

EXPOSURE DRAFT

EXPLANATORY STATEMENT

Issued by authority of the Assistant Treasurer and Minister for Financial Services

Corporations Act 2001

Australian Prudential Regulation Authority Act 1998

Treasury Laws Amendment (Measures for Consultation) Regulations 2023: Minor and technical amendments

The following provisions provide that the Governor-General may make regulations prescribing matters required or permitted by the relevant Acts to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to that Act:

- section 1364 of the *Corporations Act 2001* (the Corporations Act); and
- section 60 of the *Australian Prudential Regulation Authority Act 1998* (the APRA Act).

The purpose of the *Treasury Laws Amendment (Measures for Consultation) Regulations 2023: Minor and technical amendments* (the Regulations) is to make minor and technical amendments to the *Corporations Regulations 2001* (the Corporations Regulations) and the *Australian Prudential Regulation Authority Regulations 2018* (the APRA Regulations). The amendments demonstrate the Government's commitment to the care and maintenance of Treasury portfolio legislation.

Minor and technical amendments are periodically made to Treasury portfolio legislation to correct errors and unintended outcomes, make technical changes, and improve the quality of Treasury portfolio legislation. The process was first supported by a recommendation of the 2008 Tax Design Review Panel, which considered ways to improve the quality of tax legislation. It has since been expanded to all Treasury legislation.

The Regulations amend the Corporations Regulations and the APRA Regulations to remove redundant references and where appropriate replace them with updated references. These changes help maintain and improve the quality of Treasury portfolio legislation. Details of the Regulations are set out in [Attachment A](#).

The Corporations Act and the APRA Act specify no conditions that need to be met before the power to make the Regulations may be exercised.

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

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The amendment to the *Corporations Regulations 2001* is exempt from sunseting under subitem 18(d) of the table in section 12 of the *Legislation (Exemptions and Other Matters) Regulation 2015*. The amendment to the *Australian Prudential Regulation Authority Regulations 2018* is not exempt from sunseting.

The Regulations will be automatically repealed under section 48A of the *Legislation Act 2003*. Schedule 1 to the Regulations commences on the day after the Regulations are registered.

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ATTACHMENT A

Details of the *Treasury Laws Amendment (Measures for Consultation) Regulations 2023: Minor and technical amendments*

Section 1 – Name of the Regulations

This section provides that the name of the Regulations is the *Treasury Laws Amendment (Measures for Consultation) Regulations 2023: Minor and technical amendments* (the Regulations).

Section 2 – Commencement

The Schedule to the Regulations commences on the day after the instrument is registered on the Federal Register of Legislation.

Section 3 – Authority

The Regulations are made under the following Acts:

- the *Corporations Act 2001*; and
- the *Australian Prudential Regulation Authority Act 1998*.

Section 4 – Schedule

This section provides that each instrument that is specified in the Schedule to this instrument will be amended or repealed as set out in the applicable items in the Schedule, and any other item in the Schedule to this instrument has effect according to its terms.

Schedule – Amendments

Part 1 – Amendments to the *Corporations Regulations 2001*

Item 1 – Notice of Appointment of Auditor

Regulation 2M.4.01 of the Corporations Regulations provides that a responsible entity of a registered scheme must notify the Australian Securities and Investments Commission within 14 days if the entity appoints an auditor of the scheme under section 331AB of the Corporations Act.

Section 331AB had originally required that an auditor be appointed after a scheme is first registered, or where the office of an auditor becomes vacant and there is no continuing auditor. However, section 331AB of the Corporations Act was repealed and replaced with sections 331AAA and 331AAB on 1 July 2004 by the *Corporate Law Economic Reform Program (Audit Reform and Corporate Disclosure) Act 2004*. These sections include similar requirements around the appointment of an auditor to a registered scheme.

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As such, item 1 updates regulation 2M.4.01 of the Corporations Regulations to refer to sections 331AAA and 331AAB of the Corporations Act, instead of the repealed section 331AB.

Part 2 – Amendments to the *Australian Prudential Regulation Authority Regulations 2018*

Item 2 – Removing reference to the Superannuation Complaints Tribunal

Paragraph 9(u) of the APRA Regulations refers to the “Superannuation Complaints Tribunal”. However, the Superannuation Complaints Tribunal has been largely replaced since the introduction of the Australian Financial Complaints Authority in 2018. Item 2 repeals the paragraph, as the reference is redundant and should be removed.