

EXPOSURE DRAFT EXPLANATORY STATEMENT

Issued by authority of the Treasurer

Corporations Act 2001

Corporations Amendment (Financial Markets Infrastructure Reforms) Regulations 2023

The *Corporations Act 2001* (the Act) provides for the regulation of corporations and financial products and services.

Section 1364 of the Act provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The purpose of the *Corporations Amendment (Financial Markets Infrastructure Reforms) Regulations 2023* (the Regulations) is to support the amendments in the *Treasury Laws Amendment (Measures for Consultation) Act 2023* (the Amending Act). The Amending Act implements recommendations 7 and 8 of the Council of Financial Regulators Advice to Government 2020 (CFR Advice to Government) by providing ASIC with powers to declare a financial market to be a declared financial market and a body corporate to be widely held market body. This replaces the current process of the *Corporations Regulations 2001* (the Corporations Regulations) specifying prescribed financial markets and widely held market bodies for the purposes of the Act.

The Regulations amend the Corporations Regulations to repeal redundant provisions in relation to prescribed financial markets and widely held market bodies that are no longer relevant, and update references to declared financial market (a new term referred to in the Amending Act which replaces prescribed financial market).

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

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

The Regulations commenced at the same time as the commencement of the relevant Schedule of the Amending Act. If the Amending Act does not commence, then the Regulations will not commence.

Details of the Regulations are set out in Attachment A.

Details of the Corporations Amendment (Financial Markets Infrastructure Reforms) Regulations 2023

Section 1 – Name

This section provides that the name of the regulations is the *Corporations Amendment (Financial Markets Infrastructure Reforms) Regulations 2023* (the Regulations).

Section 2 – Commencement

Schedule 1 to the Regulations commenced at the same time as Schedule 2 to the *Treasury Laws Amendment (Measures for Consultation) Act 2023* (the Amendment Act). However, the provisions do not commence at all if that Schedule does not commence.

Section 3 – Authority

The Regulations are made under the *Corporations Act 2001* (the Act).

Section 4 – Schedule

This section provides that each instrument that is specified in the Schedule to this instrument are amended or repealed as set out in the applicable items in the Schedule, and any other item in the Schedule to this instrument has effect according to its terms.

Item 1 repeals regulation 1.0.02A of the *Corporations Regulations 2001* (the Corporations Regulations). This regulation is directed at prescribing financial markets for the definition of ‘prescribed financial market’ in section 9 of the Act. Regulation 1.0.02A would no longer be necessary as the Amendment Act will repeal the definition of ‘prescribed financial market’ from the Act. Following the commencement of the Amendment Act, the term defined in section 9 of the Act is now ‘declared financial market’. Under the Amendment Act, ASIC may, by legislative instrument, declare a specified financial market to be a ‘declared financial market’.

Item 2 repeals regulation 7.4.01 of the Corporations Regulations. This regulation is directed at prescribing widely held market bodies for section 850A of the Act. Following the commencement of the Amendment Act, the meaning of ‘widely held market body’ in section 850A of the Act is a body corporate that is specified in a declaration by ASIC. Regulation 7.4.01 would no longer be necessary as section 850A of the Act no longer refers to a body corporate that is specified in regulations made for the purposes of that section.

Item 3 substitutes references in the Corporations Regulations to ‘prescribed financial market’ or ‘prescribed financial markets’ with references to ‘declared financial market’ or ‘declared financial markets’. The Amendment Act repeals the defined term ‘prescribed financial market’.