

EXPOSURE DRAFT

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Inserts for

**Financial Sector Reform (Hayne Royal
Commission Response—Protecting Consumers
(2020 Measures)) Regulations 2021: breach
reporting**

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Schedule [1.6, 2.8, 2.9 and 7.2]—Breach reporting and remediation

Corporations (Fees) Regulations 2001

1 At the end of Part 3

Add:

Division 3—Amendment made by Schedule [1.6, 2.8, 2.9 and 7.2] to the Financial Sector Reform (Hayne Royal Commission Response—Protecting Consumers (2020 Measures)) Regulations 2021

12 Provisions relating to continued application of section 912D of the Corporations Act

- (1) Despite the amendment made by the amending Schedule to item 143 of the table in clause 1 of Schedule 1, that item continues to apply, in relation to documents lodged under subsection 912D(1) or (2) of the Corporations Act (as those subsections continue to apply because of subsection 1671A(2) of that Act), as if that amendment had not happened.
- (2) In this regulation:

amending Schedule means Schedule [1.6, 2.8, 2.9 and 7.2] to the *Financial Sector Reform (Hayne Royal Commission Response—Protecting Consumers (2020 Measures)) Regulations 2021*.

2 Clause 1 of Schedule 1 (table item 143, column 1)

Omit “912D(1) or (2)”, substitute “912DAA(1), 912DAB(1), 912DAC(1)”.

Corporations Regulations 2001

3 Paragraphs 1.0.05A(2)(b) and (c)

Repeal the paragraphs, substitute:

- (b) written notice that is to be lodged with ASIC in accordance with subsection 912DAC(1) of the Act may be lodged with ASIC in the prescribed form; and

4 Regulation 7.6.02A

Before “For”, insert “(1)”.

5 Regulation 7.6.02A

Omit “subparagraph 912D(1)(a)(iii)”, substitute “paragraph 912D(3)(c)”.

6 Paragraph 7.6.02A(ac)

Repeal the paragraph.

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7 Paragraph 7.6.02A(d)

Omit “(Transfers of Business)”, substitute “(Transfer and Restructure)”.

8 At the end of regulation 7.6.02A

Add:

Certain breaches not required to be notified

- (2) For paragraph 912D(4)(b) of the Act, the following civil penalty provisions of the Act are prescribed:
- (a) subsection 941A(3);
 - (b) subsection 941B(4);
 - (c) subsection 1012A(5);
 - (d) subsection 1012B(6);
 - (e) subsection 1012C(11);
 - (f) subsection 1021E(8).

9 Paragraph 9.4AB.01(2)(c)

Repeal the paragraph, substitute:

- (c) subsection 912DAA(1);
- (ca) subsection 912DAC(1);

10 After paragraph 9.4AB.02(2)(a)

Insert:

- (aa) subsection 912DAB(8);

11 In the appropriate position in Chapter 10

Insert:

Part 10.41—Application provisions relating to the Financial Sector Reform (Hayne Royal Commission Response—Protecting Consumers (2020 Measures)) Regulations 2021

10.41.01 Provisions relating to continued application of section 912D of the Act

Lodgment with ASIC

- (1) Despite the repeal of paragraphs 1.0.05A(2)(b) and (c) by item 3 of the amending Schedule, those paragraphs, as in force immediately before the commencement of the amending Schedule, continue to apply in relation to reports or written notices to be given to ASIC under subsections 912D(1) and (2) of the Act (as those subsections continue to apply because of subsection 1671A(2) of the Act) as if that repeal had not happened.

Obligation to notify ASIC of certain matters

- (2) Despite the amendment of regulation 7.6.02A by item 4 of the amending Schedule, that regulation continues to apply, for the purposes of
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subparagraph 912D(1)(a)(iii) of the Act (as that subparagraph continues to apply because of subsection 1671A(2) of the Act), as if that amendment had not happened.

Infringement notices

- (3) Despite the amendment of paragraph 9.4AB.01(2)(c) by item 7 of the amending Schedule, that paragraph continues to apply, in relation to alleged offences of subsection 912D(1B) or (2) of the Act (as those subsections continue to apply because of subsection 1671A(2) of the Act), as if that amendment had not happened.

Definitions

- (4) In this regulation:

amending Schedule means Schedule [1.6, 2.8, 2.9 and 7.2] to the *Financial Sector Reform (Hayne Royal Commission Response—Protecting Consumers (2020 Measures)) Regulations 2021*.

National Consumer Credit Protection (Fees) Regulations 2010

12 Clause 1 of Schedule 1 (after item 6)

Insert:

- 6A Lodgment of a report under subsection 50B(1) or 50C(1) of the National Credit Act no fee

National Consumer Credit Protection Regulations 2010

13 After regulation 12

Insert:

12A Obligations of licensees—certain breaches not required to be reported to ASIC

For paragraph 50A(4)(b) of the Act, the following civil penalty provisions of the Act are prescribed:

- (a) subsection 52(2);
- (b) subsection 113(1);
- (c) subsection 126(1);
- (d) subsection 127(1);
- (e) subsection 136(1);
- (f) subsection 149(1);
- (g) subsection 150(1);
- (h) subsection 158(1);
- (i) subsection 160(1);
- (j) subsection 160(2).

14 After paragraph 37(2)(c)

Insert:

- (ca) subsection 50B(2);
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15 Before paragraph 38(2)(a)

Insert:

(aa) subsections 50C(1) and (5);