

# EXPOSURE DRAFT

2013-2014

The Parliament of the  
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

EXPOSURE DRAFT
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## **Australian Securities and Investments Commission Amendment (Corporations and Markets Advisory Committee Abolition) Bill 2014**

**No.     , 2014**

*(Treasury)*

**A Bill for an Act to abolish the Corporations and  
Markets Advisory Committee, and for related  
purposes**

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1  
2 **A Bill for an Act to abolish the Corporations and**  
3 **Markets Advisory Committee, and for related**  
4 **purposes**

5 The Parliament of Australia enacts:

6 **1 Short title**

7 This Act may be cited as the *Australian Securities and Investments*  
8 *Commission Amendment (Corporations and Markets Advisory*  
9 *Committee Abolition) Act 2014.*

10 **2 Commencement**

11 (1) Each provision of this Act specified in column 1 of the table  
12 commences, or is taken to have commenced, in accordance with  
13 column 2 of the table. Any other statement in column 2 has effect  
14 according to its terms.

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**Commencement information**

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<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>

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1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	
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2. Schedule 1	The 28th day after this Act receives the Royal Assent.	
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16 Note: This table relates only to the provisions of this Act as originally  
17 enacted. It will not be amended to deal with any later amendments of  
18 this Act.

19 (2) Any information in column 3 of the table is not part of this Act.  
20 Information may be inserted in this column, or information in it  
21 may be edited, in any published version of this Act.

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No. , 2014 *Australian Securities and Investments Commission Amendment* 1  
(*Corporations and Markets Advisory Committee Abolition*) Bill 2014

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1     **3 Schedules**

2                     Legislation that is specified in a Schedule to this Act is amended or  
3                     repealed as set out in the applicable items in the Schedule  
4                     concerned, and any other item in a Schedule to this Act has effect  
5                     according to its terms.

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2                     *Australian Securities and Investments Commission Amendment             No.     , 2014*  
                      *(Corporations and Markets Advisory Committee Abolition) Bill 2014*

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Amendments **Schedule 1**  
Amendments **Part 1**

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1 **Schedule 1—Amendments**

2 **Part 1—Amendments**

3 *Australian Securities and Investments Commission Act 2001*

4 **1 Title**

5 Omit “, a Corporations and Markets Advisory Committee”.

6 **2 Paragraph 1(1)(c)**

7 Repeal the paragraph.

8 **3 Subsection 5(1) (definition of CAMAC)**

9 Repeal the definition.

10 **4 Subsection 5(1) (definition of *Convenor*)**

11 Repeal the definition.

12 **5 Subsection 5(1) (paragraph (b) of the definition of *meeting*)**

13 Repeal the paragraph.

14 **6 Subsection 5(1) (paragraph (a) of the definition of *member*)**

15 Omit “9,”.

16 **7 Subsection 5(1) (paragraph (a) of the definition of *member*)**

17 Omit “CAMAC,”.

18 **8 Subsection 5(1) (paragraph (b) of the definition of *member*)**

19 Repeal the paragraph.

20 **9 Subsection 11(3)**

21 Repeal the subsection, substitute:

22 (3) ASIC may, on its own initiative or when requested by the Minister,  
23 advise the Minister, and make to the Minister such  
24 recommendations as it thinks fit, about any matter connected with:

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## Schedule 1 Amendments

### Part 1 Amendments

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- 1 (a) a proposal to make corporations legislation, or to make  
2 amendments of the corporations legislation (other than the  
3 excluded provisions); or  
4 (b) the operation or administration of the corporations legislation  
5 (other than the excluded provisions); or  
6 (c) law reform in relation to the corporations legislation (other  
7 than the excluded provisions); or  
8 (d) companies or a segment of the financial products and  
9 financial services industry; or  
10 (e) a proposal for improving the efficiency of the financial  
11 markets.

#### 12 **10 Paragraph 127(4)(a)**

13 Omit “CAMAC,”.

#### 14 **11 Part 9**

15 Repeal the Part.

#### 16 **12 Paragraphs 246(1)(b), (d) and (h)**

17 Repeal the paragraphs.

#### 18 **13 At the end of section 261**

19 Add:

20 Note: The Corporations and Markets Advisory Committee (CAMAC)  
21 ceased to exist on the commencement of Schedule 1 to the *Australian*  
22 *Securities and Investments Commission Amendment (Corporations*  
23 *and Markets Advisory Committee Abolition) Act 2014.*



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Amendments **Schedule 1**  
Transitional and saving provisions **Part 2**

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## 1 **Part 2—Transitional and saving provisions**

### 2 **14 Definitions**

3 (1) In this Part:

4 **asset** means:

- 5 (a) any legal or equitable estate or interest in real or personal  
6 property, whether actual, contingent or prospective; and  
7 (b) any right, power, privilege or immunity, whether actual,  
8 contingent or prospective.

9 **CAMAC** means the Corporations and Markets Advisory Committee.

10 **commencement time** means the time this Schedule commences.

11 **instrument** includes:

- 12 (a) a contract, undertaking, deed or agreement; and  
13 (b) a notice, authority, order or instruction; and  
14 (c) an instrument made under an Act or a regulation;

15 but does not include the following:

- 16 (d) an Act;  
17 (e) an instrument made under this Act;  
18 (f) the *Corporations Agreement 2002*.

19 **land** means any legal or equitable estate or interest in real property,  
20 whether actual, contingent or prospective.

21 **liability** means any liability, duty or obligation, whether actual,  
22 contingent or prospective.

23 **rules** means rules made under item 27.

24 (2) Section 5A of the *Australian Securities and Investments Commission*  
25 *Act 2001* applies to this Part as if the provisions of this Part were  
26 provisions of that Act.

27 Note: Section 5A applies the *Acts Interpretation Act 1901* as in force on 1 January 2005.

### 28 **15 Assets and liabilities**

29 (1) At the commencement time, the assets and liabilities of CAMAC  
30 immediately before that time cease to be assets and liabilities of

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## Schedule 1 Amendments

### Part 2 Transitional and saving provisions

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1 CAMAC and become assets and liabilities of the Commonwealth  
2 without any conveyance, transfer or assignment.

3 (2) The Commonwealth becomes the successor in law in relation to those  
4 assets and liabilities.

#### 5 **16 Certificates relating to vesting of assets**

6 (1) If land vests in the Commonwealth under this Part and the Minister  
7 signs a certificate that:

8 (a) identifies the land, whether by reference to a map or  
9 otherwise; and

10 (b) states that the land has become vested in the Commonwealth  
11 under this Part; and

12 (c) is lodged with the Registrar of Titles or other proper officer  
13 of the State or Territory in which the land is situated;

14 the Registrar or other officer may:

15 (d) register the matter in a way that is the same as, or similar to,  
16 the way in which dealings in land of that kind are registered;  
17 and

18 (e) deal with, and give effect to, the certificate.

19 (2) If an asset other than land vests in the Commonwealth under this Part  
20 and the Minister signs a certificate that:

21 (a) identifies the asset; and

22 (b) states that the asset has become vested in the Commonwealth  
23 under this Part; and

24 (c) is lodged with the person or authority who has responsibility  
25 for keeping a register in relation to assets of that kind  
26 (whether under a law of the Commonwealth, a State or a  
27 Territory, a trust instrument or otherwise);

28 the person or authority may:

29 (d) deal with, and give effect to, the certificate as if it were a  
30 proper and appropriate instrument for transactions in relation  
31 to assets of that kind; and

32 (e) make such entries in the register as are necessary, having  
33 regard to the effect of this Part.

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Amendments **Schedule 1**  
Transitional and saving provisions **Part 2**

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1 (3) A document that appears to be a certificate made under this item is  
2 taken, unless the contrary is established, to be such a certificate and to  
3 have been properly made.

4 (4) A certificate made under this item is not a legislative instrument.

## 5 **17 References in instruments to CAMAC**

6 (1) If an instrument in force immediately before the commencement time  
7 contains a reference to CAMAC, the instrument has effect from the  
8 commencement time as if the reference were a reference to the  
9 Commonwealth.

10 (2) Subitem (1) does not, by implication, prevent the instrument from being  
11 varied or terminated after the commencement time.

12 (3) The rules may prescribe:

13 (a) instruments, or references contained in instruments, to which  
14 subitem (1) does not apply; or

15 (b) instruments, or references contained in instruments, to which  
16 subitem (1) applies as if the reference in that subitem to the  
17 Commonwealth were a reference to the person prescribed by  
18 the rules.

19 (4) Despite subsection 12(2) of the *Legislative Instruments Act 2003*, rules  
20 made for the purposes of subitem (3) may be expressed to take effect  
21 from a day before the rules are registered under that Act (but not before  
22 the day of the commencement time).

## 23 **18 Operation of laws**

24 (1) Subject to subitem (2), if a thing was done by, or in relation to,  
25 CAMAC before the commencement time, then, for the purposes of the  
26 operation of any law of the Commonwealth after the commencement  
27 time, the thing is taken to have been done by, or in relation to, the  
28 Commonwealth.

29 (2) For the purposes of the operation of the *Ombudsman Act 1976* after the  
30 commencement time, a thing done by, or in relation to, CAMAC before  
31 the commencement time is taken to have been done by, or in relation to,  
32 the Department.

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## Schedule 1 Amendments

### Part 2 Transitional and saving provisions

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- 1 (3) The rules may prescribe:  
2 (a) things in relation to which subitem (1) does not apply; or  
3 (b) things in relation to which subitem (1) applies as if the  
4 references in that subitem to the Commonwealth were  
5 references to the person prescribed by the rules.
- 6 (4) Despite subsection 12(2) of the *Legislative Instruments Act 2003*, rules  
7 made for the purposes of subitem (3) may be expressed to take effect  
8 from a day before the rules are registered under that Act (but not before  
9 the day of the commencement time).

#### 10 **19 Legal proceedings**

11 If, immediately before the commencement time, CAMAC was a party  
12 to proceedings pending in any court or tribunal, the Commonwealth is  
13 substituted for CAMAC as a party to the proceedings from that time.

#### 14 **20 Transfer of records to the Department**

15 Any records or documents that were in the possession of CAMAC  
16 immediately before the commencement time are to be transferred to the  
17 Department.

18 Note: The records and documents are Commonwealth records for the purposes of the *Archives*  
19 *Act 1983*.

#### 20 **21 Protection of information obtained from ASIC**

21 If:  
22 (a) before the commencement time, information was disclosed to  
23 CAMAC in accordance with subsection 127(4) of the  
24 *Australian Securities and Investments Commission Act 2001*;  
25 and  
26 (b) immediately before the commencement time, a person was  
27 subject to a condition imposed under subsection 127(4A) of  
28 that Act in relation to the information disclosed;  
29 the person continues to be subject to the condition after the  
30 commencement time.

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Amendments **Schedule 1**  
Transitional and saving provisions **Part 2**

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## 22 Final report

- 1
- 2 (1) The Secretary of the Department must prepare and give to the Minister,  
3 for presentation to the Parliament, a report on the activities of CAMAC  
4 during the final reporting period.
- 5 (2) The Minister administering the *Public Governance, Performance and*  
6 *Accountability Act 2013* may give the Secretary written directions in  
7 relation to the report. The Secretary must comply with any such  
8 directions in preparing the report.
- 9 (3) The Secretary must give the Minister the report within 4 months after  
10 the end of the final reporting period.
- 11 (4) The Minister must table the report in each House of the Parliament  
12 within 15 sitting days of that House after the report is given to the  
13 Minister.
- 14 (5) In this item:  
15 *final reporting period* means the period:  
16 (a) starting:  
17 (i) if, immediately before the commencement time, the  
18 annual report required to be given to the Minister for the  
19 financial year ending before that time has not yet been  
20 given—at the start of that financial year; or  
21 (ii) otherwise—at the start of the financial year in which the  
22 commencement time occurs; and  
23 (b) ending immediately before the commencement time.

## 23 Exemption from stamp duty etc.

24 No stamp duty or other tax is payable under a law of a State or Territory  
25 in respect of the following, or anything connected with the following:

- 26 (a) the vesting of an asset or liability under this Part;  
27 (b) the operation of this Part in any other respect.  
28

## 24 Delegation by Ministers

- 29
- 30 (1) The Minister may, by writing, delegate all or any of his or her powers  
31 and functions under this Part to:
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## Schedule 1 Amendments

### Part 2 Transitional and saving provisions

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- 1 (a) the Secretary of the Department; or  
2 (b) an SES employee, or acting SES employee, in the  
3 Department.

4 Note: The expressions *SES employee* and *acting SES employee* are defined in the *Acts*  
5 *Interpretation Act 1901*.

- 6 (2) The Minister administering the *Public Governance, Performance and*  
7 *Accountability Act 2013* may delegate his or her power under  
8 subitem 22(2) to the Secretary of the Department administered by that  
9 Minister.
- 10 (3) In exercising powers or functions under a delegation, the delegate must  
11 comply with any directions of the delegating Minister.

#### 12 **25 Saving—operation of section 246 of the *Australian*** 13 ***Securities and Investments Commission Act 2001***

14 (1) Despite the repeal of paragraphs 246(1)(b), (d) and (h) of the *Australian*  
15 *Securities and Investments Commission Act 2001* by this Schedule,  
16 section 246 of that Act continues to apply, in relation to anything done  
17 or omitted to be done before the commencement time, as if the repeal  
18 had not happened.

19 (2) Paragraph 246(1)(b) of the *Australian Securities and Investments*  
20 *Commission Act 2001* as continued under subitem (1) has effect, in  
21 relation to anything done or omitted to be done by CAMAC before the  
22 commencement time, as if the Commonwealth were referred to in that  
23 paragraph.

24 (3) This item does not limit the operation of section 8 of the *Acts*  
25 *Interpretation Act 1901* in relation to matters not covered by this item.

26 Note: The *Acts Interpretation Act 1901* as in force on 1 January 2005 applies to this Part: see  
27 subitem 14(2).

#### 28 **26 Compensation for acquisition of property**

29 (1) If the operation of this Part would result in an acquisition of property  
30 (within the meaning of paragraph 51(xxxi) of the Constitution) from a  
31 person otherwise than on just terms (within the meaning of that  
32 paragraph), the Commonwealth is liable to pay a reasonable amount of  
33 compensation to the person.

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Amendments **Schedule 1**  
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- 1 (2) If the Commonwealth and the person do not agree on the amount of the  
2 compensation, the person may institute proceedings in a court of  
3 competent jurisdiction for the recovery from the Commonwealth of  
4 such reasonable amount of compensation as the court determines.

## 5 **27 Transitional rules**

- 6 The Minister may, by legislative instrument, make rules:  
7 (a) prescribing matters required or permitted by this Schedule to  
8 be prescribed by the rules; or  
9 (b) in relation to transitional matters arising out of the  
10 amendments and repeals made by this Schedule.