schedule 2 to the *Treasury Laws Amendment (2023 Law Improvement Package No. 1) Act 2023*.

### 1698F Saving of existing prescribed forms

A form for a document that is required to be lodged with ASIC under this Act that:

(a) was prescribed by the regulations or approved by ASIC under section 350; and

(b) was in force immediately before the commencement time;

has effect at and after the commencement time as if the form had been prescribed or approved for the purposes of this Act, as amended by Schedule 2 to the *Treasury Laws Amendment (2023 Law Improvement Package No. 1) Act 2023*.



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Note: This relates to the amendments of this Act by that Schedule to require documents to be lodged with ASIC in a prescribed form. These requirements were previously imposed through the definition of ***lodge with ASIC*** in section 761A, as in force immediately before the commencement time.

## 1689G Saving of existing regulations that are not to be remade

*Meaning of **class** and **kind** of financial products and financial services*

(1) Regulations that:

(a) were made for the purposes of section 761CA; and

(b) were in force immediately before the commencement time;

have effect at and after the commencement time as if the regulations had been made for the purposes of section 761CA, as amended by Schedule 2 to the *Treasury Laws Amendment (2023 Law Improvement Package No. 1) Act 2023*.

*Meaning of **derivative***

(2) Regulations that:

(a) were made for the purposes of subsection 761D(2) or paragraph 761D(3)(d); and

(b) were in force immediately before the commencement time;

have effect at and after the commencement time as if the regulations had been made for the purposes of subsection 761D(2) or paragraph 761D(3)(d) (as the case requires), as amended by Schedule 2 to the *Treasury Laws Amendment (2023 Law Improvement Package No. 1) Act 2023*.

*Meaning of **acquire**, **issue** and **provide***

(3) Regulations that:

(a) were made for the purposes of subsection 761E(7); and

(b) were in force immediately before the commencement time;

have effect at and after the commencement time as if the regulations had been made for the purposes of subsection 761E(7), as amended by Schedule 2 to the *Treasury Laws Amendment (2023 Law Improvement Package No. 1) Act 2023*.



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*Meaning of **financial product***

(4) Regulations that:

(a) were made for the purposes of paragraph 764A(1)(m) or subsection 764A(3); and

(b) were in force immediately before the commencement time;

have effect at and after the commencement time as if the regulations had been made for the purposes of paragraph 764A(1)(m) or subsection 764A(3) (as the case requires), as amended by Schedule 2 to the *Treasury Laws Amendment (2023 Law Improvement Package No. 1) Act 2023*.

*Regulations about excess money in regulated funds*

(5) Regulations that:

(a) were made for the purposes of section 892G; and

(b) were in force immediately before the commencement time;

have effect at and after the commencement time as if the regulations had been made for the purposes of section 892G, as amended by Schedule 2 to the *Treasury Laws Amendment (2023 Law Improvement Package No. 1) Act 2023*.

Note: That Schedule replaces the term regulated fund with the term Part 7.5 regulated fund.

*Meaning of **foreign recognition scheme***

(6) Regulations that:

(a) were made for the purposes of the definition of ***foreign recognition scheme*** in subsection 1200A(1); and

(b) were in force immediately before the commencement time;

have effect at and after the commencement time as if the regulations had been made for the purposes of the definition of ***foreign recognition scheme*** in subsection 1200A(1), as inserted by Schedule 2 to the *Treasury Laws Amendment (2023 Law Improvement Package No. 1) Act 2023*.

*Meaning of **recognised jurisdiction***

(7) Regulations that:



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(a) were made for the purposes of the definition of ***recognised jurisdiction*** in subsection 1200A(1); and

(b) were in force immediately before the commencement time;

have effect at and after the commencement time as if the regulations had been made for the purposes of the definition of ***recognised jurisdiction*** in subsection 1200A(1), as inserted by Schedule 2 to the *Treasury Laws Amendment (2023 Law Improvement Package No. 1) Act 2023*.

### 1698H Saving of declarations that a specified facility etc. is not a financial product

A declaration that:

(a) was made under subsection 765A(2); and

(b) was in force immediately before the commencement time;

has effect at and after the commencement time as if the declaration had been made under subsection 765A(2), as amended by Schedule 2 to the *Treasury Laws Amendment (2023 Law Improvement Package No. 1) Act 2023*.

### 1698J Saving of appointments and delegations under Part 7.5

(1) An appointment that:

(a) was made under subsection 892C(2); and

(b) was in force immediately before the commencement time;

has effect at and after the commencement time as if the delegation had been made under subsection 892C(2), as inserted by Schedule 2 to the *Treasury Laws Amendment (2023 Law Improvement Package No. 1) Act 2023*.

(2) A delegation that:

(a) was made under subsection 892D(6); and

(b) was in force immediately before the commencement time;

has effect at and after the commencement time as if the delegation had been made under subsection 892D(6), as amended by Schedule 2 to the *Treasury Laws Amendment (2023 Law Improvement Package No. 1) Act 2023*.



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### 1698K Amendments of Division 5 of Part 7.8A do not affect the continuity of instruments made under section 994L

The amendments of Division 5 of Part 7.8A made by Schedule 2 to the *Treasury Laws Amendment (2023 Law Improvement Package No. 1) Act 2023* do not affect the continuity of an instrument made under section 994L that was in force immediately before the commencement time.

### 1698L Amendments of Part 9.12 do not affect the continuity of the regulations

The amendments of Part 9.12 made by Schedule 2 to the *Treasury Laws Amendment (2023 Law Improvement Package No. 1) Act 2023* do not affect the continuity of any regulations made under this Act that were in force immediately before the commencement time.



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# Part 3—Consequential amendments of other Acts

## *Administrative Decisions (Judicial Review) Act 1977*

### 618 Paragraph (hba) of Schedule 1

Omit "Chapter 7 of".

## *Aged Care Act 1997*

### 619 Subsection 52N-1(3)

Omit "section 764A", substitute "Division 3 of Part 7.1".

## *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*

### 620 Section 5 (definition of *Australian financial services licence*)

Omit "Chapter 7 of".

### 621 Section 5 (definition of *providing a custodial or depository service*)

Omit "within the meaning of Chapter 7 of that Act".

### 622 Section 5 (definition of *security*)

Omit "section 92 of the *Corporations Act 2001* (for this purpose, disregard subsections 92(2A), (3) and (4) of that Act)", substitute "subsections 92(1) and (2) of the *Corporations Act 2001*".

## *ASIC Supervisory Cost Recovery Levy Act 2017*

### 623 Section 7 (paragraphs (a), (e) and (g) of the definition of *market infrastructure entity*)

Omit "Chapter 7 of".



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## *Australian Defence Force Cover Act 2015*

### 624 Subsection 57(2) (note)

Omit "Chapter 7 of".

## *Australian Prudential Regulation Authority Act 1998*

### 625 Paragraph 56(5)(aa)

Omit "Chapter 7 of".

## *Banking Act 1959*

### 626 Subsection 5(1) (definition of *financial market*)

Omit "has the meaning given by section 761A", substitute "has the same meaning as in Chapter 7".

### 627 Subsection 5(1) (definition of *listing rules*)

Omit "has the meaning given by section 761A of", substitute "has the same meaning as in".

### 628 Section 11CAA (definition of *clearing and settlement facility*)

Omit "Division 6 of Part 7.1 of".

### 629 Section 11CAA (definition of *operating rules*)

Omit "has the meaning given by section 761A of", substitute "has the same meaning as in".

### 630 Paragraph 38B(2)(c)

Omit "(within the meaning of the *Corporations Act 2001*)", substitute "(within the meaning of Chapter 7 of the *Corporations Act 2001*)".

## *Carbon Credits (Carbon Farming Initiative) Act 2011*

### 631 Subsection 277(9)

After "meanings as in", insert "Chapter 7 of".



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## *Clean Energy Regulator Act 2011*

### 632 Subsection 50(8)

After "meanings as in", insert "Chapter 7 of".

## *Commonwealth Inscribed Stock Act 1911*

### 633 Subsection 3(1) (definition of *clearing and settlement facility*)

Omit "Chapter 7 of".

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

### 634 Paragraph 26-15(b)

Omit "Chapter 7 of".

### 635 Section 700-1 (paragraph (h) of the definition of *affairs*)

Omit "Chapter 5D of".

## *Corporations (Compensation Arrangements Levies) Act 2001*

### 636 Section 3

Repeal the section, substitute:

**3 Definitions**

Subject to this Act, Part 1.2 (Interpretation) of the *Corporations Act 2001* applies for the purposes of this Act as if the provisions of this Act were provisions of Division 3 of Part 7.5 of that Act.

Note: Part 1.2 of the *Corporations Act 2001* includes the Dictionary in section 9 of that Act, so the definitions in that section that apply to Division 3 of Part 7.5 of that Act apply for the purposes of this Act unless this Act otherwise provides.



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## *Corporations (Fees) Act 2001*

### 637 Subsection 4(2)

Repeal the subsection, substitute:

(2) Subject to this Act, Part 1.2 (Interpretation) of the *Corporations Act 2001* applies for the purposes of this Act as if the provisions of this Act were provisions of that Act.

Note: Part 1.2 of the *Corporations Act 2001* includes the Dictionary in section 9 of that Act, so the definitions in that section apply for the purposes of this Act unless this Act otherwise provides.

## *Corporations (National Guarantee Fund Levies) Act 2001*

### 638 Section 3

Repeal the section, substitute:

**3 Definitions**

Subject to this Act, Part 1.2 (Interpretation) of the *Corporations Act 2001* applies for the purposes of this Act as if the provisions of this Act were provisions of Division 4 of Part 7.5 of that Act.

Note: Part 1.2 of the *Corporations Act 2001* includes the Dictionary in section 9 of that Act, so the definitions in that section that apply to Division 4 of Part 7.5 of that Act apply for the purposes of this Act unless this Act otherwise provides.

## *Corporations (Review Fees) Act 2003*

### 639 Subsection 4(2)

Repeal the subsection, substitute:

(2) Subject to this Act, Part 1.2 (Interpretation) of the *Corporations Act 2001* applies for the purposes of this Act as if the provisions of this Act were provisions of that Act.

Note: Part 1.2 of the *Corporations Act 2001* includes the Dictionary in section 9 of that Act, so the definitions in that section apply for the purposes of this Act unless this Act otherwise provides.



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## *Financial Sector (Collection of Data) Act 2001*

### 640 Subparagraph 5(2)(e)(i)

Omit "section 766A of".

### 641 Subparagraph 13(4F)(c)(ii)

Omit "section 766A of".

### 642 Section 31 (definition of *arrangement*)

Omit "Chapter 7", substitute "subsection 761B(1)".

### 643 Section 31 (definition of *financial product*)

Omit "Chapter 7", substitute "Division 3 of Part 7.1".

## *Financial Transaction Reports Act 1988*

### 644 Subsection 3(1) (paragraph (d) of the definition of *cash dealer*)

Omit "as defined by section 761A" (first occurring), substitute "within the meaning".

### 645 Subsection 3(1) (subparagraph (d)(ii) of the definition of *cash dealer*)

Omit "as defined by section 761A", substitute "within the meaning of Chapter 7".

### 646 Subsection 9(4)

Repeal the subsection, substitute:

(4) A significant cash transaction is also an exempt transaction if it is between:

(a) a financial services licensee (within the meaning of the *Corporations Act 2001*) whose licence covers dealing in derivatives (within the meaning of Chapter 7 of that Act); and

(b) a clearing and settlement facility (within the meaning of that Act) that is associated with a financial market (within the



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meaning of Chapter 7 of that Act) of which the financial services licensee is a member.

## *Foreign Acquisitions and Takeovers Act 1975*

### 647 Paragraph 6(3)(b)

After "meaning of", insert "Division 3 of Part 7.1 of".

## *Income Tax Assessment Act 1936*

### 648 Subparagraph 128AE(2)(e)(iii)

Repeal the subparagraph, substitute:

(iii) a financial services licensee (within the meaning of the *Corporations Act 2001*) whose licence covers dealing in securities (within the meaning of subsection 92(3) of that Act), providing financial advice in relation to such securities or operating a managed investment scheme (within the meaning of that Act); or

## *Income Tax Assessment Act 1997*

### 649 Paragraph 115-290(1)(b)

Omit "of a body corporate that is approved as a stock exchange under section 769 of the *Corporations Act 2001*", substitute "an *approved stock exchange".

### 650 Subsection 275-10(5)

Omit "section 761A of" (wherever occurring).

### 651 Paragraph 275-15(b)

Omit "sections 761G and 761GA of".

### 652 Paragraph 275-20(5)(c)

Omit "section 761G of".

### 653 Subparagraphs 275-35(1)(a)(i) and (ii)

Repeal the subparagraphs, substitute:



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(i) a financial services licensee (within the meaning of the *Corporations Act 2001*) holding an Australian financial services licence whose licence covers it providing financial services (within the meaning of that Act) to wholesale clients (within the meaning of that Act); or

(ii) an authorised representative (within the meaning of that Act) of such a financial services licensee; or

### 654 Subsections 275-35(2) and (3)

Omit "section 761A of".

### 655 Section 292-330 (note)

Omit "Chapter 7 of".

### 656 Subsection 820-435(3) (definition of *UG on derivatives*)

After "meaning of", insert "Chapter 7 of".

### 657 Subsection 820-435(3) (definition of *UL on derivatives*)

After "meaning of" (wherever occurring), insert "Chapter 7 of".

### 658 Subsection 995-1(1) (definition of *Australian financial services licence*)

Omit "has the meaning given by section 761A of", substitute "has the same meaning as in".

### 659 Subsection 995-1(1) (subparagraph (d)(i) of the definition of *financial entity*)

After "meaning of", insert "Chapter 7 of".

## *Income Tax Rates Act 1986*

### 660 Subparagraph 23AB(2)(a)(iv)

Omit "section 761A of".



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## *Insurance Act 1973*

### 661 Subsection 3(1) (definition of *financial market*)

Omit "has the meaning given by section 761A", substitute "has the same meaning as in Chapter 7".

### 662 Subsection 3(1) (definition of *listing rules*)

Omit "has the meaning given by section 761A of", substitute "has the same meaning as in".

### 663 Subsection 3(1) (paragraph (b) of the definition of *securities exchange*)

Omit "as defined in section 761A", substitute "within the meaning".

### 664 Paragraph 3A(2)(a)

Omit "Chapter 7 of".

### 665 Section 36A (definition of *clearing and settlement facility*)

Omit "has the meaning given by Division 6 of Part 7.1 of", substitute "has the same meaning as in".

### 666 Section 36A (definition of *operating rules*)

Omit "has the meaning given by section 761A of", substitute "has the same meaning as in".

### 667 Subsection 50(1) (definition of *prescribed interest*)

Omit "as defined in section 9", substitute "within the meaning".

## *Insurance Contracts Act 1984*

### 668 Subsection 14A(2)

After "financial services law", insert "(within the meaning of the *Corporations Act 2001*)".

### 669 Subsection 14A(3)

Repeal the subsection.



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## *Interactive Gambling Act 2001*

### 670 Paragraph 5(3)(b)

Omit "Chapter 7", substitute "Division 3 of Part 7.1".

## *Life Insurance Act 1995*

### 671 Section 230AAB (definition of *clearing and settlement facility*)

Omit "has the meaning given by Division 6 of Part 7.1 of", substitute "has the same meaning as in".

### 672 Section 230AAB (definition of *operating rules*)

Omit "has the meaning given by section 761A of", substitute "has the same meaning as in".

### 673 Dictionary (definition of *financial market*)

Omit "has the meaning given by section 761A", substitute "has the same meaning as in Chapter 7".

### 674 Dictionary (definition of *listing rules*)

Omit "has the meaning given by section 761A of", substitute "has the same meaning as in".

## *Medibank Private Sale Act 2006*

### 675 Clause 1 of Schedule 2 (definition of *financial product*)

Omit "Chapter 7", substitute "Division 3 of Part 7.1".

### 676 Subclause 6(8) of Schedule 2 (definition of *security*)

Omit "Chapter 7 of", substitute "subsection 92(5) of".

## *Medical Indemnity Act 2002*

### 677 Subsection 4(1) (definition of *AFCA*)

Omit "has the meaning given by section 761A of", substitute "has the same meaning as in".



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## *Medical Indemnity (Prudential Supervision and Product Standards) Act 2003*

### 678 Subsection 4(1) (definition of *provide a financial service*)

Omit "has the meaning given by section 766A of", substitute "has the same meaning as in".

## *National Broadband Network Companies Act 2011*

### 679 Section 5 (definition of *financial product*)

Omit "Chapter 7", substitute "Division 3 of Part 7.1".

### 680 Subsection 55(8) (definition of *security*)

Omit "Chapter 7 of", substitute "subsection 92(5) of".

## *National Consumer Credit Protection Act 2009*

### 681 Subsection 5(1) (definition of *AFCA scheme*)

Omit "Chapter 7 of".

### 682 Subsection 5(1) (definition of *Australian financial services licence*)

Omit "section 761A of".

### 683 Subsection 5(1) (definition of *director*)

Omit "section 9 of".

### 684 Paragraph 37B(2)(e)

Omit "as defined in section 910C", substitute "within the meaning".

### 685 Paragraph 80(1)(fb)

Omit "as defined in section 910C", substitute "within the meaning".

### 686 Subsection 204(1) of Schedule 1 (definition of *AFCA scheme*)

Omit "Chapter 7 of".



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## *Payment Systems and Netting Act 1998*

### 687 Section 5 (paragraph (a) of the definition of *financial property*)

Repeal the paragraph, substitute:

(a) a security (within the meaning of subsections 92(1) and (2) of the *Corporations Act 2001*);

### 688 Section 5 (paragraph (c) of the definition of *financial property*)

Omit "financial market (within the meaning of that Act)", substitute "financial market (within the meaning of Division 3 of Part 7.1 of that Act)".

### 689 Section 5 (definition of *foreign exchange contract*)

Omit "Chapter 7 of".

### 690 Section 5 (subparagraph (a)(i) of the definition of *netting market*)

Omit "as defined in section 761A of the *Corporations Act 2001*", substitute "(both within the meaning of the *Corporations Act 2001*)".

### 691 Paragraph 10(2)(f)

Omit "as defined in section 761A of the *Corporations Act 2001*", substitute "(within the meaning of the *Corporations Act 2001*)".

## *Personal Property Securities Act 2009*

### 692 Section 10 (definition of *clearing and settlement facility*)

Omit "has the meaning given by Chapter 7 of", substitute "has the same meaning as in".

### 693 Section 10 (paragraph (a) of the definition of *financial product*)

Omit "has the meaning given by", substitute "has the same meaning as in Division 3 of Part 7.1 of".



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### 694 Section 10 (paragraphs (c) and (d) of the definition of *investment instrument*)

After "derivative", insert "(within the meaning of Chapter 7 of the *Corporations Act 2001*)".

## *Retirement Savings Accounts Act 1997*

### 695 Paragraph 47(1)(a)

Omit "Chapter 7 of".

### 696 Subsection 95(1A)

Omit "Chapter 7 of".

### 697 Subsection 163(12) (paragraph (a) of the definition of *do an act or thing*)

Omit "Chapter 7 of".

### 698 Subsection 182(1A) (paragraph (b) of the definition of *regulatory provision*)

Omit "RSA products (within the meaning of Chapter 7 of that Act)", substitute "RSAs".

## *Security of Critical Infrastructure Act 2018*

### 699 Section 5 (definition of *Australian CS facility licence*)

Omit "Chapter 7 of".

### 700 Section 5 (definition of *Australian derivative trade repository licence*)

Omit "Chapter 7 of".

### 701 Section 5 (definition of *Australian market licence*)

Omit "Chapter 7 of".

### 702 Section 5 (definition of *clearing and settlement facility*)

Omit "Chapter 7 of".



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### 703 Section 5 (definition of *derivative trade repository*)

Omit "Chapter 7 of".

### 704 Section 5 (definition of *financial benchmark*)

Omit "Part 7.5B of".

### 705 Section 5 (paragraph (k) of the definition of *financial services and markets sector*)

Repeal the paragraph, substitute:

(k) carrying on business of providing financial services (within the meaning of the *Corporations Act 2001*); or

### 706 Section 5 (definition of *financial services business*)

Repeal the definition.

## *Superannuation Contributions Tax (Assessment and Collection) Act 1997*

### 707 Section 24 (note)

Omit "Chapter 7 of".

## *Superannuation Industry (Supervision) Act 1993*

### 708 Subsection 10(1) (definition of *AFCA scheme*)

Omit "Chapter 7 of".

### 709 Subsection 10(1) (definition of *Corporations Law*)

Repeal the definition.

### 710 Subsection 10(1) (definition of *financial product*)

Omit "Chapter 7", substitute "Division 3 of Part 7.1".

### 711 Subsection 10(1) (definition of *financial product advice*)

Omit "Chapter 7 of".



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### 712 Subsection 10(1) (definition of *financial services licensee*)

Omit "Chapter 7 of".

### 713 Subsection 10(1) (definition of *ongoing fee arrangement*)

Omit "Part 7.7A of".

### 714 Subsection 10(1) (definition of *personal advice*)

Omit "Chapter 7 of".

### 715 Subsection 29SAC(2) (definition of *conflicted remuneration*)

Omit "Part 7.7A of".

### 716 Subsection 29SAC(2) (definition of *representative*)

Omit "Part 7.6 of".

### 717 Section 38A (paragraph (b) of the definition of *regulatory provision*)

Omit "Chapter 7", substitute "Division 3 of Part 7.1".

### 718 Subsection 66(5) (paragraph (a) of the definition of *listed security*)

Omit "section 761A of".

### 719 Subsection 101(1)

After "self managed superannuation fund", insert "or of an exempt public sector superannuation scheme that has elected to join the AFCA scheme".

### 720 Subsection 101(3)

Repeal the subsection.

### 721 Subsection 242C(2) (definition of *conflicted remuneration*)

Omit "Part 7.7A of".



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### 722 Subsection 242C(2) (definition of *representative*)

Omit "Part 7.6 of".

## *Tax Agent Services Act 2009*

### 723 Subsection 90-1(1) (definition of *financial services licensee*)

Omit "Chapter 7 of".

### 724 Subsection 90-1(1) (definition of *qualified tax relevant provider*)

Omit "Part 7.6 of".

### 725 Subsection 90-1(1) (definition of *relevant provider*)

Omit "Part 7.6 of".

### 726 Subsection 90-1(1) (definition of *representative*)

Omit "section 910A", substitute "section 9".

## *Taxation Administration Act 1953*

### 727 Paragraph 12-390(9)(a) in Schedule 1

Omit "as defined by section 766E", substitute "within the meaning".

### 728 Subsection 133-120(2) in Schedule 1 (note)

Omit "Chapter 7 of".

### 729 Subsection 133-140(1) in Schedule 1 (note)

Omit "Chapter 7 of".

### 730 Section 155-90 in Schedule 1 (note)

Omit "Chapter 7 of".

### 731 Subsection 355-65(3) in Schedule 1 (table item 3)

Omit "Chapter 7 of".



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### 732 Subsection 390-5(1) in Schedule 1 (note 2)

Omit "Chapter 7 of".

### 733 Subparagraph 396-65(1)(b)(i) in Schedule 1

Omit "Chapter 7", substitute "Division 3 of Part 7.1".

### 734 Paragraph 396-65(1)(b) in Schedule 1

Omit "that Chapter" (wherever occurring), substitute "that Act".

### 735 Subparagraph 396-65(2)(b)(i) in Schedule 1

Omit "Chapter 7", substitute "Division 3 of Part 7.1".

### 736 Paragraph 396-65(2)(b) in Schedule 1

Omit "that Chapter" (wherever occurring), substitute "that Act".

### 737 Subparagraph 426-120(2)(b)(ii) in Schedule 1

Omit "of Chapter 5D".

## *Telstra Corporation Act 1991*

### 738 Subsection 8AJA(8) (definition of *financial product*)

Omit "Chapter 7", substitute "Division 3 of Part 7.1".

### 739 Subsection 8AJA(8) (definition of *security*)

Omit "Chapter 7", substitute "subsection 92(5)".



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# Schedule 3—ALRC Financial Services Interim Report: single glossary of defined terms contingent amendments

## Part 1—Treasury Laws Amendment (More Competition, Better Prices) Act 2022

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

#### 1 Subparagraph 12BLC(1)(a)(i)

Omit "*Corporations Act 2001*", substitute "Corporations Act".

#### 2 Subsection 12BLC(3)

Repeal the subsection.

### *Competition and Consumer Act 2010*

#### 3 Subsection 28A(3)

Omit "Chapter 7 of".



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# Part 2—Financial Accountability Regime Act 2023

## *Financial Accountability Regime Act 2023*

### 4 Section 8 (definition of *annual turnover*)

Omit "section 761A of".

### 5 Section 8 (definition of *officer*)

Omit "the meaning given by section 9 of", substitute "the same meaning as in".

### 6 Subparagraph 21(1)(d)(v)

Omit "section 761A of".



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# Part 3—Financial Services Compensation Scheme of Last Resort Acts

## Division 1—Treasury Laws Amendment (Financial Services Compensation Scheme of Last Resort) Act 2023

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

#### 7 Subparagraph 127(4)(aa)(i)

Omit "(within the meaning of the *Corporations Act 2001*)".

## Division 2—Financial Services Compensation Scheme of Last Resort Levy Act 2023

### *Financial Services Compensation Scheme of Last Resort Levy Act 2023*

#### 8 Subsection 7(1) (definition of *AFCA*)

Omit "Chapter 7 of".

#### 9 Subsection 7(1) (definition of *AFCA scheme*)

Omit "Chapter 7 of".

## Division 3—Financial Services Compensation Scheme of Last Resort Levy (Collection) Act 2023

### *Financial Services Compensation Scheme of Last Resort Levy (Collection) Act 2023*

#### 10 Subsection 7(1) (definition of *AFCA*)

Omit "Chapter 7 of".



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## 11 Subsection 7(1) (definition of *AFCA scheme*)

Omit "Chapter 7 of".



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# Part 4—Schedule 6 to the Treasury Laws Amendment (2022 Measures No. 4) Act 2023

## *Australian Securities and Investments Commission Act 2001*

### 12 Subsection 127(9) (definition of *RSE licensee*)

Repeal the definition.

## *Corporations Act 2001*

### 13 Section 9 (note 2 to the definition of *director*)

Repeal the note.

### 14 Section 9 (paragraph (aa) of the definition of *financial year*)

After "section 323DAAA;", insert "and".

### 15 Section 9 (definition of *officer* of a registrable superannuation entity)

Repeal the definition.

### 16 Section 9 (subparagraph (b)(i) of the definition of *registrable superannuation entity*)

Omit "(within the meaning of the *Superannuation Industry (Supervision) Act 1993*)".

### 17 Section 9 (paragraph (i) of the definition of *registrable superannuation entity*)

Omit "***of a registrable superannuation entity***".

### 18 At the end of section 9AC

Add:

(3) For the purposes of Chapter 2M, a ***director*** of a registrable superannuation entity is:



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(a) if the RSE licensee for the entity is a constitutional corporation (within the meaning of the *Superannuation Industry (Supervision) Act 1993*) or a body corporate—a director of the constitutional corporation or body corporate; or

(b) if the RSE licensee for the entity is a group of individual trustees—each of those trustees.

## 19 Subsection 9AD(3)

Omit "An", substitute "Subject to subsection (4), an".

## 20 At the end of section 9AD

Add:

(4) For the purposes of Chapter 2M, an ***officer*** of a registrable superannuation entity is:

(a) if the RSE licensee for the entity is a constitutional corporation (within the meaning of the *Superannuation Industry (Supervision) Act 1993*) or a body corporate—an officer of the constitutional corporation or body corporate; or

(b) if the RSE licensee for the entity is a group of individual trustees:

(i) each of those trustees; or

(ii) a person who makes, or participates in making, decisions that affect the whole, or a substantial part, of the business of the entity; or

(iii) a person who has the capacity to affect significantly the entity's financial standing.

## 21 Sections 345AAC and 345AAD

Repeal the sections.



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# Part 5—Part 4 of Schedule 1 to the Treasury Laws Amendment (Modernising Business Communications and Other Measures) Act 2023

## Division 1—Amendments if Schedule 2 to this Act commences second

### *Corporations Act 2001*

#### 22 Subsection 601WDA(1)

Repeal the subsection, substitute:

*Notice of cancellation or variation of Australian financial services licence*

(1) If ASIC has under Part 7.6 cancelled a trustee company's Australian financial services licence, or varied the conditions of a trustee company's Australian financial services licence so that the licence ceases to cover traditional trustee company services, the trustee company must, as soon as practicable:

(a) take all reasonable steps to contact the following persons and advise them of the cancellation or variation of the licence:

(i) all persons who the trustee company is aware have executed and lodged instruments, such as wills, that have not yet come into effect, but will potentially lead to estate assets and liabilities being held by the trustee company;

(ii) all persons who the trustee company is aware have appointed the trustee company as trustee or to some other capacity; and

(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).

Note: Failure to comply with this subsection is an offence (see subsection 1311(1)).



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## Division 2—Amendments if Schedule 2 to this Act commences first

### *Corporations Act 2001*

#### 23 Paragraph 601WBH(b)

After "publish", insert "(in accordance with any requirements prescribed by the regulations for the purposes of this paragraph)".

#### 24 Subsection 601WDA(1)

Repeal the subsection, substitute:

*Notice of cancellation or variation of Australian financial services licence*

(1) If ASIC has under Part 7.6 cancelled a trustee company's Australian financial services licence, or varied the conditions of a trustee company's Australian financial services licence so that the licence ceases to cover traditional trustee company services, the trustee company must, as soon as practicable:

(a) take all reasonable steps to contact the following persons and advise them of the cancellation or variation of the licence:

(i) all persons who the trustee company is aware have executed and lodged instruments, such as wills, that have not yet come into effect, but will potentially lead to estate assets and liabilities being held by the trustee company;

(ii) all persons who the trustee company is aware have appointed the trustee company as trustee or to some other capacity; and

(b) publish (in accordance with any requirements prescribed by the regulations for the purposes of this paragraph) notice of the cancellation or variation of the licence.

Note: Failure to comply with this subsection is an offence (see subsection 1311(1)).



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## 25 Subsection 601WDA(3)

After "publish", insert "(in accordance with any requirements prescribed by the regulations for the purposes of this subsection)".



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# Part 6—Schedule 3 to the Treasury Laws Amendment (Modernising Business Communications and Other Measures) Act 2023

## Division 1—Amendments if Schedule 2 to this Act commences second

### *Corporations Act 2001*

#### 26 Section 9

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.

***unacceptable control situation***:

(a) in relation to a licensed trustee company or a proposed licensed trustee company—has the meaning given by section 601VAA; and

(b) in relation to a widely held market body—has the meaning given by subsection 850B(1).

#### 27 Section 601RAA (definition of *proposed licensed trustee company*)

Repeal the definition.

#### 28 Section 601VAA (heading)

Repeal the heading, substitute:



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### 601VAA Meaning of *unacceptable control situation*—licensed trustee company or a proposed licensed trustee company

### 29 Section 601VAA

Omit "For the purposes of this Part, an", substitute "An".

### 30 Paragraph 1012GA(1)(a)

Omit "(within the meaning of section 992A)".

## Division 2—Amendments if Schedule 2 to this Act commences first

## *Corporations Act 2001*

### 31 Section 9

Insert:

***unacceptable control situation***:

(a) in relation to a trustee company, has the meaning given by section 601VAA; and

(b) in relation to a widely held market body, has the meaning given by subsection 850B(1).

### 32 Section 601VAA

Omit "For the purposes of this Part, an", substitute "An".

## Division 3—Further amendments if Schedule 2 to this Act commences first

## *Corporations Act 2001*

### 33 Section 9

Insert:

***proposed licensed trustee company*** means a company:



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(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.

### 34 Section 9 (paragraph (a) definition of *unacceptable control situation*)

Repeal the paragraph, substitute:

(a) in relation to a licensed trustee company or a proposed licensed trustee company—has the meaning given by section 601VAA; and

### 35 Section 601RAA (definition of *proposed licensed trustee company*)

Repeal the definition.

### 36 Section 601VAA (heading)

Repeal the heading, substitute:

**601VAA Meaning of *unacceptable control situation*—licensed trustee company or a proposed licensed trustee company**

### 37 Section 601VAA

Omit "For the purposes of this Part, an", substitute "An".

### 38 Paragraph 1012GA(1)(a)

Omit "(within the meaning of section 992A)".



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# Part 7—Part 1 of Schedule 4 to the Treasury Laws Amendment (Modernising Business Communications and Other Measures) Act 2023

## *Corporations Act 2001*

### 39 Section 9

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*.

### 40 Section 910A

Repeal the following definitions:

(a) definition of ***credit licensee***;
(b) definition of ***mortgage broker***;
(c) definition of ***mortgage intermediary***.

## *Income Tax Assessment Act 1997*

### 41 Section 995-1 (paragraph (c) of the definition of *recognised tax adviser*)

Omit "Part 7.6 of".

## *National Consumer Credit Protection Act 2009*

### 42 Subsection 5(1) (definition of *financial services licensee*)

Omit "Chapter 7 of".



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# Schedule 4—Insurance

## Part 1—Public interest

### *Insurance Acquisitions and Takeovers Act 1991*

#### 1 Section 3

Omit "**unsuitable persons**", substitute "**persons who are not fit and proper**".

#### 2 Subsection 5(1)

After "insurance company,", insert "and without limiting when a matter is taken to be contrary to the public interest,".

#### 3 Paragraph 5(1)(b)

Repeal the paragraph, substitute:

(b) likely to result in a person who is not a fit and proper person to be in a position of influence over the company being in such a position of influence; or

#### 4 Subsections 5(2) and (3)

Repeal the subsections, substitute:

(2) The Minister may, by legislative instrument, determine circumstances in which a person is taken, for the purposes of paragraph (1)(b), to be in a position of influence over an Australian-registered insurance company.

(3) Subsection (2) does not limit the circumstances in which a person is taken to be in such a position of influence.

*Matters to which Minister has regard in considering public interest*

(4) The following paragraphs apply in relation to the Minister considering, for the purposes of this Act, whether a particular matter is contrary to the public interest:

(a) in considering whether the matter is likely to have the effect mentioned in paragraph (1)(a), the Minister:



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(i) must have regard to any matters determined under subsection (6) for the purposes of this subparagraph; and

(ii) may have regard to any matters determined under that subsection for the purposes of this subparagraph;

(b) in considering whether the matter is likely to have the result mentioned in paragraph (1)(b), the Minister:

(i) must have regard to any matters determined under subsection (6) for the purposes of this subparagraph; and

(ii) may have regard to any matters determined under that subsection for the purposes of this subparagraph;

(c) in considering whether the matter is likely to have the effect mentioned in paragraph (1)(c), the Minister:

(i) must have regard to any matters determined under subsection (6) for the purposes of this subparagraph; and

(ii) may have regard to any matters determined under that subsection for the purposes of this subparagraph;

(d) in considering whether the matter is contrary to the national interest as mentioned in paragraph (1)(d), the Minister:

(i) must have regard to any matters determined under subsection (6) for the purposes of this subparagraph; and

(ii) may have regard to any matters determined under that subsection for the purposes of this subparagraph;

(e) in considering whether the matter is contrary to the public interest other than as mentioned in paragraph (1)(a), (b), (c) or (d), the Minister:

(i) must have regard to any matters determined under subsection (6) for the purposes of this subparagraph; and

(ii) may have regard to any matters determined under that subsection for the purposes of this subparagraph.

(5) Subsection (4) does not limit the matters to which the Minister may have regard.



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(6) The Minister may, by legislative instrument, determine matters for the purposes of subparagraph (4)(a)(i) or (ii), (b)(i) or (ii), (c)(i) or (ii), (d)(i) or (ii) or (e)(i) or (ii).

Note: The making of certain decisions or orders under Parts 3 and 4 in relation to an Australian-registered insurance company depends on the Minister being satisfied that a particular matter (such as a proposal, acquisition or arrangement) is, would be or will be contrary to the public interest.

## 5 Section 35 (definition of *conditional go-ahead decision*)

Omit "that is subject to conditions", substitute "made under subsection 41(1A)".

## 6 Section 35 (at the end of the definition of *go-ahead decision*)

Add "or (1A)".

## 7 Subsection 41(1)

Repeal the subsection, substitute:

(1) The Minister may decide that the Minister has no objection to a trigger proposal, if the Minister is satisfied that the trigger proposal, if carried out, is not likely to be contrary to the public interest.

Note: See section 5 (about what is contrary to the public interest).

(1A) The Minister may decide that the Minister has no objection to a trigger proposal so long as the person concerned complies with specified conditions, if the Minister is satisfied that the trigger proposal, if carried out, is not likely to be contrary to the public interest if the person concerned complies with those conditions.

Note: See section 5 (about what is contrary to the public interest).

## 8 Paragraphs 41(3)(c) and (d)

Repeal the paragraphs, substitute:

(c) the decision is a conditional go-ahead decision; and

(d) the person does not comply with the conditions to which the decision is subject;



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## 9 At the end of section 43

Add:

Note: See section 5 (about what is contrary to the public interest).

## 10 At the end of subsections 44(1) and (3) and 48(2)

Add:

Note: See section 5 (about what is contrary to the public interest).

## 11 Section 49 (definition of *conditional go-ahead decision*)

Omit "that is subject to conditions", substitute "made under subsection 55(1A)".

## 12 Section 49 (at the end of the definition of *go-ahead decision*)

Add "or (1A)".

## 13 Subsection 55(1)

Repeal the subsection, substitute:

(1) The Minister may decide that the Minister has no objection to a trigger proposal, if the Minister is satisfied that the trigger proposal, if carried out, is not likely to be contrary to the public interest.

Note: See section 5 (about what is contrary to the public interest).

(1A) The Minister may decide that the Minister has no objection to a trigger proposal so long as the person or company concerned complies with specified conditions, if the Minister is satisfied that the trigger proposal, if carried out, is not likely to be contrary to the public interest if the person or company complies with those conditions.

Note: See section 5 (about what is contrary to the public interest).

## 14 Paragraphs 55(3)(c) and (d)

Repeal the paragraphs, substitute:

(c) the decision is a conditional go-ahead decision; and

(d) the person or company does not comply with the conditions to which the decision is subject;



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## 15 At the end of section 57

Add:

Note: See section 5 (about what is contrary to the public interest).

## 16 At the end of subsections 58(1) and 62(2)

Add:

Note: See section 5 (about what is contrary to the public interest).

## 17 Part 7

Repeal the Part.

## 18 Section 69

Omit "Part 7", substitute "subsection 5(2) or (6)".

## 19 Subsection 80(2)

Omit "Government", substitute "or a Minister".

## 20 Application of amendments

(1) The amendment of section 41 of the *Insurance Acquisitions and Takeovers Act 1991* made by this Part applies in relation to a decision made by the Minister on or after the commencement of this item.

(2) The amendment of section 55 of the *Insurance Acquisitions and Takeovers Act 1991* made by this Part applies in relation to a decision made by the Minister on or after the commencement of this item.



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# Part 2—Forms of notices etc.

## *Insurance Acquisitions and Takeovers Act 1991*

### 21 After section 17

Insert:

### 17A Approved manner and form of giving notices

(1) This section applies in relation to giving a notice if another provision of this Act refers to giving the notice in accordance with this section.

(2) The notice is given in accordance with this section if the notice:

(a) is given:

(i) if the Minister has approved a manner for giving the notice under subsection (3)—in the approved manner; or

(ii) otherwise—in writing; and

(b) if the Minister has approved a form for giving the notice under subsection (3):

(i) is given in the approved form; and

(ii) includes the information required by the form; and

(iii) is accompanied by the documents (if any) required by the form; and

(c) includes the information (if any) prescribed by regulations made for the purposes of this paragraph in relation to the notice; and

(d) is accompanied by the documents (if any) prescribed by regulations made for the purposes of this paragraph in relation to the notice.

(3) For the purposes of paragraph (2)(a) or (b), the Minister may, in writing, approve a manner or form for giving the notice.

(4) Without limiting subsection (3), a form approved under that subsection may be:

(a) the form of a statutory declaration; or



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(b) a form that requires a matter to be verified by a statutory declaration.

## 22 Paragraph 38(b)

Omit "the prescribed form", substitute "accordance with section 17A".

## 23 Application of amendments

(1) The amendment of section 38 of the *Insurance Acquisitions and Takeovers Act 1991* made by this Part applies in relation to a notice given on or after the commencement of this item.

(2) For the purposes of paragraph 38(b) of that Act, as amended by this Part, a written notice given:

(a) during the 2 months starting on the commencement of this item; and

(b) in the form that, immediately before that commencement, was prescribed for the purposes of that paragraph;

is taken to be given in accordance with section 17A of that Act.

## 24 Paragraphs 52(b) and (c)

Omit "the prescribed form", substitute "accordance with section 17A".

## 25 Application of amendments

(1) The amendments of section 52 of the *Insurance Acquisitions and Takeovers Act 1991* made by this Part apply in relation to a notice given on or after the commencement of this item.

(2) For the purposes of paragraph 52(b) or (c) of that Act, as amended by this Part, a written notice given:

(a) during the 2 months starting on the commencement of this item; and

(b) in the form that, immediately before that commencement, was prescribed for the purposes of that paragraph;

is taken to be given in accordance with section 17A of that Act.



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## *Life Insurance Act 1995*

### 26 At the end of Part 1

Add:

### 8A Approved manner and form of applications and notices

(1) This section applies in relation to making an application or giving a notice if another provision of this Act refers to making the application or giving the notice in accordance with this section.

(2) The application is made, or the notice is given, in accordance with this section if the application or notice:

(a) is made or given:

(i) if APRA has approved a manner for making the application or giving the notice under subsection (3)—in the approved manner; or

(ii) otherwise—in writing; and

(b) if APRA has approved a form for making the application or giving the notice under subsection (3):

(i) is made or given in the approved form; and

(ii) includes the information required by the form; and

(iii) is accompanied by the documents (if any) required by the form; and

(c) includes the information (if any) prescribed by regulations made for the purposes of this paragraph in relation to the application or notice; and

(d) is accompanied by the documents (if any) prescribed by regulations made for the purposes of this paragraph in relation to the application or notice.

(3) For the purposes of paragraph (2)(a) or (b), APRA may, in writing, approve a manner or form for making the application or giving the notice.

(4) Without limiting subsection (3), a form approved under that subsection may be:

(a) the form of a statutory declaration; or



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(b) a form that requires a matter to be verified by a statutory declaration.

## 27 Paragraphs 20(2)(a) and (b)

Repeal the paragraphs, substitute:

(a) be made in accordance with section 8A; and

## 28 Application of amendments

(1) The amendment of section 20 of the *Life Insurance Act 1995* made by this Part applies in relation to an application made on or after the commencement of this item.

(2) For the purposes of paragraph 20(2)(a) of that Act, as amended by this Part, an application:

(a) made during the 2 months starting on the commencement of this item; and

(b) accompanied by any information requested by APRA in relation to the application:

(i) under paragraph 20(2)(b) of that Act before that commencement; or

(ii) on or after that commencement;

is taken to be made in accordance with section 8A of that Act.

## 29 Subsection 33(1)

Omit "written".

## 30 Subsection 33(2)

Omit "the regulations", substitute "section 8A".

## 31 Application of amendments

(1) The amendments of section 33 of the *Life Insurance Act 1995* made by this Part apply in relation to a notice given on or after the commencement of this item.

(2) For the purposes of subsection 33(2) of that Act, as amended by this Part, a written notice given:

(a) during the 2 months starting on the commencement of this item; and



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(b) in accordance with regulations:
(i) made for the purposes of that subsection; and
(ii) in force immediately before that commencement;

is taken to be given in accordance with section 8A of that Act.

## 32 Subsections 76A(3) to (5)

Repeal the subsections, substitute:

*Notification of address where records are kept*

(3) If a life company becomes registered under this Act, the company must give APRA notice, in accordance with section 8A and subsection (3A) of this section, of the address where the company's records mentioned in subsection (1) of this section are kept.

(3A) The notice under subsection (3) must be given within 28 days after the day on which the company becomes registered under this Act.

(4) If:
(a) a life company has given APRA notice under subsection (3) or this subsection; and
(b) the company begins to keep the company's records mentioned in subsection (1) at a new address; and
(c) the company is registered under this Act;

the company must give APRA notice, in accordance with section 8A and subsection (5) of this section, of the new address.

(5) The notice under subsection (4) must be given within 28 days after the day on which the company begins to keep the records at the new address.

## 33 At the end of section 76A

Add:

(7) A life company commits an offence if the company contravenes subsection (3) or (4).

Penalty: 100 penalty units.



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## 34 Application of amendments

(1) The amendments of subsection 76A(3) of the *Life Insurance Act 1995* made by this Part apply in relation to:

(a) a company becoming registered under that Act on or after the commencement of this item; or

(b) a company becoming registered under that Act within 28 days before that commencement, if the company did not notify APRA, before that commencement, of the address where the company's records mentioned in subsection 76A(1) of that Act are kept.

(2) For the purposes of subsection 76A(3) of that Act, as amended by this Part, a written notification given:

(a) during the 2 months starting on the commencement of this item; and

(b) in the form that, immediately before that commencement, was the approved form for the purposes of that subsection;

is taken to be a notice given in accordance with section 8A of that Act.

(3) The amendments of subsections 76A(4) and (5) of the *Life Insurance Act 1995* made by this Part apply in relation to:

(a) a company beginning to keep the company's records mentioned in subsection 76A(1) of that Act at a new address on or after the commencement of this item; or

(b) a company beginning to keep such records at a new address within 28 days before that commencement, if the company did not notify APRA of the new address before that commencement.

(4) For the purposes of subsection 76A(4) of that Act, as amended by this Part, a written notification given:

(a) during the 2 months starting on the commencement of this item; and

(b) in the form that, immediately before that commencement, was the approved form for the purposes of that subsection;

is taken to be a notice given in accordance with section 8A of that Act.



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## 35 Subsection 179C(1)

Omit "written notice", substitute "notice, in accordance with section 8A of this Act,".

## 36 Subsection 179C(2)

Repeal the subsection.

## 37 Paragraph 179C(6)(c)

Repeal the paragraph, substitute:

(c) the person did not give APRA notice indicating that the person proposed to make the application or appointment:

(i) at least one week before making the application or appointment; and

(ii) in accordance with section 8A.

## 38 Application of amendments

(1) The amendments of subsections 179C(1) and (2) of the *Life Insurance Act 1995* made by this Part apply in relation to a notice given on or after the commencement of this item.

(2) For the purposes of subsection 179C(1) of that Act, as amended by this Part, if, immediately before the commencement of this item, there is an approved form for a notice referred to in that subsection, then a written notice given:

(a) during the 2 months starting on that commencement; and

(b) in that form;

is taken to be given in accordance with section 8A of that Act.

(3) The amendments of paragraph 179C(6)(c) of the *Life Insurance Act 1995* made by this Part apply in relation to a notice given on or after the commencement of this item.

(4) For the purposes of paragraph 179C(6)(c) of that Act, as amended by this Part, if, immediately before the commencement of this item, there was an approved form for the purposes of that paragraph, then a written notice given:

(a) during the 2 months starting on that commencement; and

(b) in that form;



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is taken to be given in accordance with section 8A of that Act.

## 39 Section 197 (heading)

Omit "**lodged**", substitute "**given to APRA**".

## 40 Subsection 197(1)

Omit "give APRA such documents as are required by the regulations", substitute ", in accordance with subsections (2) and (3), give APRA such documents (if any) as are prescribed by regulations made for the purposes of this subsection in relation to the transfer or amalgamation".

## 41 Subsection 197(2)

Omit "lodged", substitute "given".

## 42 At the end of section 197

Add:

(3) The documents are given in accordance with this subsection if:
  (a) APRA has approved a manner for giving the documents under subsection (4), and the documents are given in the approved manner; or
  (b) APRA has not approved a manner for giving the documents under subsection (4).

(4) For the purposes of paragraph (3)(a), APRA may, in writing, approve a manner for giving the documents.

## 43 Application of amendments

The amendments of section 197 of the *Life Insurance Act 1995* made by this Part apply in relation to a transfer or amalgamation that occurs on or after the commencement of this item.

## 44 Paragraph 200(2)(a)

Omit ", or substantially in accordance with, the form prescribed by the regulations", substitute "subsection (2A)".

## 45 After subsection 200(2)

Insert:



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(2A) A memorandum of transfer referred to in paragraph (2)(a) is in accordance with this subsection if:

(a) the memorandum of transfer is in the form approved by ASIC under subsection (2B); and

(b) any other requirements set out in regulations made for the purposes of this paragraph in relation to the memorandum of transfer are satisfied.

(2B) For the purposes of paragraph (2A)(a), ASIC must approve, in writing, the form of a memorandum of transfer referred to in paragraph (2)(a).

## 46 Application of amendments

(1) The amendments of section 200 of the *Life Insurance Act 1995* made by this Part apply in relation to a memorandum registered under paragraph 200(2)(d) of that Act on or after the commencement of this item.

(2) For the purposes of paragraph 200(2)(a) of that Act, as amended by this Part, a written memorandum of transfer that:

(a) is registered under paragraph 200(2)(d) of that Act during the 2 months starting on the commencement of this item; and

(b) is in the form that, immediately before that commencement, was prescribed for the purposes of paragraph 200(2)(a) of that Act;

is taken to be in accordance with subsection 200(2A) of that Act.

## 47 Subsection 203(1)

Omit "written notice", substitute "notice, in accordance with subsection (2),".

## 48 Subsections 203(2) and (3)

Repeal the subsections, substitute:

(2) A notice referred to in subsection (1) is given in accordance with this subsection if the notice:

(a) is given:

(i) if ASIC has approved a manner for giving the notice under subsection (3)—in the approved manner; or



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(ii) otherwise—in writing; and

(b) if ASIC has approved a form for giving the notice under subsection (3):

(i) is given in the approved form; and

(ii) includes the information required by the form; and

(iii) is accompanied by the documents (if any) required by the form; and

(c) includes the information (if any) prescribed by regulations made for the purposes of this paragraph in relation to the notice; and

(d) is accompanied by the documents (if any) prescribed by regulations made for the purposes of this paragraph in relation to the notice.

(3) For the purposes of paragraph (2)(a) or (b), ASIC may, in writing, approve a manner or form for giving a notice referred to in subsection (1).

(3A) Without limiting subsection (3), a form approved under that subsection may be:

(a) the form of a statutory declaration; or

(b) a form that requires a matter to be verified by a statutory declaration.

*Life company may record name of new owner*

## 49 Application of amendments

(1) The amendments of section 203 of the *Life Insurance Act 1995* made by this Part apply in relation to a notice given on or after the commencement of this item.

(2) For the purposes of subsection 203(1) of that Act, as amended by this Part, a written notice given:

(a) during the 2 months starting on the commencement of this item; and

(b) in accordance with regulations:

(i) made for the purposes of subsection 203(2) of that Act; and

(ii) in force immediately before that commencement;



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is taken to be given in accordance with subsection 203(2) of that Act as amended by this Part.

## 50 Subsections 216(1) and (4)

Omit "the form prescribed by the regulations", substitute "accordance with subsection (6A)".

## 51 After subsection 216(6)

Insert:

(6A) A statement referred to in subsection (1) or (4) is given in accordance with this subsection if the statement:

(a) is given in writing; and

(b) if ASIC has approved a form for giving the statement under subsection (6B):

(i) is given in the approved form; and

(ii) includes the information required by the form; and

(ii) is accompanied by the documents (if any) required by the form; and

(c) includes the information (if any) prescribed by regulations made for the purposes of this paragraph in relation to the statement; and

(d) is accompanied by the documents (if any) prescribed by regulations made for the purposes of this paragraph in relation to the statement.

(6B) For the purposes of paragraph (6A)(b), ASIC may, in writing, approve a form for giving a statement referred to in subsection (1) or (4).

(6C) Without limiting subsection (6B), a form approved under that subsection may be:

(a) the form of a statutory declaration; or

(b) a form that requires a matter to be verified by a statutory declaration.



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## 52 Application of amendments

(1) The amendments of section 216 of the *Life Insurance Act 1995* made by this Part apply in relation to a statement given on or after the commencement of this item.

(2) For the purposes of subsection 216(1) or (4) of that Act, as amended by this Part, a written statement given:

(a) during the 2 months starting on the commencement of this item; and

(b) in the form that, immediately before that commencement, was prescribed for the purposes of that subsection;

is taken to be given in accordance with subsection 216(6A) of that Act.

## 53 Schedule (definition of *approved form*)

Repeal the definition.



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# Part 3—Friendly societies

## Division 1—Main amendments

### *Life Insurance Act 1995*

#### 54 Paragraph 16A(4)(c)

Repeal the paragraph, substitute:

(c) the modifications relating to financial management set out in Division 5; and

(d) the modifications relating to policies set out in Division 6; and

(e) any other modifications set out in Division 7 or in regulations for the purposes of section 16ZC.

#### 55 After section 16G

Insert:

**16GA Modification of section 30**

Section 30 has effect in relation to a friendly society as if paragraph 30(f) were omitted and the following paragraph were substituted:

(f) surpluses in an approved benefit fund may only be distributed in accordance with section 56.

#### 56 After section 16H

Insert:

**16HA Modification of section 35**

(1) Subsection 35(1) does not apply in relation to a friendly society.

(2) Subsection 35(2) has effect in relation to a friendly society as if the reference in that subsection to a policy document were a reference to approved benefit fund rules.



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(3) Subsections 35(3), (4) and (5) do not apply in relation to a friendly society.

### 16HB Modification of section 36

Paragraph 36(b) does not apply in relation to a friendly society.

## 57 At the end of Subdivision 1 of Division 4 of Part 2A

Add:

### 16KA Other modifications of Part 4

Part 4 applies to a friendly society subject to the modifications set out in Part 1 of Schedule 2.

## 58 After Division 4 of Part 2A

Insert:

# Division 5—Modified operation of provisions relating to financial management

### 16ZAA Modification of Part 6

Part 6 applies to a friendly society subject to the modifications set out in Part 2 of Schedule 2.

## 59 Division 5 of Part 2A (heading)

Repeal the heading, substitute:

# Division 6—Modified operation of provisions relating to policies

## 60 Before section 16ZA

Insert:

### 16ZAB Modification of section 198

Subsection 198(1) has effect in relation to a friendly society as if the reference in that subsection to a policy document were omitted.



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## 61 After section 16ZA

Insert:

### 16ZAAA Modification of section 201

Paragraph 201(1)(b) has effect in relation to a friendly society as if the reference in that paragraph to endorsement on the policy were omitted.

### 16ZAAB Modification of section 213

(1) Subsection 213(2) has effect in relation to a friendly society as if all the words in that subsection after paragraph (b) were omitted and the following words substituted:

the friendly society may register the applicant as the owner of the policy, provided that the approved benefit fund rules allow for registration in the circumstances mentioned in paragraph (1)(a) and that the requirements of the rules are followed.

(2) Subsection 213(3) has effect in relation to a friendly society as if the words "The company may endorse the policy" in that subsection were omitted and the words "However, the friendly society may register the applicant" were substituted.

### 16ZAAC Modification of Division 7 of Part 10

Division 7 of Part 10 does not apply in relation to a friendly society.

### 16ZAAD Modification of section 226

Section 226 of the Act has effect in relation to a friendly society as if subsection (1) of that section were omitted and the following subsections substituted:

(1) A friendly society must keep a register of members for each approved benefit fund of the society.

(1A) The register must include:

(a) the name and address of each member of the approved benefit fund; and



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(b) the date of each member's admission to membership; and
(c) for each membership terminated—the date and circumstances of the termination.

(1B) The register must be kept in parts so that the information for a member living in a particular State or Territory is kept in a part of the register for that State or Territory.

### 16ZAAE Modification of section 227

Section 227 does not apply in relation to a friendly society.

### 16ZAAF Modification of section 229

Subsection 229(2) does not apply in relation to a friendly society.

## Division 7—Other modifications

### 16ZAAG Modification of section 242

Section 242 does not apply in relation to a friendly society.

### 62 At the end of the Act

Add:

# Schedule 2—Modifications relating to friendly societies

Note: See sections 16KA and 16ZAA.

## Part 1—Modification of Part 4 of this Act

### 1 Modification of Part 4 of this Act

Part 4 of this Act has effect in relation to a friendly society as if Divisions 5 and 6 of that Part were omitted and the following Division substituted:



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## Division 6—Distribution of surplus in approved benefit fund

### 56 Distribution of surplus

(1) If the appointed actuary of a friendly society advises the society, in writing, that there is a surplus in an approved benefit fund of the society, the society may, if the rules of the approved benefit fund so provide, do one or more of the following:

(a) pay, apply or allocate all or part of the surplus to the members of the approved benefit fund;

(b) transfer all or part of the surplus to another approved benefit fund of the society;

(c) transfer all or part of the surplus to the management fund of the society (within the meaning of subsection 45(5)).

Note: For subsection 45(5), see section 16K.

(2) If the surplus includes an asset other than money, the value of the asset is the fair value of the asset determined in accordance with subsection 45(3).

(3) A distribution under subsection (1) must comply with any applicable requirements in the prudential standards.

# Part 2—Modification of Part 6 of this Act

### 2 Sections 75 and 76 of this Act

Part 6 of this Act has effect in relation to a friendly society as if sections 75 and 76 were omitted and the following section substituted:

### 75 Financial records—friendly societies

A friendly society must keep such records of the income and outgoings of:

(a) the management fund of the society (within the meaning of subsection 45(5)); and

(b) each approved benefit fund of the society;



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as will record properly the affairs and transactions of the society in respect of each fund.

Note: For subsection 45(5), see section 16K of this Act.

## Division 2—Consequential amendments

### *Life Insurance Act 1995*

#### 63 Subsection 7(2) (note)

Omit "the Schedule", substitute "Schedule 1".

#### 64 Subsection 8(1)

Omit "the Schedule", substitute "Schedule 1".

#### 65 Subsection 16F(3) (paragraphs (b) and (c) of note 2)

Omit "the Schedule", substitute "Schedule 1".

#### 66 Subsection 179AQ(1) (note)

Omit "the Schedule", substitute "Schedule 1".

#### 67 Schedule (heading)

After "**Schedule**", insert "**1**".



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# Part 4—Statutory funds of life companies

## *Life Insurance Act 1995*

### 68 After paragraph 38(3)(a)

Insert:

(aa) in accordance with section 38A or 38B; or

### 69 After section 38

Insert:

### 38A Charges relating to derivatives

(1) For the purposes of paragraph 38(3)(aa), a life company may charge an asset of a statutory fund if:

(a) the charge complies with subsection (2), (3) or (4) of this section in relation to:

(i) a derivative to which the life company is a party; or

(ii) a derivative to which a person (other than the life company) is a party on behalf of, on the instructions of, on account of, or for the benefit of, the life company; or

(iii) in the case of subsection (3)—a derivative that relates to a derivative to which subparagraph (i) or (ii) of this paragraph applies; and

(b) the charge relates to an investment; and

(c) the life company has a risk management statement that sets out:

(i) policies for the use of derivatives that include an analysis of the risks associated with the use of derivatives within the investment strategy of the company; and

(ii) controls on the use of derivatives that take into consideration the expertise of staff; and

(iii) compliance processes to ensure that the controls are effective (for example, reporting procedures, internal and external audits and staff management procedures); and



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(d) the investment to which the charge relates is made in accordance with the life company's risk management statement.

*Charges given to comply with rules and laws*

(2) The charge complies with this subsection in relation to a derivative if the charge is given for the purposes of complying with a requirement that is:

(a) a requirement to secure the performance of an obligation in relation to the derivative; and

(b) a requirement under:

(i) rules governing the operation of an approved body; or

(ii) a law of the Commonwealth, a State, a Territory or a foreign country (including a part of a foreign country) that applies to dealings in the derivative.

*Charges given to agents etc.*

(3) The charge complies with this subsection in relation to a derivative if:

(a) the charge is given in favour of a person (the ***agent***) who:

(i) is a party to the derivative on behalf of, on the instructions of, on account of, or for the benefit of, the life company; or

(ii) enters into the derivative on behalf of, on the instructions of, on account of, or for the benefit of, the life company; and

(b) the agent is obliged under either of the following to keep the property of the life company separate from the property of the agent:

(i) rules governing the operation of an approved body;

(ii) a law of the Commonwealth, a State, a Territory or a foreign country (including a part of a foreign country) that applies to dealings in the derivative; and

(c) the agent is:

(i) obliged; or

(ii) but for a netting-off, would be obliged;



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to transfer property to another entity in relation to the derivative if particular circumstances arise; and

(d) the charge is given for the purposes of securing the performance of an obligation in relation to the derivative.

*Charges over financial property*

(4) The charge complies with this subsection in relation to a derivative if:

(a) the asset over which the charge is given is financial property; and

(b) the charge secures any of the following obligations:

(i) an obligation of the life company that relates to the derivative;

(ii) an obligation of the life company to pay interest on an obligation covered by subparagraph (i) of this paragraph;

(iii) an obligation of the life company to pay costs and expenses incurred in connection with enforcing a charge given in respect of an obligation covered by subparagraph (i) or (ii) of this paragraph; and

(c) the financial property is transferred or otherwise dealt with so as to be in the possession or under the control of:

(i) the secured person; or

(ii) another person (who is not the life company), on behalf of the secured person, under the terms of an arrangement evidenced in writing.

(5) For the purposes of paragraph (4)(c), and subject to subsection (7), financial property is taken not to be in the possession or under the control of a person mentioned in that paragraph if, under the charge mentioned in paragraph (4)(a), the life company is free to deal with the financial property in the ordinary course of business until the person's interest in the financial property becomes fixed and enforceable.

(6) For the purposes of paragraph (4)(c), and subject to subsection (5), financial property is taken to be in the possession or under the control of a person if:

(a) both:



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(i) there is an issuer of the financial property; and
(ii) the person is registered by, or on behalf of, the issuer as the registered owner of the financial property; or

(b) both:
(i) the financial property is intermediated financial property in relation to an account; and
(ii) the person is the person in whose name the intermediary maintains the account.

Note: For the account referred to in paragraph (b) of this subsection, see the definition of ***intermediated financial property*** in Schedule 1 to this Act and paragraph (h) of the definition of ***financial property*** in section 5 of the *Payment Systems and Netting Act 1998*.

(7) For the purposes of paragraph (4)(c), financial property is taken to be in the possession or under the control of the secured person mentioned in that paragraph if:
(a) the financial property is intermediated financial property in relation to an account; and
(b) the intermediary is not the life company (but may be the secured person or any other person); and
(c) there is an agreement in force between the intermediary and one or more other persons, one of which is:
(i) the secured person; or
(ii) the life company; and
(d) the agreement has one or more of the following effects:
(i) the person in whose name the intermediary maintains the account is not able to transfer or otherwise deal with the financial property;
(ii) the intermediary must not comply with instructions given by the life company in relation to the financial property without seeking the consent of the secured person (or a person who has agreed to act on the instructions of the secured person);
(iii) the intermediary must comply, or must comply in one or more specified circumstances, with instructions (including instructions to debit the account) given by the secured person in relation to the intermediated financial property without seeking the consent of the life



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company (or any person who has agreed to act on the instructions of the life company).

Note: For the account referred to in this subsection, see the definition of ***intermediated financial property*** in Schedule 1 to this Act and paragraph (h) of the definition of ***financial property*** in section 5 of the *Payment Systems and Netting Act 1998*.

(8) Subsections (6) and (7) do not limit paragraph (4)(c).

(9) The fact that the life company retains a right of one or more of the following kinds does not of itself stop paragraph (4)(c) from applying:

(a) a right to receive and withdraw income in relation to the financial property;

(b) a right to receive notices in relation to the financial property;

(c) a right to vote in relation to the financial property;

(d) a right to substitute other financial property that the parties agree is of equivalent value for the financial property;

(e) a right to withdraw excess financial property;

(f) a right to determine the value of financial property.

### 38B Friendly societies mortgaging and charging assets of approved benefit funds

For the purposes of paragraph 38(3)(aa), a friendly society may (subject to subsection 38(8)) mortgage or charge an asset of an approved benefit fund for the purposes of advantaging the approved benefit fund if the approved benefit fund rules of the friendly society provide that the friendly society may mortgage or charge the asset.

Note: Subsection 38(8) provides that section 38 does not authorise a friendly society to mortgage or charge assets of an approved benefit fund otherwise than as provided by the approved benefit fund rules. For subsection 38(8), see section 16I.

## 70 Subsection 40(1)

Omit "for a purpose of the kind referred to in paragraph 38(3)(a) or (c)", substitute "as mentioned in paragraph 38(3)(a), (aa) or (c)".



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## 71 After paragraph 43(3)(c)

Insert:

(ca) a life company must not contravene subsection 43A(1) or (4);

## 72 Subsections 43(4) and (5)

After "paragraph (3)(c)", insert ", (ca)".

## 73 After section 43

Insert:

### 43A Investment of statutory funds—investment in subsidiaries of life company

*No investment in subsidiaries if less than half of investment in subsidiaries is from statutory funds etc.*

(1) For the purposes of paragraph 43(3)(ca), a life company contravenes this subsection at all times at which the following is true in relation to a subsidiary of the life company:

$$\text{Funds investment in subsidiary} < \frac{\text{Total company investment in subsidiary}}{2}$$

where:

***funds investment in subsidiary*** means the total value of the assets of the following funds invested in the subsidiary:

(a) if the life company is not an eligible foreign life insurance company—the statutory funds of the life company;

(b) if the life company is an eligible foreign life insurance company:

(i) the statutory funds of the life company; and

(ii) any other fund approved under subsection (2) in relation to the eligible foreign life company.

Note: For ***value***, see Schedule 1.

***total company investment in subsidiary*** means the total value of the assets of the life company invested in the subsidiary (including



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the value of any assets of statutory funds of the life company invested in the subsidiary).

(2) For the purposes of subparagraph (b)(ii) of the definition of ***funds investment in subsidiary*** in subsection (1), APRA may, in writing, approve a fund in relation to an eligible foreign life insurance company (whether or not the fund is a statutory fund or other fund of the eligible foreign life insurance company).

(3) If APRA approves a fund, or refuses to approve a fund, in relation to an eligible life insurance company under subsection (2), APRA must give the eligible foreign life insurance company written notice of APRA's decision.

*No investment in subsidiaries that invest in bodies corporate that are related to life company*

(4) For the purposes of paragraph 43(3)(ca), a life company contravenes this subsection at all times at which:
  (a) an asset of a statutory fund of the life company is invested in a subsidiary of the life company; and
  (b) subsection (5) of this section applies to that subsidiary.

(5) This subsection applies to a subsidiary of the life company if:
  (a) both:
    (i) any of the assets of the subsidiary are currently invested in a body corporate, trust or partnership; and
    (ii) subsection (6) or (7) of this section applies to that body corporate, trust or partnership; or
  (b) both:
    (i) any of the assets of the subsidiary are currently invested in another subsidiary of the life company; and
    (ii) this subsection applies to that other subsidiary.

(6) This subsection applies to a body corporate if:
  (a) the body corporate is not a subsidiary of the life company; and
  (b) any of the following subparagraphs apply:
    (i) the body corporate is related to the life company;



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(ii) any of the assets of the body corporate are currently invested in a subsidiary of the life company, and subsection (5) applies to that subsidiary;

(iii) any of the assets of the body corporate are currently invested in another body corporate, and this subsection applies to that other body corporate;

(iv) any of the assets of the body corporate are currently invested in a trust or partnership, and subsection (7) applies to that trust or partnership.

(7) This subsection applies to a trust or partnership if:

(a) both:

(i) any of the assets of the trust or partnership are currently invested in a subsidiary of the life company; and

(ii) subsection (5) applies to that subsidiary; or

(b) both:

(i) any of the assets of the trust or partnership are currently invested in a body corporate; and

(ii) subsection (6) applies to that body corporate; or

(c) both:

(i) any of the assets of the trust or partnership are currently invested in another trust or partnership; and

(ii) this subsection applies to that other trust or partnership.

## 74 Transitional provision

An approval that:

(a) was given under sub-subparagraph 4.01A(a)(ii)(B) of the *Life Insurance Regulations 1995*; and

(b) was in force immediately before the commencement of this item;

has effect, from that commencement, as if it had been given under subsection 43A(2) of the *Life Insurance Act 1995*, as amended by this Part.

## 75 Subsection 236(1) (after paragraph (hc) of the definition of *reviewable decision*)

Insert:

(hca) a refusal to give an approval under subsection 43A(2);



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## 76 Subsection 236(1) (at the end of the definition of *reviewable decision*)

Add:

; (zt) a decision that:

(i) is made under the regulations; and

(ii) is prescribed by the regulations for the purposes of this subparagraph.

## 77 Schedule

Insert:

***approved body*** has the meaning given by the regulations.

***derivative***:

(a) subject to paragraph (b), means any of the following:

(i) a derivative (within the meaning of Chapter 7 of the *Corporations Act 2001*);

(ii) a foreign exchange contract (within the meaning of that Chapter);

(iii) an arrangement that is a forward, swap or option, or any combination of those things, in relation to one or more commodities; and

(b) does not include anything prescribed by the regulations for the purposes of this paragraph.

***financial property*** has the same meaning as in the *Payment Systems and Netting Act 1998*.

***intermediary*** of intermediated financial property has the same meaning as in paragraph (h) of the definition of ***financial property*** in section 5 of the *Payment Systems and Netting Act 1998*.

***intermediated financial property*** has the same meaning as in the *Payment Systems and Netting Act 1998*.



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# Part 5—References to Treasurer

## *Insurance Act 1973*

### 78 Subsection 3(1) (paragraph (c) of the definition of *securities exchange*)

Omit "Treasurer", substitute "Minister".

### 79 Subsections 3(2) and 8(3)

Omit "Treasurer", substitute "Minister".

### 80 Section 62ZOZA (heading)

Omit "**Treasurer**", substitute "**Minister**".

### 81 Subsection 62ZOZA(1) (heading)

Omit "*Treasurer*", substitute "*Minister*".

### 82 Subsection 62ZOZA(1)

Omit "Treasurer" (wherever occurring), substitute "Minister".

### 83 Subsection 62ZOZA(2)

Omit "Treasurer", substitute "Minister".

### 84 Subsection 106(3) (heading)

Omit "*Treasurer*", substitute "*Minister*".

### 85 Subsection 106(3)

Omit "Treasurer", substitute "Minister".

### 86 Subsection 106(4) (heading)

Omit "*Treasurer*", substitute "*Minister*".

### 87 Subsection 106(4)

Omit "Treasurer", substitute "Minister".



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### 88 Subsection 106(5) (heading)

Omit "*Treasurer*", substitute "*Minister*".

### 89 Subsection 106(5)

Omit "Treasurer" (wherever occurring), substitute "Minister".

## *Insurance Contracts Act 1984*

### 90 Section 11A

Omit "Treasurer", substitute "Minister".

## *Life Insurance Act 1995*

### 91 Section 179AZA (heading)

Omit "**Treasurer**", substitute "**Minister**".

### 92 Subsection 179AZA(1) (heading)

Omit "*Treasurer*", substitute "*Minister*".

### 93 Subsection 179AZA(1)

Omit "Treasurer" (wherever occurring), substitute "Minister".

### 94 Subsection 179AZA(2)

Omit "Treasurer", substitute "Minister".

### 95 Subsections 216(7) and (7A)

Omit "Treasurer", substitute "Minister".

### 96 Subsection 216(14B)

Omit "Treasurer" (first occurring), substitute "Minister".

### 97 Subsection 216(14B)

Omit "Treasurer's", substitute "Minister's".

### 98 Paragraph 216(14B)(a)

Omit "Treasurer", substitute "Minister".



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### 99 Subsection 230D(3) (heading)

Omit "*Treasurer*", substitute "*Minister*".

### 100 Subsection 230D(3)

Omit "Treasurer", substitute "Minister".

### 101 Subsection 230D(4) (heading)

Omit "*Treasurer*", substitute "*Minister*".

### 102 Subsection 230D(4)

Omit "Treasurer", substitute "Minister".

### 103 Subsection 230D(5) (heading)

Omit "*Treasurer*", substitute "*Minister*".

### 104 Subsection 230D(5)

Omit "Treasurer" (wherever occurring), substitute "Minister".



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# Part 6—Other amendments

## *Insurance Acquisitions and Takeovers Act 1991*

### 105 Paragraphs 44(1)(c) and (d)

Omit "time", substitute "period".

### 106 Subsection 44(2)

Omit "time" (wherever occurring), substitute "period".

### 107 After subsection 44(2)

Insert:

(2A) Subsection (2) does not limit the application of subsection 33(3) of the *Acts Interpretation Act 1901* in relation to a divestment order.

### 108 Subsection 58(1)

Omit "time", substitute "period".

### 109 After subsection 58(1)

Insert:

(2) Before the end of the period specified in a divestment order applicable to a person (including that period as extended under this subsection), the Minister may, by notifiable instrument, vary the order by extending or further extending that period.

(2A) Subsection (2) does not limit the application of subsection 33(3) of the *Acts Interpretation Act 1901* in relation to a divestment order.

### 110 Application of amendments

Subsection 58(2) of the *Insurance Acquisitions and Takeovers Act 1991* applies in relation to:

(a) a divestment order made before the commencement of this item, if:

(i) the divestment order was not revoked before that commencement; and



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(ii) the time specified in the divestment order did not end before that commencement; or

(b) a divestment order made on or after that commencement.

### 111 Paragraphs 73(1)(a), (b) and (c)

Omit "time", substitute "period".

## *Insurance Act 1973*

### 112 At the end of section 3A

Add:

(3) Without limiting subsection (1):

(a) the regulations may specify a contract of insurance, a kind of contract of insurance, or circumstances, by reference to:

(i) a decision of APRA or a person; or

(ii) a certificate or other document issued by APRA or a person; and

(b) if the regulations do so—the regulations may impose obligations on APRA or the person in relation to the decision, certificate or other document.

### 113 After section 28

Insert:

#### 28A Commencement and cessation of insurance business

(1) A person commits an offence if:

(a) the person is a general insurer; and

(b) the person becomes aware that the person has started to carry on insurance business in Australia; and

(c) the person does not tell APRA of the date on which the person started to carry on insurance business in Australia:

(i) in writing; and

(ii) within 7 days after the date on which the person becomes aware that the person had started to carry on insurance business in Australia.



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Penalty: 50 penalty units.

(2) A person commits an offence if:

(a) the person is a general insurer; and

(b) the person becomes aware that the person has ceased to carry on insurance business in Australia; and

(c) the person does not tell APRA of the date on which the person ceased to carry on insurance business in Australia:

(i) in writing; and

(ii) within 7 days after the date on which the person becomes aware that the person has ceased to carry on insurance business in Australia.

Penalty: 50 penalty units.

## 114 Application of amendments

(1) Subsection 28A(1) of the *Insurance Act 1973* applies in relation to a person starting to carry on insurance business in Australia on a particular date if the date occurs:

(a) on or after the commencement of this item; or

(b) within 7 days before that commencement, if the person did not tell APRA of that date under subregulation 7(1) of the *Insurance Regulations 2002* before that commencement.

(2) Subsection 28A(2) of the *Insurance Act 1973* applies in relation to a person ceasing to carry on insurance business in Australia on a particular date if the date occurs:

(a) on or after the commencement of this item; or

(b) within 7 days before that commencement, if the person did not tell APRA of that date under subregulation 7(2) of the *Insurance Regulations 2002* before that commencement.

## 115 Section 123

Repeal the section.



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## *Life Insurance Act 1995*

### 116 At the end of section 33

Add:

(3) The notice must be given on or before:

(a) the time prescribed in relation to the notice by regulations made for the purposes of this paragraph; or

(b) if no time is prescribed—the end of 14 days after the date the fund was established.

### 117 Application of amendments

Subsection 33(3) of the *Life Insurance Act 1995* applies in relation to notice of the establishment of a statutory fund if the date on which the fund is established occurs on or after the commencement of this item.

### 118 Subsection 35(6)

Repeal the subsection.

### 119 Paragraph 191(2)(a)

Omit "any actuarial report", substitute "each actuarial report (if any)".

### 120 At the end of paragraph 191(2)(c)

Add "in accordance with subsection (2E)".

### 121 At the end of subsection 191(2)

Add:

; and (d) a copy of the scheme has been published in accordance with subsection (2F) for 15 days; and

(e) any other requirements set out in regulations made for the purposes of this paragraph are satisfied.

### 122 After subsection 191(2A)(b)

Insert:

(ba) the notice is published after all of the documents referred to in paragraph (2)(a) have been given to APRA; and



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## 123 Before subsection 191(3)

Insert:

(2E) An approved summary referred to in paragraph (2)(c) is given in accordance with this subsection if:

(a) it is given after all of the documents referred to in paragraph (2)(a) have been given to APRA; and

(b) it is given at the same time as, or after, the notice referred to in paragraph (2)(b) is published.

(2F) A copy referred to in paragraph (2)(d) is published in accordance with this subsection if the applicant publishes the copy in a manner that results in the copy being accessible to the public and reasonably prominent.

## 124 Application of amendments

(1) Subject to subitem (2), the amendments of section 191 of the *Life Insurance Act 1995* made by this Part apply in relation to an application made on or after the commencement of this item.

(2) Paragraph 191(2A)(ba) of the *Life Insurance Act 1995*, as inserted by this Part, applies in relation to an application made on or after the commencement of that paragraph.

## 125 Subsection 210(1)

Omit "A policy is not liable to be forfeited", substitute "A life company must not forfeit a policy".

## 126 Subsection 210(5)

Omit "may only forfeit a policy because of the non-payment of a premium if", substitute "must not forfeit a policy because of the non-payment of a premium unless".

## 127 At the end of section 210

Add:



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*Increases in sum insured etc. at request of policy owner*

(6) Subsections (7) to (9) apply if an ordinary policy is varied at the request of the policy owner by increasing:

(a) both the amount of the sum insured and the amount of each premium; or

(b) if additional amounts of premium are paid—the amount of the sum insured.

(7) Subject to subsections (8) and (9), subsections (1) to (4) apply as follows:

(a) the ordinary policy is taken not to have been varied as mentioned in subsection (6);

(b) a separate policy (the ***additional policy***) is taken to have been effected on the date of the variation, in accordance with the following:

(i) the sum insured under the additional policy is the amount of the increase in the sum insured;

(ii) the period for which premiums have been paid under the additional policy starts on the date of the variation;

(c) any additional amounts of premium paid as mentioned in paragraph (6)(b) are taken to have been paid under the additional policy;

(d) to the extent that a premium that is paid or payable under the ordinary policy (as varied) on or after the date of the variation exceeds what would have been the amount payable apart from the variation, the premium is taken to have been paid or payable under the additional policy.

(8) If, in relation to a premium under the ordinary policy (as varied), subsection (1) (as affected by subsection (7)):

(a) provides that the life company must not forfeit the ordinary policy only because of the non-payment of some or all of the premium; but

(b) does not provide that the life company must not forfeit the additional policy only because of the non-payment of the premium (or a part of the premium that, because of paragraph (7)(d), is taken to be payable under the additional policy);

then:



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(c) subsection (1) does not prevent the life company from forfeiting the ordinary policy (as varied) to the extent of the variation, because of non-payment of the premium; and

(d) subsection (5) applies in relation to such a forfeiture as if the reference in that subsection to forfeiting the policy were a reference to forfeiting the policy to the extent of the variation.

Note: The effect of subsection (7) and paragraph (8)(c) is that subsection (1) might protect the original benefits under the policy from forfeiture even if the increase, represented by the additional policy, is liable to forfeiture.

(9) Despite subsection (4):

(a) an overdue premium, that, under subsection (7), is taken to be a premium under the additional policy; and

(b) any unpaid interest charged on the overdue premium;

are taken, for the purposes of a provision of this Act other than this section, to be a debt owing under the ordinary policy (as varied).

## 128 After section 216

Insert:

### 216AA Publication etc. of information in unclaimed money register

(1) ASIC may authorise information in a register kept by ASIC under subsection 216(13) to be:

(a) made available to the public (whether or not on the payment of a fee) in such manner as ASIC determines; or

(b) made available to a particular person (whether or not on the payment of a fee) in such manner as ASIC determines.

The authorisation may extend to so much of the information in the register as ASIC considers appropriate.

*Tax file numbers etc. must not be published or made available*

(2) Subsection (1) does not apply to:

(a) tax file numbers; or

(b) information prescribed by the regulations for the purposes of this paragraph.



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## 129 At the end of subsection 216A(3)

Add "or 216AA".

## 130 Subsection 246(1)

Omit "Subject to subsection (3), the", substitute "The".

## 131 Subsection 246(1)

Omit "or under subsection (2) of this section".

## 132 Subsections 246(2) and (3)

Repeal the subsections.

## 133 Application of amendments

The amendments of section 246 of the *Life Insurance Act 1995* made by this Part do not apply in relation to a nomination made under subsection 246(2) of that Act before the commencement of this item.

## 134 At the end of Part 12

Add:

### 265 Transitional provision—industrial policies

(1) This section applies to an ordinary policy that:

(a) was in existence immediately before the commencement of this Act; and

(b) was an industrial policy within the meaning of subsection 4(1) of the *Life Insurance Act 1945*, as in force immediately before that commencement.

(2) Section 210 of this Act does not apply to the policy.

(3) Despite the repeal of section 101 of the *Life Insurance Act 1945* by the *Life Insurance (Consequential Amendments and Repeals) Act 1995*, that section, as in force immediately before that repeal, continues to apply to the policy.

## 135 Schedule (after paragraph (a) of the definition of *superannuation policy*)

Insert:



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(aa) a life policy that is owned by the trustee of:

(i) an approved deposit fund (within the meaning of the *Superannuation Industry (Supervision) Act 1993*); or

(ii) a pooled superannuation trust (within the meaning of that Act); or

(ab) an RSA (within the meaning of the *Retirement Savings Accounts Act 1997*); or

## *Terrorism and Cyclone Insurance Act 2003*

### 136 Section 3 (definition of *unauthorised foreign insurer*)

Repeal the definition, substitute:

***unauthorised foreign insurer*** has the meaning prescribed by the regulations.



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# Part 7—Amendments consequential on Schedule 2

## *Life Insurance Act 1995*

### 137 Schedule 1 (subparagraph (a)(ii) of the definition of *derivative*)

Omit "Chapter", substitute "Act".



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# Schedule 5—Rationalisation of ending ASIC instruments

## Part 1—Acquisitions of relevant interests in voting shares

### *Corporations Act 2001*

#### 1 Section 9 (definition of *convertible securities*)

Repeal the definition, substitute:

> ***convertible securities***: securities are convertible into another class of securities if the holder may, by the exercise of rights attached to those securities:
>
> (a) have the other class of securities issued to them; or
>
> (b) have the securities transform into securities of that other class.
>
> An option may be a convertible security even if it is non-renounceable.

#### 2 Section 9 (definition of *relevant interest*)

Omit "sections 608 and 609", substitute "sections 608 to 609B".

#### 3 Section 9 (subparagraph (a)(ii) of the definition of *substantial holding*)

Repeal the subparagraph, substitute:

> (ii) would have a relevant interest but for subsection 609(6) (market traded options and derivatives), 609(7) (conditional agreements) or 609(9B) (securities escrowed under listing rules) or section 609B (securities subject to escrow agreement in connection with initial public offer etc.);

#### 4 Paragraphs 12(2)(b) and (c)

Before "the second person", insert "subject to subsection (2A),".



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## 5 After subsection 12(2)

Insert:

(2A) For the purposes of paragraphs (2)(b) and (c), the second person is not an associate of the primary person in relation to a designated body merely because:

(a) they have entered or propose to enter into a relevant agreement; and

(b) one of them has or will have a right under the relevant agreement (whether the right is enforceable presently or in the future and whether or not on the fulfilment of a condition) to dispose of securities in the designated body or control the exercise of a power to dispose of the securities.

## 6 Subsection 606(1) (note 2)

Omit "Sections 608 and 609", substitute "Sections 608 to 609B".

## 7 Subsection 609(1)

Repeal the subsection, substitute:

*Money lending and financial accommodation*

(1) A person does not have a relevant interest in securities merely because of a security interest taken or acquired by the person if:

(a) the security interest is taken or acquired:

(i) in the ordinary course of the person's business of the provision of financial accommodation by any means and on ordinary commercial terms; or

(ii) for the benefit of one or more other persons in relation to financial accommodation provided by them in the ordinary course of their business of the provision of financial accommodation by any means and on ordinary commercial terms; and

(b) the person whose property is subject to the security interest is not an associate of any other person mentioned in this subsection.

In this subsection, a reference to a security interest includes a reference to a negative pledge.

Note: Sections 11 to 17 define ***associate***.



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## 8 After subsection 609(3)

Insert:

*Disposal of securities by financial services licensees*

(3A) A financial services licensee does not have a relevant interest in securities merely because, in the ordinary course of the licensee's financial services business, a person specifically instructs the licensee to:

(a) dispose of the securities on behalf of the person; or

(b) enter into a position on behalf of the person under which the licensee has an obligation to make delivery of the securities by dealing in:

(i) a warrant within the meaning of the regulations; or

(ii) a financial product that, but for the product not being transferable, would be a warrant within the meaning of the regulations.

## 9 After subsection 609(9A)

Insert:

*Securities escrowed under listing rules*

(9B) A listed company does not have a relevant interest in securities merely because:

(a) those securities are restricted securities within the meaning of the listing rules of a prescribed financial market; and

(b) the company applies restrictions, in accordance with those rules, on the disposal of the securities by their holder.

(9C) The operator of a prescribed financial market does not have a relevant interest in securities merely because:

(a) those securities are restricted securities within the meaning of the listing rules of that market; and

(b) the operator has the power under those rules to control the exercise of a power to dispose of the securities.

## 10 After section 609

Insert:



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### 609A Another situation not giving rise to relevant interests—acceptance facility

*Securities the subject of an acceptance facility*

(1) A bidder for a takeover bid does not have a relevant interest in bid class securities merely because those securities are the subject of an acceptance, in relation to a facility, that is given to the operator of the facility if:

(a) the offer under the takeover bid for those securities has not been accepted; and

(b) the facility is covered by subsection (2); and

(c) in the case where bid class securities are quoted on a prescribed financial market—for every movement of at least 1% in the aggregate level of the bidder's voting power and the votes attached to bid class securities the subject of acceptances in relation to the facility, the bidder provides to the relevant market operator, by 9.30 am on the next trading day after the movement, a notice (whether accompanying a notice required to be given under section 671B or otherwise) that meets the requirements of subsection (4) of this section; and

(d) in the case where bid class securities are not quoted on a prescribed financial market—the bidder lodges with ASIC a notice that meets the requirements of subsection (4) of this section within 2 business days after the aggregate level of the bidder's voting power and the votes attached to bid class securities the subject of acceptances in relation to the facility rise or fall above or below a percentage listed in subsection 654C(1).

*Facility requirements*

(2) The facility is covered by this subsection if:

(a) it is the only facility established by the bidder in relation to bid class securities; and

(b) the operator of the facility is not the bidder or an associate of the bidder; and



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(c) the operator holds an Australian financial services licence that covers the provision of financial services of the kind necessary to operate the facility; and

(d) a participant in the facility may give the operator acceptances in relation to the facility; and

(e) the terms of the facility permit the operator to maintain custody of an acceptance in relation the facility given to the operator by a participant in the facility until:

(i) the participant withdraws the acceptance; or

(ii) any condition of a kind specified in subsection (3) that is specified in the facility is satisfied; and

(f) the terms of the facility provide that the facility:

(i) if the bid is unconditional—must be made available to all holders of bid class securities or persons on whose behalf bid class securities are held; or

(ii) otherwise—must be made available to all or specified holders of bid class securities or persons on whose behalf bid class securities are held; and

(g) in the case where bid class securities are quoted on a prescribed financial market—the terms of the facility provide that the operator of the facility must provide information about acceptances in relation to the facility to the bidder sufficiently regularly to enable the bidder to determine and disclose to the market operator every movement of at least 1% in the aggregate level of the bidder's voting power and the votes attached to securities the subject of acceptances in relation to the facility by 9.30 am on the next trading day after the movement; and

(h) in the case where bid class securities are not quoted on a prescribed financial market—the terms of the facility provide that the operator of the facility must provide information about acceptances in relation to the facility to the bidder sufficiently regularly to enable to the bidder to determine and disclose to the target any movement in the aggregate level of the bidder's voting power and the votes attached to securities the subject of acceptances in relation to the facility above or below a percentage listed in subsection 654C(1) within 2 business days after the movement; and



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(i) the terms of the facility provide that all participants in the facility participate in the facility on the same terms.

*Triggering conditions*

(3) The following conditions are specified for the purposes of subparagraph (2)(e)(ii):

(a) a condition that, no later than the time that all acceptances in relation to the facility are processed, the bidder has:

(i) declared the bid free of all conditions; or

(ii) stated that the bidder will declare the bid free of all conditions;

(b) a condition that the securities in which the bidder and its associates have a relevant interest together with the securities that are the subject of the facility have exceeded a specified percentage of securities in the bid class;

(c) a condition that the bidder has notified the operator of the facility in writing that a condition in paragraph (a) or (b) has been satisfied.

*Notice requirements*

(4) For the purposes of paragraphs (1)(c) and (d), a notice meets the requirements of this subsection if the notice:

(a) sets out the aggregate number and percentage of bid class securities:

(i) in which the bidder and its associates have a relevant interest; and

(ii) which are subject of acceptances in relation to the facility; and

(b) discloses the breakdown between the 2 categories in subparagraphs (a)(i) and (ii) of this subsection; and

(c) includes a statement setting out the preconditions for the operator of the facility releasing the acceptances and warning that the acceptances may be withdrawn by participants in the facility at any time until the preconditions are met.

*Definitions*

(5) In this section:



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***acceptance***, in relation to a facility, means an instrument that comprises:

(a) a participant in the facility's completed acceptance of a bidder's offer for bid class securities; or

(b) a participant in the facility's instructions to another person who holds bid class securities on behalf of the participant to accept a bidder's offer for bid class securities.

***participant***, in a facility, means:

(a) a holder of bid class securities who is specified in the facility; or

(b) a person who is specified in the facility and on whose behalf bid class securities are held.

### 609B Another situation not giving rise to relevant interests—securities subject to escrow agreement in connection with initial public offer etc.

*Bodies corporate*

(1) A body corporate does not have a relevant interest in securities that are its own securities (the ***escrow securities***) merely because, under an agreement entered into by the body corporate with the holder of the escrow securities (the ***escrow agreement***), the body corporate applies restrictions on the disposal of the escrow securities by the holder.

(2) However, subsection (1) applies only if:

(a) all of the following apply:

(i) the body corporate enters into the escrow agreement in connection with an offer of securities in the body corporate that are in a class of securities that are to be quoted on a prescribed financial market (the ***initial public offer***);

(ii) the escrow securities are in the same class of securities as those that are offered under the initial public offer;

(iii) the escrow agreement is covered by subsection (5); or

(b) both of the following apply:



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(i) the escrow securities are issued as consideration for the acquisition of a business under a separate agreement between the body corporate and the vendor of the business;

(ii) the escrow agreement is covered by subsection (5).

*Underwriters, lead managers and joint lead managers*

(3) A person does not have a relevant interest in the escrow securities merely because, under an agreement entered into by the person with the holder of the escrow securities in the ordinary course of the person's business as an underwriter, lead manager or joint lead manager, the person applies restrictions on the disposal of the escrow securities by the holder.

(4) However, subsection (3) applies only if:

(a) the person enters into the agreement mentioned in that subsection in connection with the initial public offer; and

(b) the escrow securities are in the same class of securities as those that are covered by the initial public offer; and

(c) the agreement mentioned in that subsection is covered by subsection (5).

*Agreement requirements*

(5) An agreement relating to the escrow securities is covered by this subsection if:

(a) the agreement does not restrict the exercise of voting rights attaching to the escrow securities; and

(b) in the case of a takeover bid (including a proportional takeover bid):

(i) the agreement allows each holder of the escrow securities to accept into the takeover bid where the holders of at least half of the bid class securities that are not subject to escrow have accepted into the bid; and

(ii) the agreement requires that the escrow securities be returned to escrow if the bid does not become unconditional; and



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(c) the agreement allows the escrow securities to be transferred or cancelled as part of a merger by way of a compromise or arrangement under Part 5.1; and

(d) the agreement terminates no later than:

(i) if the person who entered into the agreement is the body corporate mentioned in subsection (1)—2 years after the agreement is entered into; or

(ii) otherwise—1 year after the agreement is entered into; and

(e) if the agreement permits the holder to create a security interest in some or all of the escrow securities in favour of a person who does not have a relevant interest in the escrow securities because of subsection 609(1)—the agreement requires that the holder must not create a security interest in favour of the person unless the person has agreed in writing to take or acquire the security interest in the escrow securities subject to the terms of the agreement; and

(f) if the agreement permits the holder to transfer the holder's interests in the escrow securities to another person—requires that the holder must not do so if:

(i) the transfer would result in a change in the beneficial ownership of the escrow securities; or

(ii) the transfer would result in an extension in the period of the agreement; or

(iii) the transferee does not agree to be subject to the same restrictions on disposal of the escrow securities under the agreement.

## 11 After subsection 610(3)

Insert:

(3A) However, subsection (3) does not apply in relation to a subsidiary acquiring an interest in securities from its holding company with the result that the subsidiary acquires a relevant interest in particular voting shares unless:

(a) the acquisition results in an increase of another person's voting power in a designated body; and

(b) that other person is not a subsidiary of the ultimate holding company.



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## 12 Section 611 (table items 2 and 3, paragraph (d))

Repeal the paragraph, substitute:

(d) the bid is unconditional or subject only to one or both of the following:
(i) a condition that relates to the occurrence or non-occurrence of an event referred to in subsection 652C(1) or (2);
(ii) a condition that is required under subsection 625(3).

## 13 Section 611 (table item 6)

Repeal the item, substitute:

| | | |
|---|---|---|
| | **Nature of acquirer** | |
| 6 | An acquisition that results from the exercise by a person of a power, or the appointment of a receiver, or receiver and manager, under an instrument or agreement creating or giving rise to a security interest if:<br>(a) both of the following apply:<br>(i) the person's ordinary business includes the provision of financial accommodation by any means;<br>(ii) the person took or acquired the security interest in the ordinary course of their business of the provision of financial accommodation by any means and on ordinary commercial terms; or<br>(b) all of the following apply:<br>(i) the person took or acquired the security interest for the benefit of another person;<br>(ii) the person's ordinary business, or the other person's ordinary business, includes the provision of financial accommodation by any means;<br>(iii) the person took or acquired the security interest in relation to financial accommodation provided by the other person in the ordinary course of their business of the provision of financial accommodation by any means and on ordinary commercial terms.<br>In this item, a reference to a security interest includes a reference to a negative pledge. | |

## 14 Section 611 (table item 14)

Repeal the item, substitute:



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*Acquisition through listed company*

14 An acquisition that results from another acquisition of relevant interests in voting shares in a body corporate included as a primary listing in the official list of:

(a) a prescribed financial market; or

(b) a foreign body conducting a financial market that is a body approved in writing by ASIC for the purposes of this item.

## 15 Section 615 (after the heading)

Insert:

*Terms of offers relating to all foreign holders of securities*

## 16 Section 615

Before "The", insert "(1)".

## 17 At the end of section 615

Add:

*Terms of offers relating to specified foreign holders of securities*

(2) The exception in item 10 of the table in section 611 applies even though the conditions set out in the item are not satisfied in respect of foreign holders of the company's securities that are specified in the offers if, under the terms of the offers:

(a) the company must appoint a nominee for the specified foreign holders of the company's securities who is approved by ASIC; and

(b) the company must issue to the nominee:

(i) the securities that would otherwise be issued to the specified foreign holders who accept the offer; or

(ii) the right to acquire those securities; and

(c) the nominee must sell the securities, or those rights, and distribute to each of the specified foreign holders their proportion of the proceeds of the sale net of expenses.

## 18 Subsection 671B(7)

Repeal the subsection, substitute:



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*Relevant interests not excluded*

(7) For the purposes of this section, a person has a relevant interest in securities if the person would have a relevant interest in the securities but for the enactment of the following:

(a) subsection 609(6) (market traded options and derivatives);

(b) subsection 609(7) (conditional agreements);

(c) subsection 609(9B) (securities escrowed under listing rules);

(d) section 609B (securities subject to escrow agreement in connection with initial public offer etc.).



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# Part 2—Exemptions from requirement to give Financial Services Guide

## Division 1—Main amendments

### *Corporations Act 2001*

#### 19 After subsection 941C(2)

Insert:

*Dealing in financial products in ordinary course of operation of superannuation entity*

(2A) The providing entity does not have to give the client a Financial Services Guide if:

(a) the providing entity is the trustee of a superannuation entity; and

(b) the client is a member (within the meaning of the *Superannuation Industry (Supervision) Act 1993*) of the superannuation entity; and

(c) the financial service is a dealing by the trustee in financial products in the ordinary course of operation of the superannuation entity.

*Dealing in financial products in ordinary course of operation of registered scheme*

(2B) The providing entity does not have to give the client a Financial Services Guide if:

(a) the providing entity is the responsible entity of a registered scheme; and

(b) the client is a member the scheme; and

(c) the financial service is a dealing by the responsible entity in financial products in the ordinary course of operation of the scheme.



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*Dealing in financial products in ordinary course of operating the business and conducting the affairs of a CCIV*

(2C) The providing entity does not have to give the client a Financial Services Guide if:

(a) the providing entity is the corporate director of a CCIV; and

(b) the client is a member of the CCIV; and

(c) the financial service is a dealing by the corporate director in financial products in the ordinary course of operating the business and conducting the affairs of the CCIV.

### 20 In the appropriate position in Chapter 10

Insert:

# Part 10.70—Application provisions relating to Schedule 5 to the Treasury Laws Amendment (2023 Law Improvement Package No. 1) Act 2023

### 1700 Exemptions from requirement to give Financial Services Guide

Subsections 941C(2A), (2B) and (2C), as inserted by Part 2 of Schedule 5 to the *Treasury Laws Amendment (2023 Law Improvement Package No. 1) Act 2023*, apply in relation to a financial service provided on or after the commencement of that Part.

## Division 2—Consequential amendments

## *Corporations Act 2001*

### 21 Subsection 952C(1) (note)

Repeal the note.

### 22 Subsection 952C(3) (note)

Repeal the note.



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### 23 Subsection 952D(1) (note)

Repeal the note.

### 24 Subsection 952D(2) (note)

Repeal the note.

### 25 Subsection 952E(1) (note)

Repeal the note.

### 26 Subsection 952E(2) (note)

Repeal the note.

### 27 Subsection 952I(1) (note)

Repeal the note.

### 28 Subsection 952I(3) (note)

Repeal the note.

### 29 Subsection 952J(1) (note)

Repeal the note.

### 30 Section 952K (note)

Repeal the note.

## Division 3—Repeals

## *ASIC Corporations (Superannuation and Schemes: Underlying Investments) Instrument 2016/378*

### 31 The whole of the instrument

Repeal the instrument.



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# Part 3—Precontractual statements and information statements

## *National Consumer Credit Protection Act 2009*

### 32 At the end of section 16 of the National Credit Code

Add:

*Alternative ways of giving statements to debtors*

(8) The regulations may specify ways in which a credit provider may give a document to a debtor for the purposes of this section (without limiting the ways in which the credit provider may give the document to the debtor).

*Mandatory requirements relating to giving statements to debtors*

(9) The regulations may specify:
  (a) the way in which a credit provider must give a document to a debtor for the purposes of this section; or
  (b) a way in which a credit provider must not give a document to a debtor for the purposes of this section; or
  (c) other requirements relating to a credit provider giving a document to a debtor for the purposes of this section.

(10) The giving of a document by a credit provider to a debtor for the purposes of this section is to be disregarded if:
  (a) the giving of the document is not in the way (if any) specified for the purposes of paragraph (9)(a); or
  (b) the giving of the document is in a way (if any) specified for the purposes of paragraph (9)(b); or
  (c) any requirements specified for the purposes of paragraph (9)(c) in relation to the giving of the document are not satisfied.

(11) To avoid doubt, subsections (9) and (10) have effect despite section 187 (electronic transactions and documents).



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# Schedule 6—Minor and technical amendments

## Part 1—Amendments commencing day after Royal Assent

### Division 1—Definition of year of income in the Superannuation Industry (Supervision) Act 1993

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

##### 1 Subsection 10(1) (definition of *year of income*)

Repeal the definition, substitute:

***year of income*** has the same meaning as in the *Income Tax Assessment Act 1936*.

### Division 2—Measures relating to the Companies Auditors Disciplinary Board

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

##### 2 Subsection 5(1) (definition of *Deputy Chairperson*)

Repeal the definition, substitute:

***Deputy Chairperson*** means:

(a) in relation to the Disciplinary Board—the Deputy Chairperson of the Disciplinary Board; and

(b) in any other case—a Deputy Chairperson of ASIC.

##### 3 Subsection 5(1)

Insert:

***Panel Chairperson*** has the meaning given by subsection 210A(3A) (about constituting a Panel of the Disciplinary Board).



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## 4 Subsections 210A(3) to (5)

Repeal the subsections, substitute:

(3) Without limiting subsection (2), the Chairperson may constitute the Panel in a particular manner to hear matters of a specified kind, or matters that satisfy specified criteria.

(3A) The Chairperson must, under subsection (2), constitute the Panel so that one of the following members is the ***Panel Chairperson*** of the Panel:

(a) the Chairperson;

(b) the Deputy Chairperson;

(c) another member who:

(i) is enrolled as a barrister, as a solicitor, as a barrister and solicitor or as a legal practitioner of the High Court, of any federal court or of the Supreme Court of a State or Territory; and

(ii) has been so enrolled for a period of at least 5 years.

(4) The Chairperson must, under subsection (2), constitute the Panel:

(a) if the Chairperson is satisfied that it is practicable and appropriate to do so—as a 5 person Panel consisting of:

(i) the Panel Chairperson; and

(ii) 2 accounting members; and

(iii) 2 business members; or

(b) otherwise—as a 3 person Panel consisting of:

(i) the Panel Chairperson; and

(ii) 1 accounting member; and

(iii) 1 business member.

## 5 Subsection 216(7)

Repeal the subsection, substitute:

(7) A person contravenes this subsection if:

(a) the person is present at a hearing of a Panel of the Disciplinary Board; and

(b) the person is present while the hearing is taking place in private; and



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(c) a direction of the Panel under this section does not specify that the person may be present while the hearing is taking place in private; and

(d) the person is not:

(i) the Panel Chairperson; or

(ii) a member of the Panel; or

(iii) any other member of the Disciplinary Board approved by the Panel to be present while the hearing is taking place in private; or

(iv) a member of the staff of the Disciplinary Board approved by the Panel to be present while the hearing is taking place in private; or

(v) a person referred to in subsection (6).

Note: This subsection can apply while only a part of the hearing is taking place in private (see paragraph (5)(a)).

Penalty: 30 penalty units.

### 6 In the appropriate position

Insert:

# Part 41—Application provision relating to Schedule 6 to the Treasury Laws Amendment (2023 Law Improvement Package No. 1) Act 2023

### 345 Application—hearings held by a Panel of the Disciplinary Board

Subsection 216(7), as amended by Division 2 of Part 1 of Schedule 6 to the *Treasury Laws Amendment (2023 Law Improvement Package No. 1) Act 2023*, applies in relation to a hearing of a Panel of the Disciplinary Board that is constituted on or after the commencement of that Division.



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## Division 3—Claims handling and settling services

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

#### 7 After paragraph 12BAB(1)(ea)

Insert:

(eb) provide a claims handling and settling service; or

#### 8 At the end of Part 41

Add:

**346 Application—claims handling and settling services**

Paragraph 12BAB(1)(eb) applies in relation to providing a claims handling and settling service on or after the commencement of this section.

## Division 4—GST-free cars

#### 9 GST-free cars

The amendments made by Division 2 of Part 2 of Schedule 3 to the *Treasury Laws Amendment (2021 Measures No. 5) Act 2021* (the ***amending law***) do not apply, and are taken never to have applied, in relation to:

(a) a disability certificate that:

(i) was issued before the commencement of the amending law; and

(ii) met the requirements of paragraph 38-510(1)(a) of the *A New Tax System (Goods and Services Tax) Act 1999*, as in force immediately before the commencement of the amending law; or

(b) a certificate of medical eligibility that:

(i) was issued before the commencement of the amending law; and

(ii) met the requirements of paragraph 38-510(1)(a) of the *A New Tax System (Goods and Services Tax) Act 1999*, as it operated immediately before the commencement of the amending law because of the modification



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determined by the *Taxation Administration (Remedial Power – Certificate for GST-free supplies of Cars for Disabled People) Determination 2020*.

## Division 5—Regulation of financial benchmarks

### *Corporations Act 2001*

#### 10 Section 760B (after table item 5A)

Insert:

| | | |
|---|---|---|
| 5B | 7.5B | regulation of financial benchmarks |

## Division 6—Authorisations

### *Competition and Consumer Act 2010*

#### 11 The whole of the Act

Omit every occurrence of "authorization", substitute "authorisation".

#### 12 The whole of the Act

Omit every occurrence of "authorizations", substitute "authorisations".

#### 13 The whole of the Act

Omit every occurrence of "authorize", substitute "authorise".

#### 14 The whole of the Act

Omit every occurrence of "authorized", substitute "authorised".

## Division 7—Other amendments

### *Australian Prudential Regulation Authority Act 1998*

#### 15 Paragraph 58(4)(a)

Omit "52A, 52B,".



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### 16 Paragraph 58(4)(b)

Omit "62ZOK, 38A, 38B", substitute "38A, 38B, 62ZOK".

### 17 Paragraph 58(4)(c)

Omit "179AK, 156A, 156B", substitute "156A, 156B, 179AK".

## *Australian Securities and Investments Commission Act 2001*

### 18 Paragraph 244(2)(d) (the paragraph (d) inserted by item 13 of Schedule 1 to the *Financial Sector Reform (Hayne Royal Commission Response—Better Advice) Act 2021*)

Reletter as paragraph (g).

### 19 Subsection 285(4)

Omit "*Legislative Instruments Act 2003*", substitute "*Legislation Act 2003*".

## *Competition and Consumer Act 2010*

### 20 Section 60A (paragraph (e) of the definition of *electricity retailer*)

Omit "*Electricity Reform Act*", substitute "*Electricity Reform Act 2000*".

### 21 Paragraph 151BU(4B)(a)

Omit "publically", substitute "publicly".

### 22 Subsections 151DB(2A), (2B) and (2C)

Repeal the subsections.



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## *Corporations Act 2001*

### 23 Division 1A of Part 5.4B (the Division 1A inserted by item 171 of Schedule 1 to the *Personal Property Securities (Corporations and Other Amendments) Act 2010*)

Renumber as Division 1AA.

### 24 Subparagraph 911A(2)(en)(v)

After "that could reasonably", insert "be".

### 25 Subparagraph 1292(1)(a)(ia) (second occurring)

Omit "(ia) failed", substitute "(iaa) failed".

### 26 Paragraphs 1301(1)(a) and (b)

Omit "***the***" (wherever occurring), substitute "the".

### 27 Subsection 1409(4)

Omit "*Legislative Instruments Act 2003*", substitute "*Legislation Act 2003*".

### 28 Section 1 of Part 10.33

Renumber as section 1645.

### 29 Section 2 of Part 10.33

Renumber as section 1646.

### 30 At the end of paragraphs 1678B(6)(a) and (b)

Add "and".

### 31 Subclause 37(4) of Schedule 4 (paragraph (h) of the definition of *unclaimed money law*)

Repeal the paragraph, substitute:

(h) the *Companies (Unclaimed Assets and Moneys) Act 1963* (NT).



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## *Income Tax Assessment Act 1997*

### 32 Section 976-1 (formula)

Repeal the formula, substitute:

*Franking credit on the distribution × Applicable gross-up rate

## *Insurance Act 1973*

### 33 Before paragraph 127D(a)

Insert:

(aa) section 62ZM;

### 34 Paragraphs 127D(b), (c) and (f)

Repeal the paragraphs.

## *Life Insurance Act 1995*

### 35 Paragraphs 246C(a), (e) and (f)

Repeal the paragraphs.

### 36 After paragraph 246C(g)

Insert:

(ga) section 179AK;

## *Superannuation Industry (Supervision) Act 1993*

### 37 Paragraph 131FD(a)

Repeal the paragraph.

### 38 Application of amendments

Despite the repeal of paragraph 131FD(a) of the *Superannuation Industry (Supervision) Act 1993* by this Division, that paragraph continues to apply, at and after the commencement of this item, in relation to disclosures of information made before the commencement of item 32 of Schedule 1 to the *Treasury Laws Amendment (Enhancing Whistleblower Protections) Act 2019*.



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## *Taxation Administration Act 1953*

### 39 Subsection 12-390(4) in Schedule 1 (note 1)

Omit "managed investment trust", substitute "withholding MIT".

### 40 Subsection 12-390(4) in Schedule 1 (note 1)

Omit "managed investment trusts" (wherever occurring), substitute "withholding MITs".



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# Part 2—Amendments commencing first day of next quarter: payment relating to taxable supply of real property

## *A New Tax System (Goods and Services Tax) Act 1999*

### 41 Section 33-1 (note 4)

Omit "supplier", substitute "entity liable for the GST on the supply".

### 42 Subsection 40-65(2) (note)

Omit "supplier", substitute "entity liable for the GST on the supply".

## *Taxation Administration Act 1953*

### 43 Paragraph 18-60(1)(a) in Schedule 1

Omit "made", substitute "is liable for *GST on".

### 44 Application of amendments

The amendments made by this Part apply in relation to supplies to which subsection 14-250(2) in Schedule 1 to the *Taxation Administration Act 1953* applies, whether those supplies were made before, on or after the commencement of this item.

Note: Generally, subsection 14-250(2) in Schedule 1 to the *Taxation Administration Act 1953* applies in relation to supplies for which any of the consideration (other than consideration provided as a deposit) was first provided on or after 1 July 2018 (see Part 3 of Schedule 5 to the *Treasury Laws Amendment (2018 Measures No. 1) Act 2018*).

[*Minister's second reading speech made in—*
*House of Representatives on 14 June 2023*
*Senate on 2 August 2023*]

(76/23)



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