

EXPOSURE DRAFT EXPLANATORY STATEMENT

Australian Securities and Investments Commission Act 2001

Corporations Act 2001

Treasury Laws Amendment (Modernising Business Communications) Regulations 2022

Section 251 of the *Australian Securities and Investments Commission Act 2001* (the ASIC Act) provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Section 1364 of the *Corporations Act 2001* (the Corporations Act) provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The purpose of the *Treasury Laws Amendment (Modernising Business Communications) Regulations 2022* (the Regulations) is to reduce regulatory burden and improve technology neutrality by amending requirements in Treasury laws that are consequential to the passage of the *Treasury Laws Amendment (Modernising Business Communications) Act 2022* (the Amendment Act). In particular, the Regulations update the following ASIC Forms to account for hearings that take place by means of virtual enquiry technology:

- Form 1 (Notice requiring appearance at an examination or reasonable assistance in connection with an investigation), prescribed in Schedule 1 to the *Australian Securities and Investments Commission Regulations 2001* (ASIC Regulations);
- Form 5249 (Notice to demonstrate why disqualification should not occur), prescribed in Schedule 2 to the *Corporations Regulations 2001* (Corporations Regulations);
- Form 588 (Notice to demonstrate why disqualification should not occur under section 206GAA of the Corporations Act), prescribed in Schedule 2 to the Corporations Regulations.

The Regulations also make minor changes to the numbering and text of the forms.

Consultation: with States and Territories under intergovernmental agreements (excl. GST)

Details of the Regulations are set out in Attachment A.

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

Schedule 1 to the Regulations commences on the later of the day after the instrument is registered and the day Schedule 1 to the Amendment Act commences. However, if

Schedule 1 to the Amendment Act does not commence, the Schedule 1 to the Regulations does not commence at all.

There are no compliance costs or additional regulatory burdens associated with the Regulations.

Details of the Treasury Laws Amendment (Modernising Business Communications) Regulations 2022

Section 2—Commencement

Schedule 1 to the Regulations commences on the later of the day after the instrument is registered and the day Schedule 1 to the Amendment Act commences. However, if Schedule 1 to the Amendment Act does not commence, the Schedule 1 to the Regulations does not commence at all.

Schedule 1—Updating forms

Australian Securities and Investments Commission Regulations 2001

Item 1 replaces Form 1 in Schedule 1 to the ASIC Regulations with a new form. The new form has been updated to account for hearings held using virtual enquiry technology.

Corporations Regulations 2001

Item 5 amends column 4 of item 3 in the table in Schedule 1 to the Corporations Regulations to renumber Form 5249 to Form 586 so it becomes part of the same sequence of forms.

Item 10 repeals Form 5249 in Schedule 2 to the Corporations Regulations.

Item 15 inserts a new Form 586 in Schedule 2 to the Corporations Regulations. The new form, which is an updated version of the previous Form 5249, accounts for hearings that take place at one or more physical venues and/or by means of virtual enquiry technology.

Item 20 replaces Form 588 in Schedule 2 to the Corporations Regulations with a new form. The new form has been updated so that the text under the heading ‘Opportunity to be heard’ is consistent with Form 586.