

EXPOSURE DRAFT

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Inserts for
**Financial Sector Reform (Hayne Royal
Commission Response—Stronger
Regulators (2020 Measures)) Bill 2020:
FSRC rec 6.14 (Financial Regulator
Assessment Authority)**

Commencement information

Column 1

Column 2

Column 3

Provisions

Commencement

Date/Details

1. Schedule
[6.14]

At the same time as the *Financial Regulator
Assessment Authority Act 2020* commences.
However, the provisions do not commence
at all if that Act does not commence.

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Schedule [6.14]—Consequential amendments related to the Financial Regulator Assessment Authority

Australian Prudential Regulation Authority Act 1998

1 Subsection 56(1)

Insert:

Financial Regulator Assessment Authority official means:

- (a) a member of the Financial Regulator Assessment Authority;
or
- (b) a staff member within the meaning of the *Financial
Regulator Assessment Authority Act 2020*.

2 Paragraph 56(2)(c)

After “(6),” insert “(6AA), (6AB),”.

3 After subsection 56(6)

Insert:

(6AA) It is not an offence if the disclosure of protected information or the production of a protected document is to a Financial Regulator Assessment Authority official for the purposes of the performance of the Financial Regulator Assessment Authority’s functions or the exercise of the Financial Regulator Assessment Authority’s powers.

Note: A defendant bears an evidential burden in relation to the matters in subsection (6AA) (see subsection 13.3(3) of the *Criminal Code*).

(6AB) It is not an offence if:

- (a) the disclosure of protected information or the production of a protected document is by a person who is or has been a Financial Regulator Assessment Authority official; and
- (b) the person acquired the information or accessed the document in the person’s capacity as a Financial Regulator Assessment Authority official.

Note 1: A defendant bears an evidential burden in relation to the matters in subsection (6AB) (see subsection 13.3(3) of the *Criminal Code*).

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1 Note 2: Division 3 of Part 4 of the *Financial Regulator Assessment Authority*
2 *Act 2020* deals with disclosure of information by Financial Regulator
3 Assessment Authority officials.

4 **4 After subsection 56(8)**

5 Insert:

6 (8A) However, subsection (8) does not prevent a person who is, or has
7 been, an entrusted person (within the meaning of the *Financial*
8 *Regulator Assessment Authority Act 2020*) from being required to
9 disclose, or produce a document containing, protected information
10 (within the meaning of that Act) where it is necessary to do so for
11 the purposes of that Act.

12 **5 Subsection 56(9)**

13 After “another person”, insert “(other than a Financial Regulator
14 Assessment Authority official)”.

15 **6 Paragraph 56(12)(a)**

16 After “(6),” insert “(6AA),”.

17 *Australian Securities and Investments Commission Act 2001*

18 **7 After paragraph 127(2A)(b)**

19 Insert:

20 (ba) the Financial Regulator Assessment Authority;

21 **8 In the appropriate position**

22 Insert:

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1 **Part 33—Application provisions relating to**
2 **Schedule [6.14] of the Financial Sector**
3 **Reform (Hayne Royal Commission**
4 **Response—Stronger Regulators (2020**
5 **Measures)) Act 2020**
6

7 **331 Application—confidentiality**

8 The amendment of section 127 made by Schedule [6.14] to the
9 *Financial Sector Reform (Hayne Royal Commission Response—*
10 *Stronger Regulators (2020 Measures)) Act 2020* applies in relation
11 to any use or disclosure of information after the commencement of
12 that Schedule, whether ASIC obtained the information before or
13 after that commencement.

14 ***Insurance Act 1973***

15 **9 Paragraph 109E(1)(c)**

16 After “(6),” insert “(6AA), (6AB),”.

17 ***Life Insurance Act 1995***

18 **10 Paragraph 231E(1)(c)**

19 After “(6),” insert “(6AA), (6AB),”.

20 **11 Application**

21 The amendments of the *Australian Prudential Regulation*
22 *Authority Act 1998*, the *Insurance Act 1973* and the *Life Insurance*
23 *Act 1995* made by this Schedule apply in relation to:

- 24 (a) any disclosure of information after the commencement of this
25 item, whether the information was disclosed or obtained
26 under, or for the purposes of, a prudential regulation
27 framework law before or after that commencement; and
28 (b) any production of a document after the commencement of
29 this item, whether the document was given or produced
30 under, or for the purposes of, a prudential regulation
31 framework law before or after that commencement.

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