

EXPOSURE DRAFT

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

Commencement information		
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 <i>Treasury Laws Amendment (2023 Law Improvement Package No. 1) Act 2023</i> . 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 <i>Treasury Laws Amendment (2023 Law Improvement Package No. 1) Act 2023</i> 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 <i>Treasury Laws Amendment (2023 Law Improvement Package No. 1) Act 2023</i> . However, the provisions do not commence	

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Commencement information

Column 1**Column 2****Column 3**

Provisions**Commencement****Date/Details**

at all if that event:

(a) does not occur; or

(b) occurs on or before the day this Act
receives the Royal Assent.

EXPOSURE DRAFT

1 Schedule 1—AFCA scheme

2 Part 1—Main amendments

3 *Corporations Act 2001*

4 **1 Section 9 (definition of *superannuation complaint*)**

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

6 **2 Section 761A (definition of *superannuation complaint*)**

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

8 **3 Subsection 1051(4) (note)**

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

11 **4 Subdivision A of Division 3 of Part 7.10A (heading)**

12 Repeal the heading, substitute:

13 **Subdivision A—Preliminary**

14 **5 Section 1053 (heading)**

15 Repeal the heading, substitute:

16 **1053 Meaning of *superannuation complaint***

17 **6 Subsection 1053(1)**

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

22 **7 Subsection 1053(1) (note 1)**

23 Repeal the note.

24 **8 Subsection 1053(1) (note 2)**

25 Omit “2”.

26 **9 Subsection 1053(3)**

27 Repeal the subsection.

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1 **10 At the end of Subdivision A of Division 3 of Part 7.10A**

2 Add:

3 **1053B This Division does not restrict other complaints**

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

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

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1 **Part 2—Application provision**

2 *Corporations Act 2001*

3 **11 In the appropriate position in Chapter 10**

4 Insert:

5 **Part 10.74—Application provisions relating to**
6 **Schedule 1 to the Treasury Laws**
7 **Amendment (Measures for Consultation)**
8 **Act 2023**
9

10 **1704 Application provision**

- 11 (1) The amendments made by Part 1 of Schedule 1 to the *Treasury*
12 *Laws Amendment (Measures for Consultation) Act 2023* apply in
13 relation to:
- 14 (a) a complaint made under the AFCA scheme before the
15 commencement of this section, if AFCA did not make, or
16 purport to make, a determination of the complaint before that
17 commencement; or
- 18 (b) a complaint made under the AFCA scheme on or after that
19 commencement.
- 20 (2) To avoid doubt, a reference in paragraph (1)(a) of this section to a
21 complaint made under the AFCA scheme includes a reference to a
22 complaint that:
- 23 (a) was purportedly made under the AFCA scheme before the
24 commencement of this section; and
- 25 (b) was a complaint relating to superannuation but was not a
26 superannuation complaint.

EXPOSURE DRAFT

1 **Part 3—Other amendments**

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

4 **12 Item 555 of Schedule 2 (heading)**

5 Omit “2”.