

## **EXPOSURE DRAFT EXPLANATORY STATEMENT**

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

*Corporations Act 2001, Australian Securities and Investments Commission Act 2001, ASIC Supervisory Cost Recovery Levy Act 2017, Australian Charities and Not-for-profits Commission Act 2012, Life Insurance Act 1995, National Consumer Credit Protection Act 2009, Payment Systems and Netting Act 1998, Retirement Savings Accounts Act 1997, Superannuation Industry (Supervision) Act 1993, Tax Agent Services Act 2009, Australian Crime Commission Act 2002, Corporations (Aboriginal and Torres Strait Islander) Act 2006, Family Law Act 1975, National Greenhouse and Energy Reporting Act 2008*

*Treasury Laws Amendment (Measures for Consultation) Regulations 2022: ALRC Financial Services Interim Report Tranche 2*

Section 1364 of the *Corporations Act 2001* (Corporations Act), section 251 of the *Australian Securities and Investments Commission Act 2001* (ASIC Act), section 13 of the *ASIC Supervisory Cost Recovery Levy Act 2017*, section 200-5 of the *Australian Charities and Not-for-profits Commission Act 2012*, section 8 of the *Corporations (Fees) Act 2001*, section 253 of the *Life Insurance Act 1995*, section 329 of the *National Consumer Credit Protection Act 2009*, section 18 of the *Payment Systems and Netting Act 1998*, section 200 of the *Retirement Savings Accounts Act 1997*, section 353 of the *Superannuation Industry (Supervision) Act 1993*, section 70-55 of the *Tax Agent Services Act 2009*, section 62 of the *Australian Crime Commission Act 2002*, section 633-1 of the *Corporations (Aboriginal and Torres Strait Islander) Act 2006*, section 125 of the *Family Law Act 1975* and section 77 of the *National Greenhouse and Energy Reporting Act 2007* respectively provide that the Governor-General may make regulations prescribing matters required or permitted by the respective Acts to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the relevant Act.

The purpose of the *Treasury Laws Amendment (Measures for Consultation) Regulations 2022: ALRC Financial Services Interim Report Tranche 2* (Regulations) is to make consequential amendments and other improvements to simplify the *Corporations Regulations 2001* (Corporations Regulations) and the *Australian Securities and Investments Commission Regulations 2001* (ASIC Regulations) following the changes proposed in the Treasury Laws Amendment (Measures for consultation) Bill 2022: ALRC Financial Services Interim Report Tranche 2 released for consultation on 12 December 2022 (Amendment Act).

The Regulations contribute to implementing recommendations from the Australian Law Reform Commission's (ALRC's) Interim Reports A and B from its Review of the Legislative Framework for Corporations and Financial Services Regulation (ALRC's Review).

The Regulations make consequential changes required due to the Amendment Act's:

- expanding section 9 of the Corporations Act to create a single glossary; and

- removing redundant definitions.

In addition to the consequential amendments, the Regulations make other improvements to simplify the Corporations Regulations relating to the use of definitions. These include clarifying the meaning of defined terms, using consistent headings for definitions sections and other minor amendments to improve navigability and make the Corporations Regulations easier to read.

The Corporations Act does not specify any conditions that need to be met before the power to make the Regulations may be exercised.

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

The Office of Impact Analysis has advised the amendments do not require an Impact Analysis.

Details of the Regulations are set out in [Attachment A](#)

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

Regulation 12 of the *Legislation (Exemptions and Other Matters) Regulation 2015* exempts the Corporations Regulations and regulations made under the ASIC Act from sunseting.

This sunseting exemption was provided because the instruments support the legislative scheme established under the Corporations Agreement 2002 (an intergovernmental scheme between the Commonwealth, States and Territories) and are integral to long-term decision making by relevant stakeholders. Further, the exemption contributes to commercial certainty and minimises the regulatory burden on stakeholders. The same rationale for exemption from sunseting applies to the Regulations to the extent that they amend the Corporations Regulations and ASIC Regulations.

Further, section 48A of the *Legislation Act 2003* provides where a legislative instrument only repeals or amends another instrument, that instrument is automatically repealed.

By virtue of section 48A, if the regulations are not disallowed, the Regulations will automatically repeal when the disallowance period ends. Once repealed, the sunseting regime set out in Part 4 of Chapter 3 of the *Legislation Act 2003* is no longer relevant to the regulations.

The Regulations commence at the later of the commencement of the Amendment Act and the date of registration.

A statement of Compatibility with Human Rights is at [Attachment B](#).

## ATTACHMENT A

### Details of the Treasury Laws Amendment (Measures for Consultation) Regulations 2023: ALRC Financial Services Interim Report Tranche 2

#### Schedule 1 – Consequential amendments for single glossary of defined terms in the Corporations Act 2001

#### **Removing terms in the Corporations Act or ASIC Act (Items 1, 3, 7, 72, 126, 138, 159, 176-177, 200, 203, 260, 266-267 and 293-295)**

Schedule 1 removes the definitions for terms also used with the same meaning in the Corporations Act or the ASIC Act. These definitions are redundant as:

- Terms used in the *Corporations Regulations 2001* (Corporations Regulations), or the *ASIC Regulation 2001* (ASIC Regulations) take on the same meaning as the Corporations Act under the general rules of construction in the *Legislation Act 2003* (Legislation Act).
- Section 5(2) of the ASIC Act provides that if a term is used, but not defined, in the ASIC Act and also used in the Corporations Act, then the term in the ASIC Act has the same meaning as in the Corporations Act.

These amendments avoid unnecessary duplication between the Corporations Regulations and the Corporations Act and promote the single glossary in section 9 as the location to which readers should refer for the meaning of defined terms. They also reduce the risk of the definitions in the Act and Regulations falling into misalignment due to missed consequential amendments. This improves the coherence and reduces the length of the regulatory framework.

These items affect the following provisions in the Corporations Regulations:

<b>Item</b>	<b>Definition(s)</b>	<b>Provision</b>
1	registrable superannuation entity	Regulation 12A
3	ABN, APFRN, approved deposit fund, Australian Passport Fund Registration Number, choice product, exempt public sector superannuation scheme (EPSSS)	Subregulation 1.0.02(1)
7	MySuper Product, pooled superannuation trust, regulated superannuation fund, retirement savings account, superannuation entity, trustee	Subregulation 1.0.02(1)
72	property	Subregulation 5.3B.30(4)
126	lodge with ASIC	Regulation 1.0.05A
138	self managed superannuation funds	Regulation 7.1.03B
159	employer sponsor, self managed superannuation fund	Subregulation 7.1.29(6)
176, 177, 200, 203	class of product advice	Subregulations 7.6.04(3), 7.8.12A(2) and 7.8.14B(3)
189	basic banking product	Regulation 7.7A.07

<b>Item</b>	<b>Definition(s)</b>	<b>Provision</b>
260	company	Regulation 7.11.01
266	issuer	Regulation 9.4A.01
293, 295	participating economy	Subregulations 2N.2.01(5), 8 8A.5.10(5)

As outlined in the above table, item 72 deletes the definition of ‘property’ from the Corporations Regulations. This definition is worded in a manner that is marginally different from the definition in the Corporations Act, but it has the same effect. The definition in the Regulations expressly includes ‘any other property used or occupied by, or in the possession of, the company’. This is the ordinary meaning of property, and would be covered by the Act definition.

### **New note that terms are defined in section 9 of the Corporations Act (Items 2, 42 and 43)**

Item 2 inserts a note at the beginning of regulation 1.0.02 to alert readers that many terms used in the Corporations Regulations are defined in the Corporations Act. This improves navigability by making readers aware they need to consult the Act to determine the meaning of terms. Five of the most commonly used terms in the Corporations Regulations are included in the note.

Items 42 and 43 repeal note 1 from clause 7A101 of Schedule 7A to the Corporations Regulations and renumber the remaining note. Note 1 achieved a similar effect to the new note under regulation 1.0.02.

### **Removing term only used once (Items 114-115 and 134-135)**

Items 114 and 115 respectively repeal the definition of ‘rules’ from, and make consequential amendments to, regulation 2BC of the ASIC Regulations. The repealed definition only applies to one provision (subregulation 2BC(2) of the ASIC regulations). The amendments made by item 114 effectively move the effect of this definition to subregulation 2BC(2).

Items 134 and 135 respectively, repeal subregulation 5D.1.02(2), which provides a definition of ‘custodian’, and inserts subregulation 5D.1.02(1A) to maintain the effect of the law despite the repeal of this definition.

The repeal of these definitions, each used only in one provision, makes the legislation easier to read.

### **Consistent use of terms in the Corporations Law (Items 5-6, 9-11, 30, 33, 36-38, 45-49, 50-71, 75-76, 79-80, 110-111, 117-119, 122-123, 127, 140-157, 168-170-174, 178-179, 182-187, 190-191, 206, 210, 215-227, 229-231, 233, 235-241, 244, 246-249, 252-258, 264, 268-269, 271, 273-275, 280, 282-288, 294 and 334)**

The following items amend provisions so that they use Corporations Act definitions instead of using definitions which are unique to the Corporations Regulations or ASIC Regulations. None of these changes alter the effect of the law.

These amendments reduce the number of definitions and phrases with which readers need be familiar; and consistently direct readers to section 9 of the Corporations Act. These changes simplify the law and improve its coherence.

*Items 5, 6, 9, 11-30, 33, 45, 46 and 50-71 – ‘standard margin facility’*

The Corporations Regulations define the terms ‘margin loan’ and ‘margin lending’ as meaning a ‘standard margin lending facility’. These definitions therefore add a step for the reader in determining the meaning of provisions, because they are required first to navigate to these definitions, and then to the Corporations Act definition of ‘standard margin lending facility’.

Items 5, 6, 9, 11-30, 33, 45, 46 and 50-71 repeal the definitions of ‘margin loan’ and ‘margin lending’, update references to those terms to references to a ‘standard margin lending facility’, and make amendments consequential to these changes so that the effect of the law remains the same. Some of the items also make minor structural changes to provisions to make them easier to read.

These items affect the following provisions of the Corporations Regulations:

<b>Item</b>	<b>Provision</b>
5	Subregulation 1.0.02(1) (definition of <i>margin loan</i> )
6	Subregulation 1.0.02(1) (definition of <i>minor fee</i> )
9	Subregulation 7.7.08A(1B)
11	Paragraph 7.9.09(1)(e)
12	Subdivision 4.2A of Division 4 of Part 7.9 (heading)
13	Paragraphs 7.9.11(a) and (b)
14	Regulation 7.9.11A (heading)
15	Regulation 7.9.11A
16	Subregulation 7.9.11B(1) (definition of <i>Approved Securities List</i> )
17	Regulation 7.9.11C (heading)
18	Regulation 7.9.11C
19	Regulation 7.9.11D (heading)
20	Subregulations 7.9.11D(1) and (2)
21	Regulation 7.9.11E (heading)
22	Subregulation 7.9.11E(1)
23	Subparagraph 7.9.11E(3)(c)(i)
24	Regulation 7.9.11F (heading)
25	Subregulation 7.9.11F(1)
26	Regulation 7.9.11G (heading)
27	Subregulation 7.9.11G(1)
28	Regulation 7.9.11H (heading)
29	Subregulation 7.9.11H(1)
30	Subregulation 7.9.11H(2)
33	Paragraphs 7.9.15DA(1A)(a), 7.9.15DB(2)(a), 7.9.15DC(2)(a) and 7.9.16L(2)(a)
45	Part 5A of Schedule 10A (heading)
46	Item 5A.2 of Schedule 10A (subsection 1013C(1) of the Corporations Act 2001)
50	Schedule 10C (heading)

<b>Item</b>	<b>Provision</b>
51	Clause 1 of Schedule 10C (heading)
52	Subclause 1(1) of Schedule 10C
53	Clause 2 of Schedule 10C (heading)
54	Clause 2 of Schedule 10C
55	Clause 3 of Schedule 10C (heading)
56	Paragraph 3(a) of Schedule 10C
57	Paragraph 3(b) of Schedule 10C
58	Paragraphs 3(d) to (h) of Schedule 10C
59	Clause 3 of Schedule 10C (note)
60	Clause 4 of Schedule 10C (heading)
61	Clause 4 of Schedule 10C
62	Clause 5 of Schedule 10C (heading)
63	Subclause 5(1) of Schedule 10C
64	Paragraph 5(1)(a) of Schedule 10C
65	Paragraphs 5(1)(a), (c), (d), (e), (f) and (g) of Schedule 10C
66	Clause 6 of Schedule 10C
67	Subclause 7(1) of Schedule 10C
68	Paragraphs 7(1)(b), (c), (d), (e), (g) and (h) of Schedule 10C
69	Subclause 7(2) of Schedule 10C
70	Subclause 7(3) of Schedule 10C
71	Clauses 8 and 9 of Schedule 10C

*Items 10, 36, 37, 38, 47, 48 and 49 – ‘exempt public sector superannuation scheme’*

These items substitute references in the Corporations Regulations to the acronym ‘EPSSS’ with references to ‘exempt public sector superannuation scheme’. This definition is in section 9 of the Corporations Act.

These items affect the following provisions of the Corporations Regulations:

<b>Item</b>	<b>Provision</b>
10	Regulation 7.9.06B
36	Subregulation 7.9.44(1)
37	Subregulation 7.9.44(2)
38	Subregulation 7.9.44(4)
47	Item 10.1 of Schedule 10A
48	Item 13.1 of Schedule 10A
49	Item 17.2 of Schedule 10A

*Items 34-35 and 39-41 – ‘approved deposit funds’*

These items substitute references in the Corporations Regulations to the acronym ‘ADFs’ with references to ‘approved deposit funds’. This definition is in section 9 of the Corporations Act.

These items affect the following provisions of the Corporations Regulations:

<b>Item</b>	<b>Provision</b>
34	Subdivision 5.2 of Division 5 of Part 7.9 (heading)
35	Subdivision 5.6 of Division 5 of Part 7.9 (heading)
39	Regulation 7.9.45 (heading)

<b>Item</b>	<b>Provision</b>
40	Subregulation 7.9.62(1)
41	Subparagraph 7.9.62(4)(g)(iii)

*Item 44 – ‘pooled superannuation trusts’*

Item 44 substitutes, in clause 1 of Schedule 8D (table 1) of the Corporations Regulations, the reference to the acronym ‘PSTs’ with ‘pooled superannuation trusts’. This definition is in section 9 of the Corporations Act.

*Items 75-77 – ‘liability’*

Items 75-77 make changes to regulations 5.3B.03 and 5.5.03 and so that it uses ‘liability’ as defined in section 9 of the Corporations Act, rather than its own concept. This involves minor amendments to maintain the effect of the law, and minor improvements to make the provision easier to read.

*Items 84-109 ‘Takeovers Panel’*

These items substitute the term ‘Panel’ with ‘Takeovers Panel’ in the ASIC Regulations and the Corporations Regulations. This definition is in section 9 of the Corporations Act.

*Items 79, 80, 173, 174, 178, 179, 182, 183, 184, 185, 186, 187, 263-264 – ‘arrangements for compensation’*

These items substitute references to ‘compensation arrangements’ with ‘arrangements for compensation’. This is consistent with amendments made by the Amendment Act, and clarifies that these provisions do not operate according to the definition of ‘compensation arrangements’ in section 9 of the Corporations Act.

Item 80 also repeals subregulations 5D.4.01(2) and (3) and substitutes them with subregulation 5D.4.01(2) which preserves the effect of the repealed subregulations but is easier to read.

These items affect the following provisions of the Corporations Regulations:

<b>Item</b>	<b>Provision</b>
79	Regulation 5D.4.01 (heading)
80	Subregulations 5D.4.01(2) and (3)
173	Regulation 7.6.02AAA (heading)
174	Regulation 7.6.02AA (heading)
178	Regulation 7.6.07A (heading to subsection 923C(10) of the Corporations Act 2001)
179	Regulation 7.6.07A (note to subsection 923C(10) of the Corporations Act 2001)
182	Regulation 7.7.03A (heading)
183	Paragraph 7.7.03A(1)(a)
184	Paragraph 7.7.03A(1)(b)
185	Regulation 7.7.06B (heading)
186	Paragraph 7.7.06B(1)(a)
187	Paragraph 7.7.06B(1)(b)
264	Paragraph 8.2.02(1)(d)

Items 110-111, 119 to 122, 127, 146-157, 168- 170, 209-210, 214-220, 223- 226, 230-231, 233, 235-241, 244, 246-249, 252- 258, 280, 282-288 and 334 – ‘RSA’

These items substitute the term ‘RSA product’ with ‘RSA’ in the ASIC Regulations and the Corporations Regulations. ‘RSA’ is defined in section 9 of the Corporations Act.

These items affect the following provisions:

<b>Item</b>	<b>Provision (Corporations Regulations unless otherwise specified)</b>
110	Paragraph 2A(2)(b) of the ASIC Regulations
111	Paragraph 2A(3) of the ASIC Regulations
119	Subregulation 1.0.02(1) (definition of <i>capital guaranteed</i> )
120	Subregulation 1.0.02(1) (subparagraph (a)(ii) of the definition of <i>capital guaranteed fund</i> )
121	Subregulation 1.0.02(1) (note to the definition of <i>income stream financial product</i> )
122	Subregulation 1.0.02(1) (note to the definition of <i>investment-based financial product</i> )
127	Regulation 1.0.22
146	Subregulation 7.1.18(1) (note)
147	Subregulation 7.1.19(1) (note)
148	Subregulation 7.1.19A(1) (note)
149	Subregulation 7.1.20(1) (note)
150	Subregulation 7.1.21(1) (note)
152	Subregulation 7.1.22(1) (note)
153	Subregulation 7.1.23(1) (note)
154	Subregulation 7.1.24(1) (note)
155	Subregulation 7.1.25(2) (note)
156	Regulation 7.1.26 (note)
157	Regulation 7.1.28 (note)
168	Paragraph 7.6.01(1)(h)
169	Paragraph 7.6.01(1)(hb)
170	Subparagraph 7.6.01(1)(zb)(i)
210	Subregulations 7.8.23(1) and (2)
215	Subregulation 7.9.01(1) (paragraph (b) of the definition of <i>fund information</i> )
216	Subregulation 7.9.01(1)
217	Division 2 of Part 7.9 (heading)
218	Regulation 7.9.03
219	Subdivision 2.3 of Division 2 of Part 7.9 (heading)
220	Regulation 7.9.05
223	Regulation 7.9.08C (heading)
224	Regulation 7.9.08C
225	Paragraph 7.9.09(1)(b)
226	Regulation 7.9.09 (note)
230	Regulation 7.9.12
231	Subparagraph 7.9.14(1)(a)(ii)
233	Regulation 7.9.19
235	Regulation 7.9.43 (heading)



<b>Item</b>	<b>Provision (Corporations Regulations unless otherwise specified)</b>
236	Subregulation 7.9.44(1)
237	Subdivision 5.12 of Division 5 of Part 7.9
238	Paragraph 7.9.49(b)
239	Regulations 7.9.52 and 7.9.53
240	Regulation 7.9.56
241	Regulation 7.9.57
244	Paragraph 7.9.61D(1)(b)
246	Subparagraphs 7.9.62(4)(e)(i) and (4)(h)(i)
247	Paragraph 7.9.63D(1)(b)
248	Subregulations 7.9.66(2) and 7.9.67(7)
249	Paragraph 7.9.72(a)
252	Regulation 7.9.86
253	Subregulation 7.9.89(1)
254	Regulation 7.9.90 (heading)
255	Subregulation 7.9.90(2) (paragraph (aa) of the definition of concerned person in subsection 1017C(9) of the Corporations Act 2001)
256	Subregulations 7.9.91(1) and (2)
257	Paragraph 7.9.92(2)(a)
258	Regulation 7.9.94
280	Part 2 of Schedule 10A (heading)
282	Item 6.3 of Schedule 10A (paragraph 1012D(9A)(a) of the Corporations Act 2001)
283	Item 10.1 of Schedule 10A (subsection 1017B(5A) of the Corporations Act 2001)
284	Item 10.1 of Schedule 10A (subsection 1017B(5E) of the Corporations Act 2001)
285	Item 10.2 of Schedule 10A (subsections 1017B(10) and (11) of the Corporations Act 2001)
286	Item 12.1 of Schedule 10A (subsections 1017D(3A), (3B) and (3C) of the Corporations Act 2001)
287	Item 12.1 of Schedule 10A (paragraph 1017D(3D)(b) of the Corporations Act 2001)
288	Item 13.1 of Schedule 10A (subsection 1017D(8) of the Corporations Act 2001)
334	Regulation 2.18A (note)

*Item 117 – ‘managed investment product’*

Item 117 substitutes, in paragraph 45(b) of the ASIC Regulations, the reference to ‘financial product in paragraph 764A(1)(b) of the Corporations Act’, with ‘managed investment product’. This definition is in section 9 of the Corporations Act.

*Item 118 – ‘foreign passport fund product’*

Item 118 substitutes, in paragraph 45(ba) of the ASIC Regulations, the reference to ‘financial product in paragraph 764A(1)(bb) of the Corporations Act’ with ‘foreign passport fund product’. This definition is in section 9 of the Corporations Act.

*Item 123 – ‘manages financial risk’*

Item 123 substitutes, from subregulation 1.0.02(1) (paragraph (a) of the definition of risk-based financial product) of the Corporations Regulations, the signpost to ‘a financial product under section 763C of the Act’, and replaces it with a reference to a financial product ‘that is a facility through which, or through the acquisition of which, a person manages financial risk’. This preserves the effect of the provision while using the term ‘manages financial risk’, which is defined in section 9 of the Corporations Act.

*Item 127 – ‘a superannuation product’*

Item 127 substitutes regulation 1.0.22 of the Corporations Regulations with a regulation that does not have signposts to the terms ‘a superannuation product’ and ‘RSA’, because these terms are defined in section 9 of the Corporations Act. The item makes other minor edits to the provision to make it easier to read.

*Items 140-145, 206 – replaced signposts with definitions*

These items update the Corporations Regulations so that they use defined terms rather than signposts to a provision in the Corporations Act. The signposts have been substituted with terms defined in section 9 of the Corporations Act.

These items affect the following provisions of the Corporations Regulations:

<b>Item</b>	<b>Substituted signpost</b>	<b>Defined term</b>	<b>Provision(s)</b>
140, 141	Paragraph 764A(1)(b)	managed investment product	Subparagraphs 7.1.06(1)(a)(v) and 7.1.06(1)(f)(iii)
140, 141	Paragraph 764A(1)(bb)	foreign passport product	As per above
140, 141	Paragraph 764A(1)(f)	investment life insurance product	As per above
140, 141	Paragraph 764A(1)(g)	superannuation product	As per above
140, 141	paragraph 764A(1)(h)	RSA	As per above
144	Paragraph 764A(1)(b)	managed investment product	Paragraph 7.1.09(1)(b)
145	Paragraph 764A(1)(bb)	foreign passport fund product	Paragraph 7.1.09(1)(ea)
206	paragraph 7.8.20(1)(a)	security	Subregulation 7.8.20(1)
206	paragraph 7.8.20(1)(b)	managed investment product	As per above
206	paragraph 7.8.20(1)(c)	foreign passport fund product	As per above
268	paragraph 764(1)(b)	managed investment product	subregulation 9.12.02(1)

Items 142 and 143 make other consequential amendments to update provision numbering.

*Items 158 – ‘employer-sponsor’*

Item 158 repeals subparagraph 7.1.29(5)(b)(iii) and substitutes reference to ‘employer sponsor’ with ‘employer-sponsor’ to ensure consistency with the definition in section 9 of the Corporations Act.

*Items 171-172 – ‘Financial Services Guide’ and ‘Supplementary Financial Services Guide’*

Items 171 and 172 substitutes, in paragraphs 7.6.01C(1)(a) and (b) of the Corporations Regulations, ‘financial services guide’ and ‘supplementary financial services guide’ with ‘Financial Services Guide’ and ‘Supplementary Financial Services Guide’. The amendments confirm that these provisions are using the terms in their defined sense. The definitions are in section 9 of the Corporations Act.

*Items 172, 221-222, 227,229 – ‘Supplementary Product Disclosure Statement’ and ‘Statement of Advice’*

Item 172 substitutes, in paragraphs 7.6.01C(1)(d) and (e) of the Corporations Regulations, ‘statement of ‘advice’ with ‘Statement of Advice’. Items 172, 221, 222, 227 and 229 substitute, in paragraphs 7.6.01C(1)(d) and (e), regulation 7.9.07FC (heading), regulation 7.9.07FC, subregulation 7.9.11M(2) and subregulation 7.9.11U(2) (respectively) of the Corporations Regulations, ‘supplementary product disclosure statement’ with ‘Supplementary Product Disclosure Statement’. The amendments confirm that these provisions are using the terms in their defined sense. The definitions are in section 9 of the Corporations Act.

*Items 190 and 191 – ‘life insurance product’*

Items 190 and 191 substitutes, in paragraphs 7.7A.11C(1)(b) and 7.7A.11D(1)(b) of the Corporations Regulations, the expressions ‘a group life policy for members of a superannuation entity’ and ‘a life policy for a member of a superannuation fund’, with ‘life risk insurance product’. This definition is in section 9 of the Corporations Act. The items make consequential changes to the provision to maintain the effect of the provisions.

*Item 267 – ‘issuer’*

Item 267 inserts, in subregulations 9.4.02(1) and (2) of the Corporations Regulations, the words ‘in relation to a financial product’ so that it is clear that ‘issuer’ is being used in accordance with the definition in section 9 of the Corporations Act

*Items 268, 269, 271, 273-275 – ‘CLS participant’*

Item 273 creates a new definition of ‘CLS participant’ to distinguish this type of participant from ‘participant’ as defined in section 9 of the Corporations Act.

Items 268, 269, 271 and 274 substitute ‘participant’ with the new defined term.

Item 275 repeals the definition ‘participant’, because its function is performed by the new defined term.

*Item 294 – ‘home economy for the fund’*

Item 294 omits, in paragraph 8A.5.10(3)(j) of the Corporations Regulations, the expression ‘home economy of the fund’, and substitutes ‘home economy for the fund’, to align with the expression as it is used in the Corporations Act.

### **Improvements to headings (Items 2, 125, 127, 165, 212, 245 and 259)**

The Regulations also make several enhancements to headings to ensure that they are intuitive and consistent.

#### *Item 2 – Intuitive heading for dictionary section*

Item 2 repeals the heading ‘Interpretation’ from regulation 1.0.02 and substitutes a new heading, ‘Definitions’, to ensure that dictionary sections in the Corporations Law have a consistent heading.

#### *Items 127, 165, 212, 245 and 259 – Consistency of heading for definition sections*

Items 127, 165, 212, 245 and 259 relate to regulations in the Corporations Regulations which prescribe or relate to definitions. These items repeal each regulation’s heading and substitute it with a heading in the form ‘meaning of’ as per the table below:

<b>Item</b>	<b>Regulation</b>	<b>Old heading</b>	<b>New heading</b>
125	1.0.02AA 1.0.02AB	N/A	Meaning of <i>basic deposit product</i> – prescription of prior notice requirement  Meaning of <i>prescribed CS facility</i>
127	1.0.22	Territorial application of Act	Meaning of <i>this jurisdiction</i> – specification of external Territories for specified provisions of Chapter 7 of the Act
165	7.4.01	Widely held market body	Meaning of <i>widely held market body</i> – prescribed bodies corporate
212	7.8A.02	Definitions – regulated person	Meaning of <i>regulated person</i> – prescribed persons
245	7.9.61E	CGS depository interest information website	Meaning of <i>CGS depository interest information website</i>
259	7.10.01	Division 3 financial products	Meaning of <i>Division 3 financial products</i> – excluded superannuation products

This heading structure is consistent with the form in the Corporations Act. Consistency in the headings of provisions containing meanings of defined terms helps readers navigate through the Corporations Regulations, particularly with computer-assisted search.

**Relocation of definitions of ‘prescribed CS facility’ and ‘basic deposit products’ (Items 125, 136-137 and 262)**

Items 125, 136 and 137 move the definition of ‘prescribed CS facility’, and ‘basic deposit products’ from regulations 7.1.03 and 7.1.03A to regulations 1.0.02AA and 1.0.02AB so that it is located near the other interpretative provisions in the Corporations Regulations.

Item 262 amends the note to regulation 7.11.23 to insert a signpost to regulation 1.0.02AB of the Regulations, which provides the meaning of ‘prescribed CS facility’.

**Deleting redundant signposts (Items 4, 7-8, 31-32, 74, 81-83, 110-113, 116, 124, 128-131, 139, 151, 160, 162, 164, 166-167, 170, 180-181, 192-194, 196-199, 201-202, 204-205, 207-208, 214, 228, 232, 234, 250-251, 261, 263, 265, 270, 272, 276 and 290)**

Schedule 1 removes signposts to definitions which were moved by the Amendment Act into section 9 of the Corporations Act. Further details about the redundant signposts are below.

<b>Item</b>	<b>Definition</b>	<b>Provision (Corporations Regulations unless otherwise specified)</b>
4, 7, 8, 31, 32, 228	MySuper product, SIS Act, exempt public sector superannuation scheme, RSE licensee and standard employer-sponsored member	Subregulation 1.0.02(1); regulation 7.1.05, paragraphs 7.9.11LA(a) and 7.9.11LB(a); and subparagraph 7.9.11P(3)(a)(iii)
74	liquid	Paragraph 7.9.64(1)(e)
81-83	licensed trustee company	Regulation 7.11.01, paragraphs 7.11.12(1)(a), 7.11.13(1)(a) and 7.11.21(3)(a); and subregulation 7.11.40(5)
112, 170	makes non-cash payments	Paragraph 2B(1)(i) of the ASIC Regulations, subparagraph 7.6.01(1)(zb)(i)
124, 250, 251	derivative	Subregulation 1.0.02(1) (definition of <i>warrant</i> ) and paragraphs 7.9.80B(a) and 7.9.80B(b)
131	participant	Paragraph 5.3A.50(2)(zc)
110	superannuation product, RSA	Paragraph 2A(2)(b) of the ASIC Regulations
111	superannuation product, RSA	Paragraph 2A(3) of the ASIC Regulations
113, 128, 197, 199, 234	margin lending facility	Regulation 2BA of the ASIC Regulations; Paragraphs 5.3A.50(2)(o), 7.8.08A(1)(c), Regulation 7.8.10, subregulation 7.9.30A(1)
116, 270	retail clients	Paragraph 12N(2)(c) of the ASIC Regulations; Paragraph 9.12.02(4)(b)
129	licensed market	Paragraph 5.3A.50(2)(y) (note)
130	licensed CS facility	Paragraph 5.3A.50(2)(z) (note)

<b>Item</b>	<b>Definition</b>	<b>Provision (Corporations Regulations unless otherwise specified)</b>
139	derivative	Subregulation 7.1.04(8)
151, 160	financial product	Paragraph 7.1.22(1)(a), paragraph 7.1.33D(a)
162	basic deposit product	Paragraph 7.1.40(1)(a)
164, 166	prescribed CS facility	Paragraph 7.3.10(f), regulation 7.5.01 (note)
167	OTC derivative transaction	Regulation 7.5A.70
180	general insurance product and dealing	Regulation 7.6.08B
181	financial service	Paragraph 7.7.02(5B)(b)
192-194	financial product advice	Regulations 7.7A.12 (note 1), 7.7A.12F (note), 7.7A.15A(1) (note)
196	custodial or depository service	Subregulation 7.8.07(4)
198	standard margin lending facility	Subregulation 7.8.08B(2)
201, 204	basic deposit product, financial product advice, general insurance product, life risk insurance product, self-managed superannuation fund	Subregulation 7.8.12A(2), 7.8.14B(3)
207	risk insurance product	Regulation 7.8.20A
208, 214	basic banking product	Paragraphs 7.8.21A(h), 7.8A.07(a)
232	responsible person	Subregulation 7.9.15DB(1) (note)
261	issuer	Regulation 7.11.01 (paragraph (a) of the definition of issuer of a Division 4 financial product)
263	participant	Paragraphs 7.11.26(5)(a) and (b)
265	Register of Relevant Providers	Paragraph 9.1.02(q)
272	Australian entity	Subregulation 9.12.02(6) (paragraph (b) of the definition of Australian entity)
276	basic deposit product	Subparagraph 2(6)(b)(ii) of Schedule 5C
290	recognised jurisdiction, recognised offer, securities	Regulation 7.8A.04

Some of these amendments delete a note (which only contains a signpost). Items 202 and 205 renumber the remaining notes in the relevant sections.

Item 75 also makes minor adjustments to the wording of paragraph 7.9.64(1)(e), to clarify its meaning.

Item 290 includes in regulation 7.8.04 a signpost to the applicable definition of securities.

**Consequential updates to signposts due to changes in location (Items 73, 78, 161, 188, 209, 213, 242-243, 251, 278-279 and 291-292)**

Schedule 1 updates signposts where necessary due to the Amendment Act changing the location of provisions.

Further details are below.

*Items 73 and 78 – consequential updates due to removal of regulation making powers from definitions*

Items 73 and 78 update references to the sections which provide the relevant regulation making power. The Amendment Act moved regulation making powers from the definitions of ‘prescribed country’ and ‘publish’, making these amendments necessary.

*Items 161, 188, 209, 213, 242-243, 278-279, 291-292 – signposts in relation to definitions*

<b>Item</b>	<b>Definition</b>	<b>Old signposted provision (Corporations Act)</b>	<b>New signposted provision (Corporations Act)</b>	<b>Provision (Corporations Regulations)</b>
161	security	Paragraph (c) of the definition of ‘security’ in section 761A	Subsection 92(5)	Regulation 7.1.33E
188	further advice, further market-related advice	Section 761A	Section 9	Regulations 7.7.10B, 7.7.10C
209	basic deposit product	Section 761A	Section 9	Paragraph 7.8.21A(i)(i)
213	regulated person	Subsection 994A(1)	Subsection 994A(2)	Subregulation 7.8A.02(1)
242	self managed superannuation fund	Section 761A	Section 9	Subregulation 7.9.61AA(1)
243	Supplementary Product Disclosure Statement	Section 761A	Section 9	Subregulation 7.9.61AA(2)
251	security	Paragraph (c) of the definition of ‘security’ in section 761A	Subsection 92(5)(c)	Paragraph 7.9.80B(b)
278-279	fidelity fund	Subsection 880B(1)	Section 880B	Items 1-2 of Schedule 8C (heading)
291-292	security	Subsection 1200A(1)	Subsection 1200A(1A)	Regulations 8.1.02, 8.2.01

## **Miscellaneous simplifications (Items 78, 132-133, 175, 195, 211, 268, 281, 289, 296-297)**

### *Item 78 – ‘trustee company’*

Item 78 substitutes the reference in subregulation 5D.1.01(2) to a ‘transferring company’ with ‘trustee company’. This change removes ambiguity and aligns the wording of the regulation with paragraph 601WDA(1)(b) of the Act. Item 78 also adds a brief note which summarises how subregulation 5D.1.01(2) fits into the scheme relating to cancelled licences, and when a trustee company is a transferring company.

### *Items 132-133*

Item 132 omits, from subparagraph 5D.1.02(1)(c)(ii) of the Corporations Regulations, the phrase ‘any of the securities mentioned’, and substitutes ‘any of those things that have been given’. The subparagraph above lists several securities in their non-financial sense, such as mortgages, charges and guarantees. The removal of the term ‘securities’ avoids confusion that the subparagraph would be referring to securities as the term is more commonly used in the Corporations Law.

Item 133 repeals a note to a signpost of the definition of securities. Given 132, the note is redundant.

### *Item 175 – redundant scoping words in modification*

Item 175 amends regulation 7.6.02AD of the Corporations Regulations.

This regulation modifies 761G(4A) of the Corporations Act by setting out circumstances in which related bodies corporate of a client are taken to be ‘wholesale clients’. A table in the regulation sets out how the modification should apply to different parts of the Act.

### *Item 195 – clarifying the application of a regulation*

Item 195 inserts a new subsection into regulation 7.8.02A of the Corporations Regulations to clarify when the regulation applies so that the reader does not need to trace through multiple interconnected sections to determine its application. It also creates a new just-in-time definition, ‘derivative retail client money’, to enhance clarity.

### *Item 211 – simplifications to ‘extended operation financial product’ definition*

Item 211 updates the definition of ‘extended operation financial product’ in regulation 7.8A.01 of the Corporations Regulations to make the definition clearer for readers. The repealed definition requires a reader to consult paragraph 994AA(1)(b) and section 761A of the Corporations Act, and Division 2 of Part 2 of the ASIC Act, to determine the scope of ‘extended operation financial product’. The updated definition is simpler and provides that the meaning of ‘extended operation financial product’ is a financial product not within the meaning of the Act, but within the meaning of Division 2 of Part 2 of the ASIC Act.

### *Item 281 – References to ‘Regulations’*

Item 281 repeals all provisions which provide that the term ‘Regulations’ means the *Corporations Regulations 2001*. Readers would ordinarily understand the term



‘Regulations’, in this context, to refer to the Corporations Regulations, making these provisions unnecessary.

This item affects items 5A.1, 5B.1, 5C.1 and 5D.1 of Schedule 10A of the Corporations Regulations.

*Item 289 – repealed redundant Part*

Item 289 repeals the redundant Part 2 of schedule 10BA to the Corporations Regulations. This Part modifies paragraphs 992A(3)(c) and (d) of the Corporations Act, which have been repealed.

*Item 268 – table form*

Item 268 amends subregulation 9.12.02(1) to present the information in a table format. This is simpler for readers.

*Item 277 – redundant schedule*

Item 277 deletes Schedule 8B to the Corporations Regulations. This Schedule prescribes options contracts for the purposes of the definition that was formerly in section 9 of the Corporation Act. However, that definition was repealed with the *Financial Services Reform Act 2001*.

**Consequential amendments to other instruments (Item 296-299, 300-328, 333, 335-336 and 338-352)**

The following items make consequential amendments to instruments other than the Corporations Regulations and ASIC Regulations.

*Items 296-297 – Correction to numbering*

Item 296 renumbers Part 10.48 (second occurring) as Part 10.49 in the Corporations Regulations. The *Corporations Amendment (Litigation Funding) Regulations 2022* and the *Treasury Laws Amendment (Measures for Consultation) Regulations 2022: ALRC Financial Services Interim Report* separately inserted a ‘Part 10.48’ into the Corporations Regulations. Item 296 corrects this, and item 297 consequentially renumbers regulation 10.48.01 to 10.49.01.

*Items 298-313 – ASIC Supervisory Cost Recovery Levy Regulations 2017*

Item 302 updates subsection 4(2) of the *ASIC Supervisory Cost Recovery Levy Regulations 2017* to provide that an expression that is used, but not defined, in the *ASIC Supervisory Cost Recovery Levy Regulations 2017*, has the same meaning as the Corporations Act. This approach is the same as in the ASIC Regulations.

Items 298, 301, 304 and 308 repeal the definition of ‘basic banking product’, ‘participant’, ‘registrable superannuation entity’, ‘regulated CIS’, ‘relevant financial product’, ‘prescribed financial market’, ‘quoted’ and ‘securities’ from the *ASIC Supervisory Cost Recovery Levy Regulations 2017*. These terms are defined in the Corporations Act.

Items 299 and 300 repeal the definition of ‘deal’ from, and insert a definition of ‘dealing’ into, the *ASIC Supervisory Cost Recovery Levy Regulations 2017*. This definition is the same as one of the two meanings of ‘dealing’ in section 9 of the

Corporations. Without this definition, it would be more difficult to determine which meaning of ‘dealing’ applies.

Item 303 updates paragraph 15(2)(a) of the *ASIC Supervisory Cost Recovery Levy Regulations 2017* so that the paragraph includes signposts to the definition of ‘securities’ and ‘prescribed financial market’ in the Corporations Act. The signpost to ‘securities’ identifies the particular subsection of section 92 which applies, and the signpost to ‘prescribed financial market’ clarifies that this concept is defined by the Corporations Act, rather than prescribed in some other sense.

Items 305 to 307 and 312 to 313 remove unnecessary signposts to the Corporations Act from the *ASIC Supervisory Cost Recovery Levy Regulations 2017*. These signposts are unnecessary as the definitions to which they relate are now located in section 9 of the Act. The amendments relate to the following defined terms:

<b>Item</b>	<b>Defined term</b>	<b>Provision in the <i>ASIC Supervisory Cost Recovery Levy Regulations 2017</i></b>
305	consumer credit insurance	Subparagraph 42(1)(b)(iii)
306	relevant providers	Subsection 43(3)
307	Register of Relevant Providers	Paragraph 43(3)(a)
312	relevant providers	Paragraph 72B(1)(b)
313	Register of Relevant Providers	Subparagraph 72B(1)(b)(i)

Item 308 also inserts a signpost in relation to ‘prescribed financial market’ in paragraph 48(3)(aa) of the *ASIC Supervisory Cost Recovery Levy Regulations 2017* to the Corporations Act, which clarifies that the concept is defined by the Act, rather than prescribed in some other sense.

Items 309, 310 and 311 update the signposts to the Corporations Act in subsections 48(4), 51(4) and 67(5) of the *ASIC Supervisory Cost Recovery Levy Regulations 2017*. This amendment is required as the relevant definition for ‘security’ is in subsection 92(5) of the Act.

*Item 314 – Australian Charities and Not-for-profits Commission Regulations 2022*

Item 314 updates a signpost to the Corporations Act so that its form is consistent with other signposts used in the *Australian Charities and Not-for-profits Commission Regulations 2022*.

*Items 315-320 – Corporations (Fees) Regulations 2001*

Items 315 and 318 repeal the definitions of ‘Passport Rules’ and ‘relevant provider’ from the *Corporations (Fees) Regulations 2001*. These terms are defined in section 9 of the Corporations Act and apply to the *Corporations (Fees) Regulations 2001*, so these definitions are redundant.

Item 316 removes signposts to the Corporations Act from the definition of ‘retail financial services license’ in the *Corporations (Fees) Regulations 2001* because these definitions are now located in section 9 of the Corporations Act.

Item 317 provides that an expression that is used, but not defined, in the *Corporations (Fees) Regulations 2001*, and is defined in the Corporations Act, has the same meaning in the *Corporations (Fees) Regulations 2001* as the Act. This approach is consistent with the ASIC Regulations.

Item 319 repeals signposts from the *Corporations (Fees) Regulations 2001* where those signposts direct the reader to the definition of ‘collective investment vehicle’ in subsection 1212(1) of the Corporations Act. The definition of ‘collective investment vehicle’ is now located in section 9 of the Act, so these signposts are unnecessary.

Item 320 replaces the reference to ‘Panel’ in table item 109, in clause 1 of Schedule 1 of the *Corporations (Fees) Regulations 2001*, with the defined term ‘Takeovers Panel’. This amendment reflects changes made to the Corporations Act in the Amending Act.

*Items 321-326, 328-332-333, 335-336, 338-347 and 351-352 – Signposts in Other Regulations*

These items make amendments to signposts in other regulations to ensure that they use a consistent form. Pinpoint signposts are unnecessary as all terms are defined in the main dictionary section in the Corporations Act. The provisions affected are:

<b>Item</b>	<b>Defined term</b>	<b>Provision</b>
321	life policy	Paragraph 11(2)(d) of the <i>Corporations (FinTech Sandbox Australian Financial Services Licence Exemption) Regulations 2020</i>
322-323	derivative	Subregulation 4.00A(2) of the <i>Life Insurance Regulations 1995</i>
324-325	retail client, wholesale client	Subsection 10(4) of the <i>National Consumer Credit Protection (FinTech Sandbox Australian Credit Licence Exemption) Regulations 2020</i>
326	AFCA	Subregulation 3(1) of the <i>National Consumer Credit Protection Regulations 2010</i> (Credit Regulations)
328	superannuation complaint	Subregulation 11A(3) of the Credit Regulations
329	superannuation complaint	Paragraph 23B(4)(a) of the Credit Regulations
330	superannuation complaint	Paragraph 23C(4)(a) of the Credit Regulations
331	margin lending facility	subparagraph 6(2)(a)(i) of the <i>Payment Systems and Netting Regulations 2001</i>
332	AFCA	Subregulation 1.03(1) of the <i>Retirement Savings Accounts Regulations 1997</i>
333	AFCA scheme	Subregulation 1.03(1) of the <i>Retirement Savings Accounts Regulations 1997</i>
335	superannuation complaints	Subregulation 6.10A(3) of the <i>Retirement Savings Accounts Regulations 1997</i>
336	AFCA	Subregulation 1.03(1) of the <i>Superannuation Industry (Supervision) Regulations 1994</i> (SIS Regulations)
338	Registered company auditor	Subregulation 1.03(1) of the SIS Regulations
339	Product Disclosure Statement	Paragraph 2.38(2)(e) of the SIS Regulations
340	Financial Services Guide	Paragraph 2.38(2)(g) of the SIS Regulations

<b>Item</b>	<b>Defined term</b>	<b>Provision</b>
341-342	Derivative	Subregulation 13.15A(2) of the SIS Regulations
343	Superannuation complaint	Subregulation 13.17D(4) of the SIS Regulations
344	Authorised representative	Paragraph 26(1)(j) of the TAS Regulations
345	Relevant provider	Subparagraph 26(1)(n)(ii) of the TAS Regulations
346	Financial services licensee and representative	Paragraphs 207(e), 208(e), 209(d) and 210(c) of Schedule 2 of the TAS Regulations
347	CS facility licensees	clause 2 of Schedule 9 of the <i>Australian Crime Commission Regulations 2018</i>
351	Financial service	Paragraph 60(2)(b) of the <i>Family Law (Superannuation) Regulations 2001</i>
352	Basic deposit product	Paragraph 6.57(5)(b) of the <i>National Greenhouse and Energy Reporting Regulations 2008</i>

*Items 348 to 350 - Corporations (Aboriginal and Torres Strait Islander) Regulations 2017*

Items 348 to 350 update items in the table contained in Clause 4 of Schedule 4 of the *Corporations (Aboriginal and Torres Strait Islander) Regulations 2017*, which relates to winding up provisions in the Corporations Act.

The items update the table as follows:

- Item 348 amends item 9A of the table so that the location of the definition of ‘triggering event’ provided reflects the definition’s location in the Act;
- Item 349 repeals item 28 of the table, which does not accurately reflect the location of the definition of ‘relevant day’ in the Act; and
- Item 350 inserts a new item, 30A, into the table which recreates item 349, with the correct signposts to the location of the definition of ‘relevant day’ in the Act.

**Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

**Treasury Laws Amendment (Measures for Consultation) Regulations 2022:  
ALRC Financial Services Interim Report Tranche 2**

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

**Overview of the Legislative Instrument**

The *Treasury Laws Amendment (Measures for Consultation) Regulations 2022: ALRC Financial Services Interim Report Tranche 2* (Regulations) make consequential amendments and other improvements to simplify the *Corporations Regulations 2001* (Corporations Regulations) and the *Australian Securities and Investments Commission Regulations 2001* (ASIC Regulations) following the changes made by the Treasury Laws Amendment (Measures for consultation) Bill 2022: ALRC Financial Services Interim Report.

The Regulations contribute to implementing recommendations from the Australian Law Reform Commission's (ALRC's) Interim Reports A and B from its Review of the Legislative Framework for Corporations and Financial Services Regulation (ALRC's Review).

The Regulations make consequential changes, primarily to the Corporations Regulations and ASIC Regulations, required due to the Amendment Act's:

- expansion of section 9 of the Corporations Act to create a single glossary; and
- removal of redundant definitions.

In addition to the consequential amendments, the Regulations makes other improvements to simplify the Corporations Regulations relating to the use of definitions. These include clarifying the meaning of defined terms, using consistent headings for definitions sections, and removing substantive obligations from definitions.

This is part of the Government's commitment to regulatory stewardship. This includes regular maintenance and improvement of portfolio legislation to ensure that the laws remain current and fit for purpose.

**Human rights implications**

This Legislative Instrument does not engage any of the applicable rights or freedoms.

## **Conclusion**

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.