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| **EXPOSURE DRAFT** |

Inserts for

Treasury Laws Amendment (Measures for Consultation) Bill 2023: TSY/47/0293 ‑ AFCA jurisdiction to hear superannuation matters

| Commencement information | | |
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| Column 1 | Column 2 | Column 3 |
| Provisions | Commencement | Date/Details |
| 1. Schedule 1, item 1 | The later of:  (a) the start of the day after this Act receives the Royal Assent; and  (b) immediately after the commencement of item 269 of Schedule 2 to the *Treasury Laws Amendment (2023 Law Improvement Package No. 1) Act 2023*.  However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur. |  |
| 2. Schedule 1, item 2 | The day after this Act receives the Royal Assent.  However, the provisions do not commence at all if item 289 of Schedule 2 to the *Treasury Laws Amendment (2023 Law Improvement Package No. 1) Act 2023* commences on or before that day. |  |
| 3. Schedule 1, items 3 to 11 | The day after this Act receives the Royal Assent. |  |
| 4. Schedule 1, Part 3 | Immediately before the commencement of Schedule 2 to the *Treasury Laws Amendment (2023 Law Improvement Package No. 1) Act 2023*.  However, the provisions do not commence at all if that event:  (a) does not occur; or  (b) occurs on or before the day this Act receives the Royal Assent. |  |

Schedule 1—AFCA scheme

Part 1—Main amendments

Corporations Act 2001

1 Section 9 (definition of *superannuation complaint*)

Omit “subsections 1053(3) and (4)”, substitute “section 1053”.

2 Section 761A (definition of *superannuation complaint*)

Omit “subsection 1053(3)”, substitute “section 1053”.

3 Subsection 1051(4) (note)

Omit “The complaints may be complaints relating to superannuation or complaints relating to other financial services.”.

4 Subdivision A of Division 3 of Part 7.10A (heading)

Repeal the heading, substitute:

Subdivision A—Preliminary

5 Section 1053 (heading)

Repeal the heading, substitute:

1053 Meaning of *superannuation complaint*

6 Subsection 1053(1)

Omit “A person may, subject to section 1056, make a complaint relating to superannuation under the AFCA scheme only”, substitute “Subject to subsection (4), a complaint made under the AFCA scheme is a ***superannuation complaint***”.

7 Subsection 1053(1) (note 1)

Repeal the note.

8 Subsection 1053(1) (note 2)

Omit “2”.

9 Subsection 1053(3)

Repeal the subsection.

10 At the end of Subdivision A of Division 3 of Part 7.10A

Add:

1053B This Division does not restrict other complaints

To avoid doubt, this Division does not limit the ability of a person to make a complaint under the AFCA scheme (including a complaint relating to superannuation) that is not a superannuation complaint.

Note: Schedule 1 to the *Treasury Laws Amendment (Measures for Consultation) Act 2023*, which added this section, was enacted as a response to the decision of the Federal Court of Australia in *MetLife Insurance Limited v Australian Financial Complaints Authority Limited* [2022] FCAFC 173.

Part 2—Application provision

Corporations Act 2001

11 In the appropriate position in Chapter 10

Insert:

Part 10.74—Application provisions relating to Schedule 1 to the Treasury Laws Amendment (Measures for Consultation) Act 2023

1704 Application provision

(1) The amendments made by Part 1 of Schedule 1 to the *Treasury Laws Amendment (Measures for Consultation) Act 2023* apply in relation to:

(a) a complaint made under the AFCA scheme before the commencement of this section, if AFCA did not make, or purport to make, a determination of the complaint before that commencement; or

(b) a complaint made under the AFCA scheme on or after that commencement.

(2) To avoid doubt, a reference in paragraph (1)(a) of this section to a complaint made under the AFCA scheme includes a reference to a complaint that:

(a) was purportedly made under the AFCA scheme before the commencement of this section; and

(b) was a complaint relating to superannuation but was not a superannuation complaint.

Part 3—Other amendments

Treasury Laws Amendment (2023 Law Improvement Package No. 1) Act 2023

12 Item 555 of Schedule 2 (heading)

Omit “**2**”.