

# EXPOSURE DRAFT

EXPOSURE DRAFT
----------------

1  
2  
3  
4  
5  
6  
7

Inserts for  
**Treasury Laws Amendment (Measures  
for a later sitting) Bill 2018:  
Miscellaneous amendments**

---

**Commencement information**

---

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Schedule 1, Part 1	The day after this Act receives the Royal Assent.	
2. Schedule 1, Part 2	The first 1 January, 1 April, 1 July or 1 October to occur after the day this Act receives the Royal Assent.	
3. Schedule 1, Part 3	The 28th day after this Act receives the Royal Assent.	
4. Schedule 1, Part 4	1 January 2019.	

---

# EXPOSURE DRAFT

---

## Schedule 1—Amendments

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

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

##### **1 Subsection 55(2)**

Omit “or subsection (1A)”.

#### *Banking Act 1959*

##### **2 Paragraph 11CM(1)(c)**

Omit “subsection 56(3), (4), (5), (5AA), (6), (6A), (7), (7A), (7B) or (7C) of that Act”, substitute “a provision mentioned in paragraph 56(2)(c) of that Act”.

##### **3 Paragraph 11E(2)(b)**

Omit “subsection (1)”, substitute “subsection (1B)”.

##### **4 Subsection 14A(6) (definition of *officer*)**

Omit “an ADI”, substitute “a body corporate”.

#### *Competition and Consumer Act 2010*

##### **5 Subsection 51ADE(1)**

Omit “within 21 days after the notice was given to the corporation”, substitute “within the period within which the corporation must comply with the notice (as extended under any previous application of subsection (2))”.

##### **6 After paragraph 90(8)(b)**

Insert:

(ba) one or more provisions of section 45E or 45EA (contracts etc. affecting the supply or acquisition of goods or services);

# EXPOSURE DRAFT

---

## 7 Subsection 91(3)

Repeal the subsection.

## 8 At the end of section 95AA

Add:

(6) Despite subsection 44(1) of the *Legislation Act 2003*, section 42 (disallowance) of that Act applies to a legislative instrument made under subsection (1) of this section.

## 9 After subsection 155(2)

Insert:

(2AA) A member of the Commission may vary the time specified in a notice under subsection (1) within which the information must be furnished, or the documents produced, or at which the person is required to appear before the Commission or the member of the staff assisting the Commission who is specified in the notice.

(2AB) Subsection (2AA) does not affect any operation that subsection 33(3) of the *Acts Interpretation Act 1901* has in relation to a notice under subsection (1).

## 10 After subsection 155(8A)

Insert:

(8B) A member of the Commission may, in writing, delegate the member's powers under subsection (2AA) to a member of the staff of the Commission who is an SES employee or an acting SES employee.

Note 1: Section 2B of the *Acts Interpretation Act 1901* contains the definitions of *SES employee* and *acting SES employee*.

Note 2: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain provisions relating to delegations.

(8C) In performing a function, or exercising a power, under a delegation, the delegate must comply with any directions of the member.

# EXPOSURE DRAFT

---

## 1 *Corporations Act 2001*

### 2 **11 Section 9 (definition of *registered body*)**

3 Omit “mean”, substitute “means”.

### 4 **12 Subparagraph 135(1)(b)(ii)**

5 Omit “eas”, substitute “was”.

### 6 **13 Subsections 200AB(1) and (2) and 200A(1A) (note)**

7 Omit “*Legislative Instruments Act 2003*”, substitute “*Legislation Act*  
8 *2003*”.

### 9 **14 Subsection 436DA(3) (note)**

10 After “Note”, insert “1”.

### 11 **15 At the end of subsection 436DA(3)**

12 Add:

13 Note 2: For electronic notification under paragraph (a), see section 600G.

### 14 **16 Subsection 477(2B)**

15 Omit “a an agreement”, substitute “an agreement”.

### 16 **17 Subsection 506A(2) (note)**

17 After “Note”, insert “1”.

### 18 **18 At the end of subsection 506A(2)**

19 Add:

20 Note 2: For electronic notification under paragraph (b), see section 600G.

### 21 **19 Subsections 506A(3) and (6)**

22 Omit “administrator”, substitute “liquidator”.

### 23 **20 Subsections 579Q(1) and (2) (note)**

24 Omit “*Legislative Instruments Act 2003*”, substitute “*Legislation Act*  
25 *2003*”.

### 26 **21 Before paragraph 600G(1)(a)**

27 Insert:

28 (aa) paragraph 436DA(3)(a);

---

# EXPOSURE DRAFT

---

1 **22 After paragraph 600G(1)(l)**

2 Insert:

3 (m) paragraph 506A(2)(b);

4 **23 Subsection 600H(2) (paragraph (b) of the definition of**  
5 ***external administration*)**

6 Omit “part 5.1”, substitute “Part 5.1”.

7 **24 At the end of section 601AH**

8 Add:

9 (6) Subsection 601AH(5) does not affect the cancellation of an  
10 Australian financial services licence held by the company if the  
11 cancellation occurs because the company was deregistered.

12 **25 Subsection 601YAA(5)**

13 Omit “*Legislative Instruments Act 2003*”, substitute “*Legislation Act*  
14 *2003*”.

15 **26 Paragraph 710(3)(e)**

16 Omit “a person named in the prospectus as a person named in the  
17 prospectus as a”, substitute “a person named in the prospectus as a”.

18 **27 Section 761A**

19 Insert:

20 *self managed superannuation fund* has the same meaning as in  
21 the *Superannuation Industry (Supervision) Act 1993*.

22 **28 Section 761A (definition of *self-managed superannuation***  
23 ***fund*)**

24 Repeal the definition.

25 **29 Subsection 769B(7)**

26 Omit “provided by person”, substitute “provided by a person”.

27 **30 Subdivision C of Division 2 of Part 7.5A (heading)**

28 Repeal the heading, substitute:

# EXPOSURE DRAFT

---

1 **Subdivision C—The process of making derivative transaction**  
2 **rules**

3 **31 Subsection 907B(3)**

4 Omit “*Legislative Instruments Act 2003*”, substitute “*Legislation Act*  
5 *2003*”.

6 **32 Paragraph 911A(2)(j)**

7 Omit “self-managed superannuation fund”, substitute “self managed  
8 superannuation fund”.

9 **33 Subsection 926A(5)**

10 Omit “*Legislative Instruments Act 2003*”, substitute “*Legislation Act*  
11 *2003*”.

12 **34 Subparagraph 946B(1)(g)(iii)**

13 Omit “e-mail”, substitute “email”.

14 **35 Section 1011A (heading)**

15 Repeal the heading, substitute:

16 **1011A Jurisdictional scope of Division**

17 **36 Subsection 1012D(2A) (heading)**

18 Repeal the heading, substitute:

19 *Recommendation or issue situation—interests in self managed*  
20 *superannuation funds*

21 **37 Paragraph 1012D(2A)(a)**

22 Omit “self-managed superannuation fund”, substitute “self managed  
23 superannuation fund”.

24 **38 Subsections 1015D(2) and 1017C(6)**

25 Omit “self-managed superannuation fund”, substitute “self managed  
26 superannuation fund”.

27 **39 Subparagraphs 1017DA(1)(a)(i) and (ii)**

28 Omit “information to”.

---

# EXPOSURE DRAFT

---

1 **40 Subparagraph 1017DA(1)(a)(ii)**

2 Omit “or to”, substitute “or”.

3 **41 Subparagraphs 1017DA(1)(a)(iii) and (b)(i)**

4 Omit “information to”.

5 **42 Subparagraph 1017DA(1)(b)(i)**

6 Omit “or to”, substitute “or”.

7 **43 Subparagraph 1017DA(1)(b)(ii)**

8 Omit “information to”.

9 **44 Subsection 1020AF(1) (note)**

10 Omit “*Legislative Instruments Act 2003*”, substitute “*Legislation Act*  
11 *2003*”.

12 **45 After subparagraph 1274(2)(a)(iva)**

13 Insert:

14 (ivb) an industry notice lodged under subsection 40-100(1) of  
15 Schedule 2; or

16 **46 Subsection 1325(1)**

17 Omit “subsection 201P(1), Chapter 5C, 6CA or 6D,  
18 subsection 798H(1), 908CF(1) or 981M(1) or Part 7.10,” (wherever  
19 occurring), substitute “a section 1325 order provision”.

20 **47 Subsection 1325(2)**

21 Omit “subsection 201P(1), Chapter 5C, 6CA or 6D,  
22 subsection 798H(1), 908CF(1) or 981M(1) or Part 7.10,”, substitute “a  
23 section 1325 order provision”.

24 **48 Subsection 1325(3)**

25 Omit “subsection 201P(1), Chapter 5C, 6CA or 6D,  
26 subsection 798H(1), 908CF(1) or 981M(1) or Part 7.10” (wherever  
27 occurring), substitute “a section 1325 order provision”.

28 **49 Paragraph 1384(3)(b)**

29 Omit “liabilities” (last occurring), substitute “liabilities.”.

# EXPOSURE DRAFT

---

1 **50 Part 10.10 (heading)**

2 Repeal the heading, substitute:

3 **Part 10.10—Transitional provisions relating to the**  
4 **Corporations Amendment (Short Selling)**  
5 **Act 2008**

6 **51 Part 10.13 (heading)**

7 Repeal the heading, substitute:

8 **Part 10.13—Transitional provisions relating to the**  
9 **Personal Property Securities (Corporations**  
10 **and Other Amendments) Act 2010**

11 **52 Section 1546X (heading)**

12 Repeal the heading, substitute:

13 **1546X Obligation to notify ASIC of CPD year**

14 **53 Schedule 3 (table items 173S and 173T)**

15 Omit “subsection”, substitute “Subsection”.

16 **54 At the end of paragraphs 32(1)(a) to (k) of Schedule 4**

17 Add “;”.

18 **55 At the end of paragraphs 35(1)(a), (b) and (c) of Schedule 4**

19 Add “;”.

20 **56 At the end of paragraphs 35(2)(c) and (d) of Schedule 4**

21 Add “; and”.

22 **57 At the end of paragraphs 36(1)(a) to (d) of Schedule 4**

23 Add “;”.

24 **58 At the end of paragraphs 38(2)(a) to (i) of Schedule 4**

25 Add “;”.



# EXPOSURE DRAFT

---

1 **59 At the end of paragraphs 39(2)(a) and (b) of Schedule 4**

2 Add “;”.

3 **60 At the end of paragraphs 39(4)(a) and (b) of Schedule 4**

4 Add “;”.

5 ***Financial Sector (Transfer and Restructure) Act 1999***

6 **61 Subsection 11(1A)**

7 Omit “a determination”, substitute “a voluntary transfer approval”.

8 **62 Subsection 14(2) (note)**

9 Omit “determination” (wherever occurring), substitute “voluntary  
10 transfer approval”.

11 ***National Consumer Credit Protection Act 2009***

12 **63 Subsections 109(6) and 163(6)**

13 Omit “*Legislative Instruments Act 2003*”, substitute “*Legislation Act*  
14 *2003*”.

15 **64 Paragraph 266(b)**

16 Omit “, in ASIC’s opinion,”, substitute “ASIC, on reasonable grounds,  
17 suspects”.

18 **65 Subsection 331(2)**

19 Omit “one-fourtieth”, substitute “one-fortieth”.

20 **66 Application provision**

21 (1) The amendment made by item 2 of this Schedule applies in relation to  
22 disclosures of information regardless of whether the disclosure was  
23 made before, on or after the commencement of that item.

24 (2) The amendment made by item 5 of this Schedule applies in relation to  
25 notices given under section 51ADD of the *Competition and Consumer*  
26 *Act 2010* on or after the commencement of that item.

27 (3) The amendment made by item 6 of this Schedule applies in relation to  
28 applications for authorisations made under subsection 88(1) of the

# EXPOSURE DRAFT

- 
- 1                    *Competition and Consumer Act 2010* on or after the commencement of  
2                    that item.
- 3            (4)        The amendments made by items 9 and 10 of this Schedule apply in  
4                    relation to notices served under subsection 155(1) of the *Competition*  
5                    and *Consumer Act 2010* on or after the commencement of those items.
- 6            (5)        The amendments made by items 21 and 22 of this Schedule apply in  
7                    relation to notices issued, or other documents given, to a person on or  
8                    after the commencement of those items.
- 9            (6)        The amendment made by item 64 of this Schedule applies in relation to  
10                   notices given under section 266 of the *National Consumer Credit*  
11                   *Protection Act 2009* on or after the commencement of that item.

# EXPOSURE DRAFT

---

1 **Part 2—Amendments commencing the first**  
2 **1 January, 1 April, 1 July or 1 October to**  
3 **occur after Royal Assent**  
4

5 *A New Tax System (Family Assistance) (Administration) Act*  
6 *1999*

7 **67 Section 169A**

8 Repeal the section.

9 *Income Tax Assessment Act 1936*

10 **68 Section 6A**

11 Repeal the section.

12 **69 Section 27**

13 Repeal the section.

14 **70 Subsection 170(10AA) (table item 24)**

15 Repeal the item.

16 *Income Tax Assessment Act 1997*

17 **71 Section 10-5 (table item headed “interest”)**

18 Omit:  
loans raised in Australia by foreign governments, on ..... 27

19 **72 Section 13-1 (table item headed “child”)**

20 Omit:  
child care ..... Subdivision 61-IA  
first child ..... Subdivision 61-I

21 **73 Subdivisions 61-I and 61-IA of Division 61 of Part 2-20**

22 Repeal the Subdivisions.

---

# EXPOSURE DRAFT

---

1 **74 Subsection 63-10(1) (table item 25)**

2 Repeal the item.

3 **75 Section 67-23 (table item 10)**

4 Repeal the item.

5 **76 Section 960-265 (table item 4)**

6 Repeal the item.

7 **77 Subsection 995-1(1) (definition of *approved child care*)**

8 Repeal the definition.

9 **78 Subsection 995-1(1) (definition of *approved child care***  
10 ***fees*)**

11 Repeal the definition.

12 **79 Subsection 995-1(1) (definition of *base year*)**

13 Repeal the definition, substitute:

14 *base year*, in relation to an income year, has the meaning given by  
15 sections 45-320 and 45-470 in Schedule 1 to the *Taxation*  
16 *Administration Act 1953*.

17 **80 Subsection 995-1(1) (definition of *child care base week*)**

18 Repeal the definition.

19 **81 Subsection 995-1(1) (definition of *child care offset limit*)**

20 Repeal the definition.

21 **82 Subsection 995-1(1) (definition of *child event*)**

22 Repeal the definition.

23 **83 Subsection 995-1(1) (definition of *entitled to child care***  
24 ***benefit*)**

25 Repeal the definition.

26 **84 Subsection 995-1(1) (definition of *entitlement to child care***  
27 ***benefit*)**

28 Repeal the definition.

---

# EXPOSURE DRAFT

---

1 **85 Subsection 995-1(1) (definition of *legally responsible*)**

2 Repeal the definition.

3 **86 Subsection 995-1(1) (definition of *primary entitlement*)**

4 Repeal the definition.

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

6 **87 Subsection 10(1) (paragraph (fa) of the definition of**  
7 ***reviewable decision*)**

8 Omit “or paragraph 50(1)(c)”.

9 **88 Subsections 19(7) and (8)**

10 Repeal the subsections.

11 **89 Paragraph 42(1AC)(e)**

12 Omit “section 50”, substitute “former section 50 (as those regulations  
13 were in force as at the beginning of that year of income)”.

14 **90 Subsection 42(1AD) (note)**

15 Repeal the note.

16 **91 Paragraph 42A(4)(d)**

17 Omit “section 50”, substitute “former section 50 (as those regulations  
18 were in force as at the beginning of that year of income)”.

19 **92 Section 50**

20 Repeal the section.

21 **93 Section 382**

22 Repeal the section.

23 **94 Section 384**

24 Repeal the section.

25 **95 Section 385**

26 Repeal the section.

# EXPOSURE DRAFT

---

## *Taxation Administration Act 1953*

### **96 Subparagraph 14-255(1)(b)(i) in Schedule 1**

Repeal the subparagraph, substitute:

- (i) the name and \*ABN of the entity that is liable to pay the \*GST on the supply; and

### **97 Section 18-85 (heading) in Schedule 1**

Omit “taxable”.

### **98 Paragraph 18-85(1)(a) in Schedule 1**

Omit “\*taxable supply”, substitute “supply”.

### **99 Section 45-340 in Schedule 1 (method statement, step 1, paragraph (b))**

Repeal the paragraph.

### **100 Section 45-375 in Schedule 1 (method statement, step 1, paragraph (b))**

Repeal the paragraph.

### **101 Paragraph 298-5(c) in Schedule 1**

Omit “or 14-D”, substitute “, 14-D or 14-E”.

### **102 Application provision**

The amendments made by items 96, 97 and 98 of this Schedule apply in relation to supplies made on or after the commencement of those items.

# EXPOSURE DRAFT

---

1 **Part 3—Amendments commencing 28 days after**  
2 **Royal Assent**  
3

4 *Australian Bureau of Statistics Act 1975*

5 **103 Section 15**

6 Repeal the section, substitute:

7 **15 Acting appointments**

8 The Minister may, by written instrument, appoint a person to act as  
9 the Statistician:

- 10 (a) during a vacancy in the office of the Statistician (whether or  
11 not an appointment has previously been made to the office);  
12 or  
13 (b) during any period, or during all periods, when the  
14 Statistician:  
15 (i) is absent from duty or from Australia; or  
16 (ii) is, for any reason, unable to perform the duties of the  
17 office.

18 Note: For rules that apply to acting appointments, see sections 33AB and  
19 33A of the *Acts Interpretation Act 1901*.

20 **104 Transitional provision**

21 An instrument made under section 15 of the *Australian Bureau of*  
22 *Statistics Act 1975* that was in force immediately before the  
23 commencement of this Schedule continues in force (and may be dealt  
24 with) as if it had been made under section 15 of that Act as amended by  
25 this Schedule.

# EXPOSURE DRAFT

---

## Part 4—Amendments commencing 1 January 2019

### *Corporations Act 2001*

#### **105 Section 1546A (definition of *existing provider*)**

Repeal the definition, substitute:

*existing provider* means:

(a) a person who:

(i) is a relevant provider at any time between 1 January 2016 and 1 January 2019 (except a person who has ceased to be a relevant provider under subsection 1546B(4) or (5)); and

(ii) is not banned or disqualified under Division 8 of Part 7.6 on 1 January 2019; and

(iii) is not, on that day, subject to a suspension under section 915C; and

(iv) is not, on that day, subject to an enforceable undertaking under section 93AA of the *Australian Securities and Investments Commission Act 2001* to not provide financial advice or a financial service; or

(b) a person who:

(i) at any time between 1 January 2016 and 1 January 2019, provides personal advice in a foreign country to retail clients in relation to relevant financial products; and

(ii) is not prohibited under the law of the foreign country from providing such advice on 1 January 2019.

#### **106 Paragraphs 1546C(1)(a) and (b)**

Repeal the paragraphs, substitute:

(a) any Australian financial services licence granted on or after 1 January 2019 to a person who:

(i) is not a relevant provider before that day; or

(ii) is banned or disqualified under Division 8 of Part 7.6 on that day; or

(iii) is subject, on that day, to a suspension under section 915C; or



# EXPOSURE DRAFT

- 
- 1 (iv) is subject, on that day, to an enforceable undertaking  
2 under section 93AA of the *Australian Securities and*  
3 *Investments Commission Act 2001* to not provide  
4 financial advice or a financial service; or
- 5 (v) is prohibited, on that day, under a law of a foreign  
6 country, from providing personal advice in that country  
7 to retail clients in relation to relevant financial products;  
8 and
- 9 (b) any authorisation given on or after that day to a person who:  
10 (i) is not a relevant provider before that day; or  
11 (ii) is banned or disqualified under Division 8 of Part 7.6 on  
12 that day; or  
13 (iii) is subject, on that day, to an enforceable undertaking  
14 under section 93AA of the *Australian Securities and*  
15 *Investments Commission Act 2001* to not provide  
16 financial advice or a financial service; or  
17 (iv) is prohibited, on that day, under a law of a foreign  
18 country, from providing personal advice in that country  
19 to retail clients in relation to relevant financial products.

## 20 **107 After subsection 1546C(4)**

21 Insert:

- 22 (4A) Section 915C applies in relation to an Australian financial services  
23 licence that was suspended under that section on 1 January 2019 as  
24 if subsection (1) of that section also included the case that the  
25 licensee does not meet the education and training standards in  
26 subsections 921B(2) to (4), as inserted by the amending Schedule.
- 27 (4B) Section 93AA of the *Australian Securities and Investments*  
28 *Commission Act 2001* applies in relation to an enforceable  
29 undertaking mentioned in subparagraph (1)(a)(iv) or (1)(b)(iii) as if  
30 that section also included a provision that ASIC may vary the  
31 undertaking to require the person to meet the education and  
32 training standards in subsections 921B(2) to (4), as inserted by the  
33 amending Schedule.
- 34 (4C) To avoid doubt:  
35 (a) a variation mentioned in subsection (4B) may be made  
36 without the person's consent; and

# EXPOSURE DRAFT

---

1 (b) that subsection does not affect the operation of  
2 subsection 93AA(2) of the *Australian Securities and*  
3 *Investments Commission Act 2001*.

4 **108 Paragraph 1546Z(1)(a)**

5 Repeal the paragraph, substitute:

6 (a) paragraph 1546C(1)(a) or (b) applies to a person; and