



SENATOR DAVID POCOCK
Senator for the ACT

The Hon. Stephen Jones MP
Minister for Financial Services
Assistant Treasurer
Parliament House
CANBERRA ACT 2600

Dear ~~Minister~~ Stephen,

I write to you requesting amendments to the Financial Accountability Regime Bill 2022, which is due to be debated in the Senate this Thursday (24 November 2022).

Currently, under s16 of the Bill, the Minister is able to exempt a class of accountability entities, as well as individual entities from the obligations of the Financial Accountability Regime (FAR). The former is done by legislative instrument, while the latter is done "by written notice given to an accountable entity".

I feel this power generally is too broad and would feasibly allow for the Minister to exempt any company for reasons which may not relate to its intended purpose, which I understand is to correct instances where entities have been improperly captured by the FAR. With regard to the exemption of individual entities, the current arrangements also don't allow for any proper scrutiny of these decisions by either the public or the Parliament.

To rectify this, I ask you to make two amendments to the Bill:

1. Limit the scope of the exemption power, by clarifying that its purpose is to correct instances where the FAR is being applied to entities that were never intended to be captured by these laws.
2. Exemptions of individual entities are to be made by notifiable instrument rather than a written notice given directly to the entity being exempted.

I look forward to your earliest response.

Sincerely,

A handwritten signature in black ink, appearing to read "D Pocock".

Senator David Pocock

21 Nov 2022



SENATOR DAVID POCOCK
Senator for the ACT

The Honourable Stephen Jones MP
Assistant Treasurer, Minister for Financial Services

By Hand

28 July 2022

Dear Minister,

Firstly, please accept my congratulations on the 2022 election result and your appointments to the Ministry.

As previously flagged with your office, I am writing to you in the wake of recent media reports by the ABC outlining instances of small business people experiencing difficulties with their home and contents insurance policies.

The nature and details of the cases vary. The first report from the ABC related the experience of the ^{s 47F} [redacted] whose home and contents insurance claim was apparently denied by AAMI, following the destruction of their home in an electrical fault fire because the family had not disclosed that they sold eggs at their farm gate.

The broadcast of this family's story has led to numerous other small business people checking the currency of their own policies, exposing a raft of further issues and cancellations.

One such small businessman and a constituent of mine, ^{s 47F} [redacted]
[redacted]
[redacted]
[redacted]

However, upon checking the validity of his home and contents policy with his insurer, s 47F advised me that he had his insurance cancelled. He struggled to find another insurer and faced a substantially increased premium when he did.

Since first contacting your office on Sunday, I have subsequently received close to 50 calls and emails from people across the country with similar stories. One gentleman, s 47F After making some enquiries, his insurer (AAMI) cancelled his home and contents on the spot. He had been with AAMI for 19 years, spending \$25,000 on premiums without ever once making a claim.

His insurer said they had changed their terms in the last 12 months, and now would no longer cover any for-profit business activities done at home. He is now without insurance.

s 47F said he is concerned for the entire visual arts industry Australia-wide, which is built on artists and hobbyists working from home on commissions. He says it puts artists at an unacceptable risk.

s 47F

s 47F recently reviewed his home and contents policy with AAMI and was prompted to answer whether anyone not related to him was living in the property. His answer was "yes" because of his foster son. His premium immediately increased by \$150.

However, s 47F greatest concern is that people may not know that if they're providing foster care then their home and contents policy could be void. He is worried that should the worst happen, claims could be denied and people could be left with nothing simply because they also happened to be caring for people not related to them.

These are just three of many stories being communicated to my office.

I have also been advised that members of the Australian Public Service directed to work from home are being impacted. I am seeking further advice on this and have also alerted the CPSU.

Given some 97% of businesses in Australia are small businesses, and that, more broadly there has been a huge increase in working from home as a result of the COVID-19 pandemic and public health advice, this issue threatens to have widespread adverse impact on Australians.

As you would appreciate, the danger here is that countless Australians are at risk of one day needing to make a claim but having it rejected.

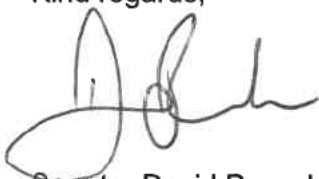
A cursory review of major insurance company home and contents insurance website quotation portals reveals that nowhere do they ask if the applicant conducts any business activities from their premises, fosters a child or any of the other circumstances outlined in the sample case studies above.

I would appreciate the opportunity to meet with you and discuss the concerns that have been expressed and potential actions the Government could take to address them. I have also

written to the Australian Financial Complaints Authority, the Insurance Ombudsman and the Insurance Council of Australia. I am meeting scheduled with the Australian Small Business and Family Enterprise Ombudsman to discuss and am copying this letter to the Hon Julie Collins, Minister for Small Business.

Thank you for your time and your urgent consideration of this matter.

Kind regards,



Senator David Pocock
s 47F



THE HON STEPHEN JONES MP
ASSISTANT TREASURER AND MINISTER FOR FINANCIAL SERVICES

Ref: MC22-008958

Senator David Pocock
Senator for the Australian Capital Territory
Parliament House
CANBERRA ACT 2600

28 SEP 2022

David
Dear Senator

Thank you for your correspondence detailing the experiences of the small business owners who have approached you about their home and contents insurance being invalidated by operating their business from their home.

While it is important that business activities undertaken at home are disclosed so that insurers can accurately set premiums, I understand the frustration and distress felt by these people upon discovering their home and content insurance is invalid. Although the disclosure of home business may result in increased premiums, there are steps that businesses can take to find a lower premium, such as shopping around or engaging an insurance broker.

Alternatively, where a person feels that they have been mistreated by their insurer, whether it be a denied claim or a policy cancelled inappropriately, I would encourage them to lodge a complaint with their insurer's internal dispute resolution service. If they are unsatisfied with how their insurer deals with their complaint, they can lodge a dispute with the independent external dispute resolution scheme, the Australian Financial Complaints Authority.

Ensuring that insurance policy settings are appropriate for Australians, including small business owners, is important to the Albanese Government. I thank you for bringing this issue and the views of small business owners to my attention.

I have copied this letter to the Minister for Small Business, the Hon Julie Collins MP.

Thank you again for your letter.

Yours sincerely

Stephen Jones
The Hon Stephen Jones MP

CC: Minister for Small Business, the Hon Julie Collins MP.

P.S. I have also raised this matter with the Insurance Council of Australia S.



THE HON STEPHEN JONES MP
ASSISTANT TREASURER AND MINISTER FOR FINANCIAL SERVICES

Ref: MC22-016825

Senator David Pocock
Senator for the Australian Capital Territory
Parliament House
CANBERRA ACT 2600

23 NOV 2022

Dear Senator

I write to you in relation to the Government's plan to improve transparency within the superannuation industry. Thank you for your engagement and thoughtful contributions to this matter.

The Albanese Government is committed to strengthening Australia's world-class superannuation system to maximise returns so that all Australians can retire with dignity. A transparent system with consistently reported data is central to this outcome so that members have meaningful information to hold trustees to account and make accurate comparisons between funds on performance, fees and expenditure.

I want to take this opportunity to outline the Government's next steps to deliver a genuinely transparent superannuation system that is member-centric. This involves three parts:

- **Financial reporting and auditing requirements for superannuation entities**

On 23 November 2022, I will introduce the Treasury Laws Amendment (2022 Measures No. 4) Bill 2022 into the House of Representatives. Schedule 6 to this Bill will require registrable superannuation entities (RSEs) to prepare and lodge annual financial reports with the Australian Securities and Investments Commission (ASIC). This will align reporting obligations with publicly listed companies and registered schemes.

Currently, there is no requirement for RSEs to lodge financial reports with ASIC or make them publicly available. While superannuation funds have been required to provide financial information and data to APRA, this information was not subject to monitoring and enforcement action by ASIC to ensure compliance with the relevant accounting and auditing standards. This results in a lack of transparency, accountability and regulatory oversight unsuited to the size and compulsory nature of superannuation.

This will improve public access to, and facilitate industry analysis and scrutiny of, financial reports prepared for RSEs. RSE licensees will be required to publish RSE financial reports for each financial year, including the director's report and auditor's report, on its website within three months after the end of each financial year. Further, a link to these reports will need to be included with the meeting notice ahead of the RSE's Annual Members' Meeting and also be required to be provided to members on request.

- **Annual APRA Superannuation Transparency Report**

The Australian Prudential Regulation Authority (APRA) is currently consulting on improvements to its data collection to improve member outcomes by significantly enhancing the granularity, coverage, comparability and consistency of data reported to APRA. I am engaging with APRA and other

regulators about the publication of an Annual Transparency Report designed to bring meaningful transparency to the superannuation system for members.

At the fund level, I expect this report will detail expenditure categories including, but not necessarily limited to:

- political donations;
- directors' fees;
- property fees (inclusive of rent);
- investment management fees; and
- promotion, marketing and sponsorship.

Additionally, I expect this report to include executive remuneration.

I will ask that APRA gives primacy to transparency and disclosure, providing accurate information, without double counting, that can be compared consistently. Noting that there are legislated requirements regarding the confidentiality of data collected by APRA, I expect that the data will be made publicly available unless there is a clear detriment that outweighs the public benefit. I will be seeking to build a strong framework in consultation with the Parliament to ensure this principle is cautiously applied.

This report will be able to publish information on dividends and expenses to related parties. However, the broader concept of profit in superannuation is complex and not well defined. Given this, I would like both the regulators and industry to work to improve the understanding and definition of profit with a view to providing greater transparency.

The intent is for this reporting to be in place for the next financial year.

- **Ensuring a notice of annual member meetings is fit-for-purpose**

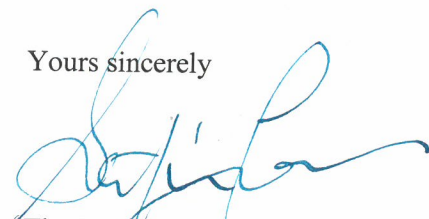
The new APRA transparency report will complement the annual report of a fund – which provides additional information and context on the fund's operations – the annual member meeting – which provides an opportunity for members to query the activities of a fund – and the ATO performance dashboards. This will empower members and drive greater performance outcomes.

This will also allow us to ensure that the notice of an annual member meeting serves the correct purpose, which is to provide the details of when and where the meeting is to occur. It will also supply members with information on how to access the aforementioned reports so that members can confidently engage with the annual member meeting.

As always, I am happy to meet with you further to discuss and receive your continued engagement on the final shape of the APRA transparency report. I am also happy to facilitate a briefing by APRA for your office if this would be of assistance.

I have copied this letter to the Prime Minister and the Treasurer.

Yours sincerely



The Hon Stephen Jones MP

CC: The Hon Anthony Albanese, Prime Minister; The Hon Dr Jim Chalmers, Treasurer.



SENATOR DAVID POCOCK
Senator for the ACT

The Hon. Stephen Jones MP
Assistant Treasurer
Minister for Financial Services
Parliament House
CANBERRA ACT 2600

Dear ~~Minister~~ Stephen,

I write to you on behalf of a constituent who is experiencing an issue with ASIC.

My constituent found out recently that they had been appointed a director of a company without their knowledge or consent.

While I make no comment on why this happened, I was shocked to learn that a person can be given a directorship, and for that directorship to be registered with ASIC, without their consent. As I understand, no documentation was signed by my constituent or required by ASIC.

While the issue has now been resolved privately, my constituent remains concerned that the same company may try and appoint them as a director again without their knowledge. When they contacted ASIC to ask how they could protect themselves against this activity in future, ASIC allegedly offered no advice or response.

On behalf of my constituent, I would ask for clarity on how my constituent can prevent this happening in the future, including who they should contact to continue the discussion. Further, I would also appreciate your assistance in understanding why no documentation is apparently required by ASIC to prove that they have consented to being appointed a director of a company.

I look forward to your response.

Sincerely,

Senator David Pocock

3 Feb 2023



THE HON STEPHEN JONES MP
ASSISTANT TREASURER AND MINISTER FOR FINANCIAL SERVICES

Ref: MC23-006812

Senator David Pocock
Senator for the ACT
Parliament House
CANBERRA ACT 2600

02 JUN 2023


Dear Senator

Thank you for your correspondence concerning the collapse of the Youpla Group, previously known as the Aboriginal Community Benefit Fund.

The Government remains deeply concerned about the impact of the collapse of the Youpla Group on First Nations people.

In immediate response, the Government established the Youpla Group Funeral Benefits Program to help support the families of fund members affected by the collapse. The Program will pay a funeral benefit for a person who has passed away that was a Youpla Group fund member on or after 1 April 2020.

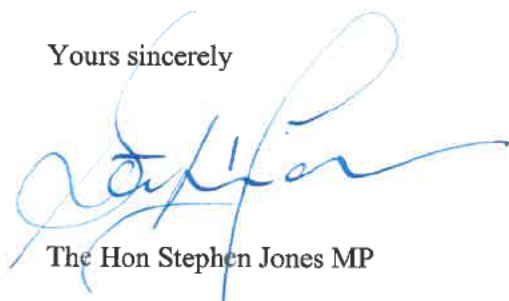
The Government will be further addressing the collapse of the Youpla Group by announcing a resolution in advance of the Program's current closure date of 30 November 2023.

It is expected that the Program will also be extended to overlap with the implementation of an announced resolution to ensure there is no gap in coverage for eligible First Nations people.

Eligible recipients of the resolution will be given information through a targeted communication campaign and support to enable them to fully engage with the program.

Thank you again for your letter.

Yours sincerely



The Hon Stephen Jones MP

CC: The Hon Linda Burney MP



SENATOR DAVID POCOCK
Senator for the ACT

The Hon. Stephen Jones MP
Minister for Financial Services
Assistant Treasurer
Parliament House
CANBERRA ACT 2600

Dear ~~Minister~~ *Stephen,*

I write in solidarity with the victims of Youpla/ACBF and the Save Sorry Business Coalition to call on you, and the Australian Government, to commit to an enduring resolution in the May Budget.

For a period of 16 years, Youpla/ACBF was registered for Centrepay. During that time, they used that label as a marketing tool to suggest to Aboriginal and Torres Strait Islander communities that their product had the tacit endorsement of the Australian Government.

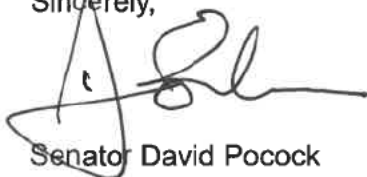
Through Centrepay, the Australian Government acted as a payments platform providing money directly to the company, helping to facilitate their expansion into Aboriginal and Torres Strait Islander communities. The impact of this company's collapse would not have been as wide had the Australian Government not played a role in its growth.

The collapse of Youpla/ACBF has caused so much grief among those who worked hard to contribute to their funeral insurance, only to be left with nothing.

I understand that you have been in extensive negotiations with the Save Sorry Business Coalition and that they have provided options on a resolution that would be welcomed by impacted people.

It seems to me that First Nations communities are providing their voice to the Government on this matter, I hope that it will be seriously considered in the May Budget.

Sincerely,



Senator David Pocock

13 Apr 23

CC: The Hon. Linda Burney MP, Minister for Indigenous Australians

From: s 22
To: senator.david.pocock@aph.gov.au
Subject: Meeting invitation [SEC=OFFICIAL]
Date: Wednesday, 21 September 2022 5:06:16 PM

OFFICIAL

Good afternoon,

Minister Jones would appreciate an opportunity to meet with Senator Pocock in the lead up to the next sitting week.

Could you please let me know your availability on Friday 23 September or Monday 26 September?

Please give me a call on s 22 to discuss.

Many thanks,

s 22

s 22

Office of the Hon Stephen Jones MP
Assistant Treasurer and Minister for Financial Services
P: 02 6277 7230

OFFICIAL

From: s 22
To: s 47F (Sen D. Pocock)
Cc: s 22; Robertson, Belinda; Pocock, David (Senator Office)
Subject: RE: Questions on Financial Accountability Regime Bill [SEC=OFFICIAL]
Date: Wednesday, 23 November 2022 11:30:58 AM
Attachments: [image011.png](#)
[image012.png](#)
[image013.png](#)
[image014.png](#)
[image015.png](#)
[image016.png](#)
[image017.png](#)
[image018.png](#)
[image019.png](#)
[image002.png](#)

OFFICIAL

Hi s [redacted]

Thank you for this letter. It's greatly appreciated. Appreciate you are busy, but it would be good to talk soon on next steps about how to progress amendments that would bring this into effect.

s 22 — Adviser
Office of the Hon Stephen Jones MP
Assistant Treasurer and Minister for Financial Services
P s 22 [redacted]

OFFICIAL

From: s 47F (Sen D. Pocock) s 47F [redacted] @aph.gov.au>
Sent: Tuesday, 22 November 2022 10:04 AM
To: s 22 [redacted] @TREASURY.GOV.AU>
Cc: s 22 [redacted] @TREASURY.GOV.AU>; Robertson, Belinda <Belinda.Robertson@TREASURY.GOV.AU>; Pocock, David (Senator Office) <Senator.David.Pocock@aph.gov.au>
Subject: RE: Questions on Financial Accountability Regime Bill [SEC=OFFICIAL]

Hello s 22 [redacted]

Please find attached correspondence from Senator Pocock to Minister Jones.

Kind regards

s [redacted]

From: s 22 [redacted] @TREASURY.GOV.AU>
Sent: Monday, 21 November 2022 10:16 AM
To: Scott, Fiona (Sen D. Pocock) <Fiona.Scott@aph.gov.au>; s 47F [redacted] (Sen D. Pocock) s 47F [redacted] @aph.gov.au>
Cc: s 22 [redacted] @TREASURY.GOV.AU>; Robertson, Belinda <Belinda.Robertson@TREASURY.GOV.AU>; s 47F [redacted] (Sen D. Pocock)

s 47F [redacted] @aph.gov.au>

Subject: RE: Questions on Financial Accountability Regime Bill [SEC=OFFICIAL]

OFFICIAL

Thanks Fiona – could we try 4-4.30 tomorrow?

Regards

s 22 [redacted] – **Adviser**

Office of the Hon Stephen Jones MP
Assistant Treasurer and Minister for Financial Services

p s 22 [redacted]

[redacted]

OFFICIAL

From: Scott, Fiona (Sen D. Pocock) <Fiona.Scott@aph.gov.au>

Sent: Monday, 21 November 2022 8:45 AM

To: s 22 [redacted] @TREASURY.GOV.AU>; s 47F [redacted] (Sen D. Pocock)

s 47F [redacted] @aph.gov.au>

Cc: s 22 [redacted] @TREASURY.GOV.AU>; Robertson, Belinda
<Belinda.Robertson@TREASURY.GOV.AU>; s 47F [redacted] (Sen D. Pocock)

s 47F [redacted] @aph.gov.au>

Subject: RE: Questions on Financial Accountability Regime Bill [SEC=OFFICIAL]

Thanks s 22 [redacted]

s 47F [redacted] been held up this morning but David could do the following if any of these work for the Minister:

Monday (today) – between 3 and 4 or between 5 and 6

Tuesday between 4 and 5 or after 7.15

Wednesday 10 to 10.30 Or 11.30 to 12.30, between 4 and 7

Thanks so much

Fiona

—

Fiona Scott

Chief of Staff

Senator David Pocock

Independent Senator for the ACT

APH | (02) 6277 3117

M | s 47F [redacted]

E | fiona.scott@aph.gov.au

Electorate office

EO | (02) 6247 6444

Shop 1, 25 Ernest Cavanagh St, Gunghalin ACT 2912

From: s [redacted] <[\[redacted\]@TREASURY.GOV.AU](mailto:[redacted]@TREASURY.GOV.AU)>
Sent: Monday, 21 November 2022 8:35 AM
To: s 47F [redacted] Sen D. Pocock) s 47F [redacted] <[\[redacted\]@aph.gov.au](mailto:[redacted]@aph.gov.au)>
Cc: Scott, Fiona (Sen D. Pocock) <Fiona.Scott@aph.gov.au>; Andrews, Chloe s 22 [redacted] <[\[redacted\]@TREASURY.GOV.AU](mailto:[redacted]@TREASURY.GOV.AU)>; Robertson, Belinda <Belinda.Robertson@TREASURY.GOV.AU>; s 47F [redacted] (Sen D. Pocock) s 47F [redacted] <[\[redacted\]@aph.gov.au](mailto:[redacted]@aph.gov.au)>
Subject: RE: Questions on Financial Accountability Regime Bill [SEC=OFFICIAL]

OFFICIAL

Thanks s [redacted]

s 47F [redacted] please let me know what availability the Senator has this coming week. It would be great to have a chat before Wednesday, if possible, but understand if that is not possible.

s 22 [redacted] — **Adviser**
Office of the Hon Stephen Jones MP
Assistant Treasurer and Minister for Financial Services
p s 22 [redacted]

OFFICIAL

From: s 47F [redacted] (Sen D. Pocock) s 47F [redacted] <[\[redacted\]@aph.gov.au](mailto:[redacted]@aph.gov.au)>
Sent: Sunday, 20 November 2022 1:59 PM
To: s 22 [redacted] <[\[redacted\]@TREASURY.GOV.AU](mailto:[redacted]@TREASURY.GOV.AU)>
Cc: Scott, Fiona (Sen D. Pocock) <Fiona.Scott@aph.gov.au>; s 22 [redacted] <[\[redacted\]@TREASURY.GOV.AU](mailto:[redacted]@TREASURY.GOV.AU)>; Robertson, Belinda <Belinda.Robertson@TREASURY.GOV.AU>; s 47F [redacted] (Sen D. Pocock) s 47F [redacted] <[\[redacted\]@aph.gov.au](mailto:[redacted]@aph.gov.au)>
Subject: RE: Questions on Financial Accountability Regime Bill [SEC=OFFICIAL]

Hello s 22 [redacted]

Thank you for getting back to me. The Senator would be pleased to catch up with the Minister this week. I've CC'd s 47F [redacted] who can help coordinate a time.

Kind regards

s [redacted]

From: s 22 [redacted] <[\[redacted\]@TREASURY.GOV.AU](mailto:[redacted]@TREASURY.GOV.AU)>

Sent: Friday, 18 November 2022 5:52 PM

To: s 47F (Sen D. Pocock) s 47F @aph.gov.au>

Cc: Scott, Fiona (Sen D. Pocock) <Fiona.Scott@aph.gov.au>; s 22

<@TREASURY.GOV.AU>; Robertson, Belinda

<Belinda.Robertson@TREASURY.GOV.AU>

Subject: RE: Questions on Financial Accountability Regime Bill [SEC=OFFICIAL]

OFFICIAL

Hi s

Thank you very much for passing this along. The Minister really appreciates hearing this feedback from the Senator. We'll give it due consideration.

I was also wondering how the Senator is placed to perhaps meet with the Minister this coming sitting period? The Minister would love to sit down and talk about a few issues that I know are important to the Senator.

s 22 — Adviser

Office of the Hon Stephen Jones MP

Assistant Treasurer and Minister for Financial Services

p s 22

OFFICIAL

From: s (Sen D. Pocock) s 47F @aph.gov.au>

Sent: Thursday, 17 November 2022 3:52 PM

To: s 22 @TREASURY.GOV.AU>

Cc: Scott, Fiona (Sen D. Pocock) <Fiona.Scott@aph.gov.au>; s 22

<@TREASURY.GOV.AU>; Robertson, Belinda

<Belinda.Robertson@TREASURY.GOV.AU>

Subject: RE: Questions on Financial Accountability Regime Bill [SEC=OFFICIAL]

Hi s 22

Thank you for the information below.

The Senator certainly appreciates the need for the exemption power, insofar as it would allow the Government to respond to unintended consequences. However, the Senator feels very strongly about broad discretionary powers, particularly in cases where there is limited oversight of their use.

We remain concerned with how the power to exempt individual entities is framed. As a "written notice", it remains unclear whether such a notice would ever be made available for public or parliamentary scrutiny. Our reading of the current legislation is that the only requirement is that it is issued to the entity being exempted.

Based on that, Senator Pocock would like to request amendments to these exemption powers.

Noting your advice that the power is to respond to unintentional consequences, we would like to request that the power be limited to instances where the Minister is satisfied that the class of entities or the individual entity being exempted was never intended to be captured by the FAR.

Additionally, the Senator would like for either the exemption for individual entities to be removed entirely or for these decisions to be made by disallowable instrument.

Hope all is well, s 22 – we're nearly at the end of the year!

Kind regards

s 47F

Advisor

r David Pocock

P | s 47F

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Senator.David.Pocock@aph.gov.au | www.davidpocock.com.au



Our offices reside on [Ngunnawal](#) Country. I acknowledge the traditional Custodians of Country here, and throughout Australia, and pay my respect to the elders, past and present of all Australia's Indigenous peoples.

From: s 22 [@TREASURY.GOV.AU](mailto:s 22@TREASURY.GOV.AU)>

Sent: Wednesday, 16 November 2022 12:06 PM

To: s 47F (Sen D. Pocock) s 47F [@aph.gov.au](mailto:s 47F@aph.gov.au)>

Cc: Scott, Fiona (Sen D. Pocock) <Fiona.Scott@aph.gov.au>; s 22

[@TREASURY.GOV.AU](mailto:s 22@TREASURY.GOV.AU)>; Robertson, Belinda

<Belinda.Robertson@TREASURY.GOV.AU>

Subject: RE: Questions on Financial Accountability Regime Bill [SEC=OFFICIAL]

OFFICIAL

Hi s

Thanks for the discussion and apologies for taking some time to get back to you.

Please see answers below to some of your queries. I hope it addresses things for you, but I'm certainly happy to find more information for you.

FAR – Minister's exemption power

- The rationale is set out in paras 1.138 to 1.141 of the [Explanatory Memorandum](#).
- A near identical exemption power already exists in the BEAR (Banking Executive Accountability Regime) in [section 37A](#) of the *Banking Act 1959*.
- It's essentially there to ensure the Minister can respond in a timely way to unintended consequences, for example, if it's discovered that the FAR inadvertently captures an entity or class of entities it was never intended to capture.
- The provision is somewhat broad because it is there to address unanticipated consequences – so it's not really possible to craft criteria in advance for exercise of the power.
- However, we would expect the power to be exercised very rarely, and don't currently have any exemptions in mind.
- A Minister's exemption of a *class* of entity is done via legislative instrument, and so would be subject to disallowance in the Senate, but an exemption for a *single* entity would not be a legislative instrument and so would not be disallowable.
- This is down to the nature of a [legislative instrument](#), which determines or alters the content of the law but doesn't determine particular cases. A single exemption determines a particular case, so it's not appropriate for a legislative instrument.

FAR – civil penalties

- The FAR Bill as introduced already contains a range of effective measures to deter individuals from wrongdoing.
- For example, the Regulator can disqualify individuals from being accountable persons, seriously impacting an executive's capacity to make a living.
- Further, accountable persons who fail to comply with their accountability obligations will lose a proportionate amount of their variable remuneration.
- Importantly – clause 81 of the Bill will establish individual civil penalties for any person who assists in an accountable entity's contravention of a penalty provision. This means there are already civil penalties in this Bill for accountable persons who are involved in their entity's contraventions.
- This is on top of a range of penalties for misconduct already in place in other financial services laws.
- Adding individual civil penalties to this set of sanctions is not likely to substantially increase the level of deterrence that already exists.

SACCS

- SACCs (commonly known as 'payday loans') and consumer leases are both types of lending that charge high costs to consumers and are typically used by low-income households who are unable to access more mainstream forms of credit.
- The 2016 SACCS Review recommended reforming SACCs, consumer leases and anti-avoidance measures to address a range of concerns of consumer harms arising from some lending practices.
- The FSR Bill takes action, in line with the 2016 review, to protect vulnerable groups from predatory lending practices of high-cost products.

This includes new measures around the provision of SACCs and consumer leases, enhanced disclosure requirements, and prohibitions on practices which have been identified as particularly detrimental to consumers.

- General anti-avoidance measures will also prohibit schemes designed to avoid SACCs and consumer leases restrictions and product intervention orders (historically there have been entities that have opportunistically restructured their business practices to avoid certain regulation).
- Additionally, enhanced civil penalties for breaches of these reforms and existing requirements are introduced.

Please let me know if you need any further information – more than happy to help!

s 22 — Adviser

Office of the Hon Stephen Jones MP
Assistant Treasurer and Minister for Financial Services

P s 22

OFFICIAL

From: s 47F (Sen D. Pocock) s 47F @aph.gov.au>

Sent: Friday, 11 November 2022 4:13 PM

To: s 22 @TREASURY.GOV.AU>

Cc: Scott, Fiona (Sen D. Pocock) <Fiona.Scott@aph.gov.au>

Subject: Questions on Financial Accountability Regime Bill

Dear s 22

Thank you for your time on the phone earlier today.

We would appreciate your advice on some concerns the Senator has with the Financial Accountability Regime Bill related to exempting accountable entities from needing to comply with the FAR.

Section 16 of the Bill allows the Minister to exempt both individual entities and classes of entities.

Broadly, there has been no reason offered as why this power is necessary. The Hayne Royal Commission recommended expanding the BEAR to cover other areas of the finance sector, but did not recommend a power to exempt institutions from compliance. We are aware that in response to queries from the Scrutiny of Bills Committee, the former Treasurer said that the powers were necessary to protect against unforeseen circumstances.

The Senator is concerned that this power is far too broad, and provides the Minister unrestricted power to exempt institutions from the FAR. In the case of individual institutions, it appears the Minister may have the power to do this without scrutiny, as the Minister would only be required to give written notice directly to the entity being exempted. He fears that this undermines the purpose of the FAR and would make these new laws unpredictable in their application.

The Senator would like to understand:

- Under what circumstances does the Government envision an exemption would need to be granted to both a class of accountable entities and individual accountable entities?
- What factors would the Minister consider in making a decision to exempt entities from the FAR?
- Noting that the requirement of 16(1) is for a written notice (not a form of instrument under the *Legislation Act 2003*), what opportunity would the Parliament and the public have to scrutinise decisions made to exempt individual companies from the FAR?

Thanks, s 22 Hope you have a great weekend.

Kind regards

s 47F

Advisor

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s 47F

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Our offices reside on [Ngunnawal](#) Country. I acknowledge the traditional Custodians of Country here, and throughout Australia, and pay my respect to the elders, past and present of all Australia's Indigenous peoples.

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