



Financial Accountability Regime (Consequential Amendments) Act 2023

No. 68, 2023

An Act to deal with consequential amendments and transitional matters arising from the enactment of the *Financial Accountability Regime Act 2023*, and for related purposes

Note: An electronic version of this Act is available on the Federal Register of Legislation (<https://www.legislation.gov.au/>)

Contents

1	Short title.....	1
2	Commencement.....	2
3	Schedules.....	3
Schedule 1—Consequential amendments		4
Part 1—Amendments for the start of the financial accountability regime		4
<i>Australian Prudential Regulation Authority Act 1998</i>		4
<i>Australian Securities and Investments Commission Act 2001</i>		7
<i>Banking Act 1959</i>		10
<i>Corporations Act 2001</i>		11
<i>Financial Regulator Assessment Authority Act 2021</i>		12
<i>Financial Sector (Transfer and Restructure) Act 1999</i>		12
<i>Insurance Act 1973</i>		12
<i>Life Insurance Act 1995</i>		14
<i>National Consumer Credit Protection Act 2009</i>		17
<i>Payment Systems and Netting Act 1998</i>		18
<i>Private Health Insurance (Prudential Supervision) Act 2015</i>		18
<i>Superannuation Industry (Supervision) Act 1993</i>		20
Part 2—Amendments for the end of the banking executive accountability regime		22
<i>Australian Prudential Regulation Authority Act 1998</i>		22
<i>Banking Act 1959</i>		22
Schedule 2—Application, saving and transitional provisions		24
Part 1—Preliminary		24
Part 2—Banking sector		26
Division 1—Key personnel obligations		26
Division 2—Deferred remuneration obligations		30
Division 3—Notification obligations		32
Division 4—Regulatory powers and enforcement		33

Part 3—Other sectors	37
Division 1—Key personnel obligations	37
Division 2—Deferred remuneration obligations	38
Division 3—Insurance	38
Division 4—Life insurance	38
Division 5—Private health insurance	39
Division 6—Superannuation	39
Part 4—APRA and ASIC	40
Division 1—Transition from the BEAR	40
Division 2—Application of the FAR	41
Part 5—Transitional rules	42



Financial Accountability Regime (Consequential Amendments) Act 2023

No. 68, 2023

An Act to deal with consequential amendments and transitional matters arising from the enactment of the *Financial Accountability Regime Act 2023*, and for related purposes

[Assented to 14 September 2023]

The Parliament of Australia enacts:

1 Short title

This Act is the *Financial Accountability Regime (Consequential Amendments) Act 2023*.

No. 68, 2023

Financial Accountability Regime (Consequential Amendments) Act
2023

1

2 Commencement

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

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day after this Act receives the Royal Assent.	15 September 2023
2. Schedule 1, Part 1	At the same time as the <i>Financial Accountability Regime Act 2023</i> commences. However, the provisions do not commence at all if that Act does not commence.	15 September 2023
3. Schedule 1, Part 2	The day that is 6 months after the <i>Financial Accountability Regime Act 2023</i> commences. However, the provisions do not commence at all if that Act does not commence.	15 March 2023
4. Schedule 2	At the same time as the <i>Financial Accountability Regime Act 2023</i> commences. However, the provisions do not commence at all if that Act does not commence.	15 September 2023

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

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

3 Schedules

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

Schedule 1—Consequential amendments

Part 1—Amendments for the start of the financial accountability regime

Australian Prudential Regulation Authority Act 1998

1 Subsection 3(1) (after paragraph (b) of the definition of prudential regulation framework law)

Insert:

- (ba) the *Financial Accountability Regime Act 2023*;
- (bb) the *Financial Accountability Regime (Consequential Amendments) Act 2023*;

2 Section 48

Omit “Under”, substitute “(1) Under”.

3 At the end of section 48

Add:

- (2) Subsection (1) does not apply to an appointment made under, or for the purposes of, the *Financial Accountability Regime Act 2023*.

4 Paragraph 53(1)(d)

Repeal the paragraph, substitute:

- (d) amounts of any fees, charges or penalties paid to APRA, on behalf of the Commonwealth, under section 51 or any other law of the Commonwealth except the following:
 - (i) Part 3A of the *Financial Institutions Supervisory Levies Collection Act 1998*;
 - (ii) the *Financial Accountability Regime Act 2023*;

5 Subsection 56(1) (after paragraph (cb) of the definition of protected document)

Insert:

or (cc) a person in relation to whom information is, or was, required to be given under the *Financial Accountability Regime Act 2023*;

6 Subsection 56(1) (after paragraph (d) of the definition of *protected document*)

Insert:

(da) a document given or produced to ASIC under, or for the purposes of, a provision of the *Financial Accountability Regime Act 2023*, other than a document given or produced to ASIC by APRA; or

7 Subsection 56(1) (after paragraph (cb) of the definition of *protected information*)

Insert:

or (cc) a person in relation to whom information is, or was, required to be given under the *Financial Accountability Regime Act 2023*;

8 Subsection 56(1) (after paragraph (d) of the definition of *protected information*)

Insert:

(da) information given or produced to ASIC under, or for the purposes of, a provision of the *Financial Accountability Regime Act 2023*, other than information given or produced to ASIC by APRA; or

9 Paragraph 56(2)(c)

Omit “or (7F)”, substitute “, (7F), (7G), (7H), (7J), (7K) or (7L)”.

10 After subsection 56(7F)

Insert:

(7G) It is not an offence if:

(a) the disclosure of protected information or the production of a protected document is to an accountable entity (within the meaning of the *Financial Accountability Regime Act 2023*); and

Schedule 1 Consequential amendments

Part 1 Amendments for the start of the financial accountability regime

- (b) the information, or the information contained in the document, as the case may be, is information contained in the register kept under section 40 of the *Financial Accountability Regime Act 2023*.

Note: A defendant bears an evidential burden in relation to the matters in subsection (7G) (see subsection 13.3(3) of the *Criminal Code*).

(7H) It is not an offence if:

- (a) the disclosure of protected information or the production of a protected document is to an individual; and
- (b) the information, or the information contained in the document, as the case may be, is only personal information about the individual; and
- (c) the information, or the information contained in the document, as the case may be, is information contained in the register kept under section 40 of the *Financial Accountability Regime Act 2023*.

Note: A defendant bears an evidential burden in relation to the matters in subsection (7H) (see subsection 13.3(3) of the *Criminal Code*).

(7J) It is not an offence if:

- (a) the disclosure of protected information or the production of a protected document is by APRA; and
- (b) the information, or the information contained in the document, as the case may be, is information that discloses:
- (i) whether a person is disqualified under section 42 of the *Financial Accountability Regime Act 2023*; or
- (ii) a decision made under Division 2 of Part 3 of Chapter 3 of that Act (which is about disqualification of accountable persons), or the reasons for such a decision.

Note: A defendant bears an evidential burden in relation to the matters in subsection (7J) (see subsection 13.3(3) of the *Criminal Code*).

(7K) It is not an offence if the disclosure of protected information or the production of a protected document by a person is in accordance with section 39 of the *Financial Accountability Regime Act 2023*.

Note: A defendant bears an evidential burden in relation to the matters in subsection (7K) (see subsection 13.3(3) of the *Criminal Code*).

(7L) It is not an offence if:

- (a) the disclosure of protected information or the production of a protected document is by ASIC, for the purposes of the performance of ASIC's functions, or the exercise of ASIC's powers; and
- (b) the protected information was disclosed previously to ASIC, or the protected document was produced previously to ASIC, in accordance with section 39 of the *Financial Accountability Regime Act 2023*.

Note: A defendant bears an evidential burden in relation to the matters in subsection (7L) (see subsection 13.3(3) of the *Criminal Code*).

11 Paragraph 56(12)(a)

Omit "and (7F)", substitute ", (7F), (7G), (7H), (7J), (7K) and (7L)".

12 At the end of subsection 58(4)

Add:

; (d) section 101 or 102 of the *Financial Accountability Regime Act 2023*.

13 After paragraph 59(2)(ba)

Insert:

(bb) information about investigations (including joint investigations) conducted by APRA under Division 1 of Part 4 of Chapter 3 of the *Financial Accountability Regime Act 2023* during the period;

14 After subsection 59(3)

Insert:

(4) Paragraph (2)(bb) does not authorise the inclusion in the annual report of information with respect to the affairs of a particular person.

Australian Securities and Investments Commission Act 2001

15 Subsection 12A(1)

Omit "Acts".

16 At the end of subsection 12A(1)

Add:

- ; (m) the *Financial Accountability Regime Act 2023*;
- (n) the *Financial Accountability Regime (Consequential Amendments) Act 2023*.

17 After subsection 127(6)

Insert:

- (7) A person (the **officer**) commits an offence if:
- (a) the officer is or has been:
 - (i) a member of ASIC; or
 - (ii) a staff member; or
 - (iii) a Commonwealth officer within the meaning of the *Crimes Act 1914*; and
 - (b) the officer intentionally or recklessly, and directly or indirectly:
 - (i) discloses information to any person or to a court; or
 - (ii) produces a document to any person or to a court; and
 - (c) if subparagraph (b)(i) applies—the information is protected information disclosed to, or obtained by, ASIC for the purposes of a function (a **FAR-related function**) conferred on ASIC by:
 - (i) the *Financial Accountability Regime Act 2023*; or
 - (ii) the *Financial Accountability Regime (Consequential Amendments) Act 2023*; and
 - (d) if subparagraph (b)(ii) applies—the document:
 - (i) is protected information and was given or produced to ASIC for the purposes of a FAR-related function; or
 - (ii) contains protected information disclosed to, or obtained by, ASIC for the purposes of a FAR-related function; and
 - (e) the officer acquired the information, or has or had access to the document, as the case may be, in the course of the officer's duties as a member of ASIC, a staff member or a Commonwealth officer within the meaning of the *Crimes Act 1914*.
-

Penalty: Imprisonment for 2 years.

- (7A) Subsection (7) does not apply if the disclosure or production constitutes authorised disclosure of the protected information for the purposes of subsection (1).

Note: A defendant bears an evidential burden in relation to the matter in this subsection (see subsection 13.3(3) of the *Criminal Code*).

- (8) A document is an exempt document for the purposes of section 38 of the *Freedom of Information Act 1982* if the document:
- (a) is protected information and was given or produced to ASIC;
or
 - (b) contains protected information disclosed to, or obtained by, ASIC;
- for the purposes of a function conferred on ASIC by:
- (c) the *Financial Accountability Regime Act 2023*; or
 - (d) the *Financial Accountability Regime (Consequential Amendments) Act 2023*.

18 After paragraph 136(1)(da)

Insert:

- (db) information about investigations (including joint investigations) conducted by ASIC under Division 1 of Part 4 of Chapter 3 of the *Financial Accountability Regime Act 2023* during the period;

19 After subsection 136(2A)

Insert:

- (3) Paragraph (1)(db) does not authorise the inclusion in the annual report of information with respect to the affairs of a particular person.

20 In the appropriate position

Insert:

Part 38—Transitional provisions relating to the Financial Accountability Regime (Consequential Amendments) Act 2023

340 Application—confidentiality

The amendment of section 12A made by Part 1 of Schedule 1 to the *Financial Accountability Regime (Consequential Amendments) Act 2023*, so far as it relates to the definition of protected information in subsection 127(9) of this Act, applies in relation to any use or disclosure of information after the commencement of that Part, whether ASIC obtained the information before or after that commencement.

341 Information to be included in ASIC’s annual report

The amendment of section 136 made by Part 1 of Schedule 1 to the *Financial Accountability Regime (Consequential Amendments) Act 2023* applies to reports on ASIC’s investigations during the financial year ending on 30 June 2024, and later financial years.

Banking Act 1959

21 After subparagraph 9A(2)(b)(ii)

Insert:

- (ia) a requirement of the *Financial Accountability Regime Act 2023*;

22 After subparagraph 11AB(2)(a)(ii)

Insert:

- (ia) a requirement of the *Financial Accountability Regime Act 2023*;

23 Paragraph 15D(1)(a)

After “the *Financial Sector (Collection of Data) Act 2001*”, insert “or the *Financial Accountability Regime Act 2023*”.

24 Paragraph 15D(1)(b)

Omit “that Act”, substitute “those Acts”.

25 At the end of subsection 16B(1)

Add “or the *Financial Accountability Regime Act 2023*”.

26 Subparagraph 16BA(6)(a)(i)

Omit “the regulations or the *Financial Sector (Collection of Data) Act 2001*”, substitute “the regulations, the *Financial Sector (Collection of Data) Act 2001* or the *Financial Accountability Regime Act 2023*”.

27 Section 16C

Omit “this Act or the *Financial Sector (Collection of Data) Act 2001*”, substitute “this Act, the *Financial Sector (Collection of Data) Act 2001* or the *Financial Accountability Regime Act 2023*”.

28 Paragraph 17(2)(a)

Omit “this Act or the prudential standards”, substitute “this Act, the prudential standards or the *Financial Accountability Regime Act 2023*”.

29 After subparagraph 20(1)(a)(ii)

Insert:

(ia) the *Financial Accountability Regime Act 2023*; or

30 Section 69BA

Omit “this Act or the *Financial Sector (Collection of Data) Act 2001*”, substitute “this Act, the *Financial Sector (Collection of Data) Act 2001* or the *Financial Accountability Regime Act 2023*”.

Corporations Act 2001

31 After subparagraph 1317AA(5)(c)(iii)

Insert:

(iia) the *Financial Accountability Regime Act 2023*;

Financial Regulator Assessment Authority Act 2021

32 Subparagraph 40(3)(a)(iv)

Omit “or”.

33 At the end of paragraph 40(3)(a)

Add:

- (v) subsection 72(1) or section 73 of the *Financial Accountability Regime Act 2023*; or

Financial Sector (Transfer and Restructure) Act 1999

34 At the end of paragraph 36B(1A)(a)

Add:

- (iv) section 64 of the *Financial Accountability Regime Act 2023*;

Insurance Act 1973

35 After subparagraph 15(1)(a)(ii)

Insert:

- (iiaa) a requirement of the *Financial Accountability Regime Act 2023*; or

36 After subparagraph 21(1)(a)(ii)

Insert:

- (iiaa) a requirement of the *Financial Accountability Regime Act 2023*; or

37 After subparagraph 25(1)(a)(ii)

Insert:

- (iia) the *Financial Accountability Regime Act 2023*; or

38 After paragraph 43(2)(a)

Insert:

- (aa) has failed to comply with a requirement of the *Financial Accountability Regime Act 2023*; or
-

39 After subparagraph 44(1)(a)(i)

Insert:

- (ia) the person has failed to comply with a requirement of the *Financial Accountability Regime Act 2023*;

40 Paragraph 44(4)(a)

Omit “this Act and the prudential standards”, substitute “this Act, the prudential standards and the *Financial Accountability Regime Act 2023*”.

41 After subparagraphs 48(1)(a)(i) and (2)(a)(i)

Insert:

- (ia) the *Financial Accountability Regime Act 2023*; or

42 At the end of subsection 49(1)

Add “or the *Financial Accountability Regime Act 2023*”.

43 Subparagraph 49A(6)(a)(iv)

Omit “this Act or a requirement under the *Financial Sector (Collection of Data) Act 2001*”, substitute “this Act, a requirement under the *Financial Sector (Collection of Data) Act 2001* or a requirement of the *Financial Accountability Regime Act 2023*”.

44 Section 49B

Omit “this Act or the *Financial Sector (Collection of Data) Act 2001*”, substitute “this Act, the *Financial Sector (Collection of Data) Act 2001* or the *Financial Accountability Regime Act 2023*”.

45 After subparagraph 62M(1)(a)(iv)

Insert:

- (ivaa) the general insurer has failed to comply with a requirement of the *Financial Accountability Regime Act 2023*; or

46 Subsection 62W(1)

Repeal the subsection, substitute:

- (1) None of the matters mentioned in subsection (2) affect:

Schedule 1 Consequential amendments

Part 1 Amendments for the start of the financial accountability regime

- (a) the continued operation of other Parts of this Act in relation to a general insurer; or
- (b) the operation of the *Financial Sector (Collection of Data) Act 2001* or the *Financial Accountability Regime Act 2023* in relation to a general insurer; or
- (c) the obligation of a general insurer to comply with those other Parts and those Acts.

47 Subsection 62ZOY(1)

Repeal the subsection, substitute:

- (1) None of the matters mentioned in subsection (2) affect:
 - (a) the continued operation of other provisions of this Act in relation to a body corporate; or
 - (b) the operation of the *Financial Sector (Collection of Data) Act 2001* or the *Financial Accountability Regime Act 2023* in relation to a body corporate; or
 - (c) the obligation of a body corporate to comply with those other provisions and those Acts.

48 Section 129AA

Omit “this Act or the *Financial Sector (Collection of Data) Act 2001*”, substitute “this Act, the *Financial Sector (Collection of Data) Act 2001* or the *Financial Accountability Regime Act 2023*”.

Life Insurance Act 1995

49 Paragraph 21(3)(e)

Omit “this Act or the *Financial Sector (Collection of Data) Act 2001*”, substitute “this Act, the *Financial Sector (Collection of Data) Act 2001* or the *Financial Accountability Regime Act 2023*”.

50 After subparagraph 26(1)(a)(ii)

Insert:

- (ia) a requirement of the *Financial Accountability Regime Act 2023*; or

51 After subparagraph 28C(1)(a)(ii)

Insert:

(iiaa) a requirement of the *Financial Accountability Regime Act 2023*; or

52 After paragraph 85(1)(b)

Insert:

(ba) the person has failed to comply with a requirement of the *Financial Accountability Regime Act 2023*; or

53 Paragraph 88(1)(a)

Omit “this Act or the *Financial Sector (Collection of Data) Act 2001*”, substitute “this Act, the *Financial Sector (Collection of Data) Act 2001* or the *Financial Accountability Regime Act 2023*”.

54 Subparagraph 88(3)(a)(i)

Omit “this Act or the *Financial Sector (Collection of Data) Act 2001*”, substitute “this Act, the *Financial Sector (Collection of Data) Act 2001* or the *Financial Accountability Regime Act 2023*”.

55 Section 88A

Omit “this Act or under the *Financial Sector (Collection of Data) Act 2001*”, substitute “this Act, the *Financial Sector (Collection of Data) Act 2001* or the *Financial Accountability Regime Act 2023*”.

56 Subsection 88B(1)

Omit “this Act or the *Financial Sector (Collection of Data) Act 2001*”, substitute “this Act, the *Financial Sector (Collection of Data) Act 2001* or the *Financial Accountability Regime Act 2023*”.

57 Paragraph 89(2)(a)

Omit “this Act or the *Financial Sector (Collection of Data) Act 2001*”, substitute “this Act, the *Financial Sector (Collection of Data) Act 2001* or the *Financial Accountability Regime Act 2023*”.

58 After paragraph 94(1)(b)

Insert:

Schedule 1 Consequential amendments

Part 1 Amendments for the start of the financial accountability regime

(ba) the person has failed to comply with a requirement of the *Financial Accountability Regime Act 2023*; or

59 Paragraph 98(1)(a)

Omit “this Act or the *Financial Sector (Collection of Data) Act 2001*”, substitute “this Act, the *Financial Sector (Collection of Data) Act 2001* or the *Financial Accountability Regime Act 2023*”.

60 Subparagraph 98(3)(a)(i)

Omit “this Act or the *Financial Sector (Collection of Data) Act 2001*”, substitute “this Act, the *Financial Sector (Collection of Data) Act 2001* or the *Financial Accountability Regime Act 2023*”.

61 Section 98A

Omit “this Act or under the *Financial Sector (Collection of Data) Act 2001*”, substitute “this Act, the *Financial Sector (Collection of Data) Act 2001* or the *Financial Accountability Regime Act 2023*”.

62 Subsection 98B(1)

Omit “this Act or the *Financial Sector (Collection of Data) Act 2001*”, substitute “this Act, the *Financial Sector (Collection of Data) Act 2001* or the *Financial Accountability Regime Act 2023*”.

63 Paragraph 99(2)(a)

After “this Act”, insert “or the *Financial Accountability Regime Act 2023*”.

64 Paragraph 125A(2)(c)

Omit “the regulations or the *Financial Sector (Collection of Data) Act 2001*”, substitute “the regulations, the *Financial Sector (Collection of Data) Act 2001* or the *Financial Accountability Regime Act 2023*”.

65 Subsection 166(1)

Repeal the subsection, substitute:

- (1) None of the matters mentioned in subsection (2) affect:
- (a) the continued operation of other Parts of this Act in relation to a life company; or

- (b) the operation of the *Financial Sector (Collection of Data) Act 2001* or the *Financial Accountability Regime Act 2023* in relation to a life company; or
- (c) the obligation of a life company to comply with those other Parts and those Acts.

66 Subsection 179AY(1)

Repeal the subsection, substitute:

- (1) None of the matters mentioned in subsection (2) affect:
 - (a) the continued operation of other provisions of this Act in relation to a body corporate; or
 - (b) the operation of the *Financial Sector (Collection of Data) Act 2001* or the *Financial Accountability Regime Act 2023* in relation to a body corporate; or
 - (c) the obligation of a body corporate to comply with those other provisions and those Acts.

67 Paragraph 245(1)(a)

Omit “this Act or the *Life Insurance Act 1945*”, substitute “this Act, the repealed *Life Insurance Act 1945* or the *Financial Accountability Regime Act 2023*”.

68 Subsection 248(2)

Omit “this Act or the *Financial Sector (Collection of Data) Act 2001*”, substitute “this Act, the *Financial Sector (Collection of Data) Act 2001* or the *Financial Accountability Regime Act 2023*”.

National Consumer Credit Protection Act 2009

69 Subsection 5(1) (definition of *large ADI*)

Omit “has the same meaning as in the *Banking Act 1959*”, substitute “means an ADI of a kind determined under subsection (1A)”.

70 After subsection 5(1)

Insert:

- (1A) The Minister may, by legislative instrument, determine the kinds of ADIs that are large ADIs.

Payment Systems and Netting Act 1998

71 Section 5 (after paragraph (b) of the definition of *direction stay provision*)

Insert:

(baa) subsection 77(2) of the *Financial Accountability Regime Act 2023*;

72 Section 5 (before paragraph (fc) of the definition of *specified provisions*)

Insert:

(fca) subsections 77(3) and (4) of the *Financial Accountability Regime Act 2023*;

73 Section 5 (after paragraph (e) of the definition of *specified stay provision*)

Insert:

(eaa) subsection 77(2) of the *Financial Accountability Regime Act 2023*;

Private Health Insurance (Prudential Supervision) Act 2015

74 After subsection 21(1)

Insert:

(1A) APRA may, in writing, cancel the registration of a private health insurer if APRA is satisfied that the private health insurer has failed to comply with a requirement of the *Financial Accountability Regime Act 2023*.

75 Subsections 84(1) and (2)

Omit “or of the *Private Health Insurance Act 2007*”, substitute “the *Private Health Insurance Act 2007* or the *Financial Accountability Regime Act 2023*”.

76 After paragraph 107(2)(c)

Insert:

; and (d) the *Financial Accountability Regime Act 2023*.

77 Subsection 107(2) (note 2)

Omit “paragraphs (b) and (c)”, substitute “paragraphs (b), (c) and (d)”.

78 Paragraph 110(1)(a)

Omit “the *Private Health Insurance Act 2007* or the *Financial Sector (Collection of Data) Act 2001*”, substitute “the *Private Health Insurance Act 2007*, the *Financial Sector (Collection of Data) Act 2001* or the *Financial Accountability Regime Act 2023*”.

79 Subparagraph 110(5)(a)(i)

Omit “the *Private Health Insurance Act 2007* or the *Financial Sector (Collection of Data) Act 2001*”, substitute “the *Private Health Insurance Act 2007*, the *Financial Sector (Collection of Data) Act 2001* or the *Financial Accountability Regime Act 2023*”.

80 Subsections 111(1) and 112(1)

Omit “the *Private Health Insurance Act 2007* or the *Financial Sector (Collection of Data) Act 2001*”, substitute “the *Private Health Insurance Act 2007*, the *Financial Sector (Collection of Data) Act 2001* or the *Financial Accountability Regime Act 2023*”.

81 Paragraph 113(2)(a)

Omit “the *Private Health Insurance Act 2007* or the *Financial Sector (Collection of Data) Act 2001*”, substitute “the *Private Health Insurance Act 2007*, the *Financial Sector (Collection of Data) Act 2001* or the *Financial Accountability Regime Act 2023*”.

82 After subparagraph 119(1)(a)(iii)

Insert:

(iiia) the *Financial Accountability Regime Act 2023*; or

83 After subparagraph 120(4)(b)(iii)

Insert:

(iiia) the *Financial Accountability Regime Act 2023*;

84 Subsection 168(1) (after table item 3)

Insert:

Schedule 1 Consequential amendments

Part 1 Amendments for the start of the financial accountability regime

- 3A to cancel the registration of a private health insurer subsection 21(1A)

Superannuation Industry (Supervision) Act 1993

85 Subsection 10(1) (after paragraph (c) of the definition of RSE licensee law)

Insert:

- (ca) the *Financial Accountability Regime Act 2023*; and

86 Section 38A (before paragraph (ab) of the definition of regulatory provision)

Insert:

- (aba) a provision of the *Financial Accountability Regime Act 2023*;
or

87 Paragraph 126H(3)(a)

Omit “this Act or the *Financial Sector (Collection of Data) Act 2001*”, substitute “this Act, the *Financial Sector (Collection of Data) Act 2001* or the *Financial Accountability Regime Act 2023*”.

88 Subparagraph 129(1)(a)(ii)

After “*Financial Sector (Collection of Data) Act 2001*”, insert “or the *Financial Accountability Regime Act 2023*”.

89 Section 130A

Omit “the prudential standards or the *Financial Sector (Collection of Data) Act 2001*”, substitute “the prudential standards, the *Financial Sector (Collection of Data) Act 2001* or the *Financial Accountability Regime Act 2023*”.

90 At the end of paragraph 130D(4)(a)

Add:

- (iv) any duties required to be performed under the *Financial Accountability Regime Act 2023*; or
-

91 Paragraph 131AA(2)(c)

Omit “the prudential standards or the *Financial Sector (Collection of Data) Act 2001*”, substitute “the prudential standards, the *Financial Sector (Collection of Data) Act 2001* or the *Financial Accountability Regime Act 2023*”.

92 At the end of paragraph 131A(1)(a)

Add:

- (iv) any duties required to be performed under the *Financial Accountability Regime Act 2023*; or

93 Subparagraph 313(1)(a)(ii)

Omit “this Act or under the *Financial Sector (Collection of Data) Act 2001*”, substitute “this Act, or under the *Financial Sector (Collection of Data) Act 2001* or the *Financial Accountability Regime Act 2023*”.

Part 2—Amendments for the end of the banking executive accountability regime

Australian Prudential Regulation Authority Act 1998

94 Subsection 56(1) (paragraph (cb) of the definition of *protected document*)

Repeal the paragraph.

95 Subsection 56(1) (paragraph (cb) of the definition of *protected information*)

Repeal the paragraph.

96 Paragraph 56(2)(c)

Omit “(7D), (7E), (7F),”.

97 Subsections 56(7D), (7E) and (7F)

Repeal the subsections.

98 Paragraph 56(12)(a)

Omit “(7D), (7E), (7F),”.

Banking Act 1959

99 Paragraph 2A(2)(e)

Repeal the paragraph.

100 Subsection 5(1) (definition of *accountable person*)

Repeal the definition.

101 Subsection 5(1) (paragraph (g) of the definition of *direction under this Act*)

Omit “31F;”, substitute “31F.”.

102 Subsection 5(1) (paragraph (h) of the definition of *direction under this Act*)

Repeal the paragraph.

103 Subsection 5(1)

Repeal the following definitions:

- (a) definition of *large ADI*;
- (b) definition of *medium ADI*;
- (c) definition of *non-ADI holding company*;
- (d) definition of *remuneration*;
- (e) definition of *small ADI*;
- (f) definition of *variable remuneration*.

104 Subsection 11AF(1AC)

Repeal the subsection.

105 Paragraphs 11CG(1)(b) and (2)(a)

Omit “, 29 or 37DB”, substitute “or 29”.

106 Subsection 11CG(2A)

Omit “, 29 or 37DB”, substitute “or 29”.

107 Part IIAA

Repeal the Part.

Schedule 2—Application, saving and transitional provisions

Part 1—Preliminary

1 Definitions

- (1) In this Schedule:

banking start time means the time when Part 2 of Schedule 1 commences.

BEAR means:

- (a) Part IIAA of the old Banking Act; and
- (b) any instruments made under that Part as in force immediately before the banking start time; and
- (c) any sections of the old Banking Act that apply in relation to a provision of that Part.

FAR Act means the *Financial Accountability Regime Act 2023*.

FAR start time for a body corporate that is an accountable entity under subsection 9(3) of the FAR Act means the time when the body corporate starts to be an accountable entity, as determined under subsection 9(4) of the FAR Act.

old Banking Act means the *Banking Act 1959*, and any instruments made under that Act, as in force immediately before the banking start time.

- (2) Expressions used in this Schedule that are defined for the purposes of the FAR Act, and used in relation to that Act, have the same meaning as in that Act.
- (3) Expressions used in this Schedule that were defined for the purposes of the old Banking Act, and are used in relation to that Act, have the same meaning as in that Act.

2 Section 7 of the *Acts Interpretation Act 1901*

This Schedule does not limit the effect of section 7 of the *Acts Interpretation Act 1901* as it applies in relation to the repeals made by this Act.

3 Compensation for acquisition of property

- (1) If the operation of the old Banking Act, or of this Act or the FAR Act as it applies under this Act, would result in an acquisition of property (within the meaning of paragraph 51(xxxi) of the Constitution) from a person otherwise than on just terms (within the meaning of that paragraph), the Commonwealth is liable to pay a reasonable amount of compensation to the person.
- (2) Subitem (1) applies whether the acquisition of property occurred before or occurs after the commencement of this Part.
- (3) If the Commonwealth and the person do not agree on the amount of the compensation, the person may institute proceedings in:
 - (a) the Federal Court of Australia; or
 - (b) the Supreme Court of a State or Territory;for the recovery from the Commonwealth of such reasonable amount of compensation as the court determines.

Part 2—Banking sector

Division 1—Key personnel obligations

4 Persons registered under BEAR

When this item applies

- (1) This item applies in relation to a person and an ADI if, immediately before the banking start time:
- (a) the person is an accountable person of the ADI, or of a subsidiary of the ADI, under the old Banking Act; and
 - (b) the person is registered under section 37HA of the old Banking Act.

Accountable persons taken to be registered under FAR

- (2) If, at the banking start time, the person is an accountable person of the ADI or the subsidiary under section 10 of the FAR Act, then the person is taken from the banking start time to be registered under the FAR Act as an accountable person in respect of the ADI or the subsidiary.

Note 1: If the person was an accountable person of a subsidiary of the ADI, and the subsidiary is not a significant related entity of the ADI under the FAR Act, then the person may not be an accountable person of the ADI or the subsidiary under the FAR Act.

Note 2: See also item 13 (old accountability statement taken to be new accountability statement).

Persons ceasing to be accountable persons

- (3) If, at the banking start time, the person is *not* an accountable person of the ADI or the subsidiary under section 10 of the FAR Act, then:
- (a) the person is taken to have ceased to be an accountable person of the ADI or the subsidiary for the purposes of the paragraph 32(a) of the FAR Act; and
 - (b) for the purposes of subparagraph 31(1)(a)(i) of the FAR Act, that ceasing event is taken to have occurred at the banking start time.

Note: Events mentioned in section 32 of the FAR Act must be notified to the Regulator in accordance with section 31 of the FAR Act (notification obligations of an accountable

entity). Failure to comply with a notification obligation is a contravention of a civil penalty provision (see section 80 of the FAR Act).

5 Persons disqualified under BEAR

When this item applies

- (1) This item applies in relation to a person if:
- (a) before the banking start time, the person is disqualified from being, or acting as, an accountable person under section 37J of the old Banking Act; and
 - (b) the disqualification is in effect immediately before the banking start time.

Persons are taken to be disqualified under FAR

- (2) The person is taken, from the banking start time, to be disqualified from being or acting as an accountable person under section 42 of the FAR Act.
- (3) For the purposes of subsection 42(2) of the FAR Act, the disqualification applies in accordance with the following table.

Disqualified accountable persons		
Item	Column 1 If, before the banking start time, the person is disqualified under the old Banking Act in relation to ...	Column 2 then, from the banking start time, the person is taken to be disqualified under the FAR Act in relation to ...
1	a particular ADI	the accountable entity that is that ADI.
2	a particular subsidiary of an ADI	if the subsidiary is a significant related entity of the accountable entity that is the ADI—that significant related entity.
3	a class of ADIs	a class of accountable entities that includes those ADIs.
4	a class of subsidiaries of ADIs	a class of significant related entities of accountable entities that includes those subsidiaries of ADIs.
5	any ADI	any accountable entity.

Schedule 2 Application, saving and transitional provisions
Part 2 Banking sector

Disqualified accountable persons

	Column 1	Column 2
Item	If, before the banking start time, the person is disqualified under the old Banking Act in relation to ...	then, from the banking start time, the person is taken to be disqualified under the FAR Act in relation to ...
6	any subsidiary of an ADI	any significant related entity of an accountable entity.

- (4) The period of disqualification ends when the period of the disqualification under the old Banking Act would have ended.
- (5) Paragraphs 42(1)(a) and (b) and subsections 42(3) to (7) of the FAR Act do not apply in relation to the disqualification.

Applications to vary or revoke disqualification

- (6) If:
- (a) before the banking start time, the person applies to APRA under section 37JA of the old Banking Act to vary or revoke the disqualification; and
 - (b) as at the banking start time, the application has not been withdrawn by the applicant, or dealt with by APRA;
- the application is taken, after the banking start time, to have been made under section 43 of the FAR Act.

6 Pending applications to register a person under BEAR

When this item applies

- (1) This item applies if:
- (a) before the banking start time, an application is made to APRA under section 37HA of the old Banking Act to register a person as an accountable person; and
 - (b) as at the banking start time, the application has not been withdrawn by the applicant, or dealt with by APRA.

Application taken to be made under FAR

- (2) The application is taken to be an application made under section 41 of the FAR Act.

Note: The Regulator may request further information under subsection 41(3) of the FAR Act.

- (3) For the purposes of paragraph 41(5)(a) of the FAR Act, the application is taken to have been made at the banking start time.

7 Persons filling a temporary or unforeseen vacancy when FAR starts

To avoid doubt, the period of 90 days referred to in paragraph 24(2)(a) of the FAR Act begins no earlier than the banking start time, regardless of when the person started to fill the temporary or unforeseen vacancy.

8 Applications to register under FAR

When this item applies

- (1) This item applies to a body corporate that is:
(a) an ADI; or
(b) an authorised NOHC of an ADI.

Early application for registration of accountable persons

- (2) From 30 days before the banking start time, the body corporate may apply to the Regulator under section 41 of the FAR Act to register a person as an accountable person in respect of the body or a significant related entity of the body.
- (3) If the body corporate makes the application before the banking start time, section 41 of the FAR Act (and any other provision of the FAR Act that applies in relation to that section) applies in relation to the body corporate as if the body corporate were an accountable entity.

Note: Under paragraph 41(2)(d) of the FAR Act, if an accountable entity meets the enhanced notification threshold under subsection 31(3) of the FAR Act, the application must include an accountability statement for the person complying with section 33 of the FAR Act.

When registration comes into force

- (4) The registration of the person as an accountable person comes into force at the later of the following times:
- (a) the banking start time;
 - (b) when the Regulator registers the person.

9 Disqualification under FAR for non-compliance with BEAR

APRA may, after the banking start time, disqualify a person under section 42 of the FAR Act from being, or acting as, an accountable person if APRA is satisfied that:

- (a) the person has failed to comply with one or more of their obligations under section 37CA of the old Banking Act; and
- (b) the disqualification is justified, having regard to the seriousness of the failure to comply.

Note: A decision to disqualify a person is a reviewable decision under Part 5 of Chapter 3 of the FAR Act.

Division 2—Deferred remuneration obligations

10 Deferral of variable remuneration continues under BEAR after FAR starts

When this item applies

- (1) This item applies in relation to a person if:
- (a) immediately before the banking start time, the person is an accountable person of an ADI, or of a subsidiary of an ADI, under the old Banking Act; and
 - (b) at the banking start time, the person is an accountable person of the ADI or subsidiary under section 10 of the FAR Act.

Old Banking Act continues to apply until FAR applies

- (2) Despite the repeal of Part IIAA of the *Banking Act 1959* by Part 2 of Schedule 1, the old Banking Act applies, after the banking start time, in relation to the variable remuneration of the accountable person unless Part 5 of Chapter 2 of the FAR Act applies to the variable remuneration (see item 11 of this Schedule).

Note: APRA may exercise powers etc. under repealed provisions for the purposes of this item: see item 29.

11 Deferral of variable remuneration under FAR

When this item applies

- (1) This item applies in relation to a person who is an accountable person under section 10 of the FAR Act of an entity (the *deferring entity*) that is, at the banking start time:
 - (a) an accountable entity under subsection 9(1) of the FAR Act;
or
 - (b) a significant related entity of such an accountable entity.

FAR applies to financial years starting at least 6 months after banking start time

- (2) Part 5 of Chapter 2 of the FAR Act applies in relation to the variable remuneration of the accountable person only if the minimum deferral period for the variable remuneration (see section 28 of the FAR Act) starts in:
 - (a) the first financial year of the deferring entity that begins after the end of the period of 6 months after the banking start time;
or
 - (b) a later financial year.

12 Deferral of variable remuneration under BEAR—savings provision

When this item applies

- (1) This item applies in relation to a person if:
 - (a) immediately before the banking start time:
 - (i) the person is an accountable person of an ADI, or of a subsidiary of an ADI, under the old Banking Act; and
 - (ii) Division 4 of Part IIAA of the old Banking Act applies in relation to the variable remuneration of the person;
and
 - (b) at the banking start time, the person is *not* an accountable person of the ADI or the subsidiary under section 10 of the FAR Act.

Note: If the person was an accountable person of a subsidiary of the ADI, and the subsidiary is not a significant related entity of the ADI under the FAR Act, then the person may not be an accountable person of the ADI or the subsidiary under the FAR Act.

Old Banking Act continues to apply

- (2) Despite the repeal of Part IIAA of the *Banking Act 1959* by Part 2 of Schedule 1, the old Banking Act continues to apply, after the banking start time, in relation to the variable remuneration, as if that repeal had not happened.

Division 3—Notification obligations

13 Accountability statements under BEAR

When this item applies

- (1) This item applies if:
- (a) before the banking start time, an ADI or a subsidiary of an ADI gave APRA a document (the ***old accountability statement***) complying with section 37FA of the old Banking Act for a person who was registered under section 37HA of that Act; and
 - (b) at the banking start time, the person is an accountable person of the ADI or of the subsidiary under section 10 of the FAR Act.

Note: For transfer of registration of the person, see item 4.

- (2) The old accountability statement (including any changes notified to APRA before the banking start time) is taken, from the banking start time, to have been given to the Regulator in accordance with section 33 of the FAR Act for the person.

Note: Any material change to the information contained in the accountability statement must be notified to the Regulator: see subsection 31(2) of the FAR Act.

14 Notification obligations under BEAR—savings provision

- (1) Despite the repeal of Part IIAA of the *Banking Act 1959* by Part 2 of Schedule 1, the old Banking Act continues to apply, after the banking start time, in relation to an obligation covered by subitem (2) and arising before that time, as if that repeal had not happened.

- (2) For the purposes of subitem (1), the obligations are any of the following:
- (a) an obligation under paragraph 37F(1)(a) of the old Banking Act to notify APRA of a change to an accountability statement;
 - (b) an obligation under paragraph 37F(1)(b) of the old Banking Act to notify APRA of a change to an accountability map;
 - (c) an obligation under paragraph 37F(1)(c) of the old Banking Act to notify APRA of an event.

Division 4—Regulatory powers and enforcement

15 Directions about reallocating responsibilities given under BEAR

When this item applies

- (1) This item applies if:
- (a) before the banking start time, APRA gives a body corporate a direction under section 37DB of the old Banking Act in relation to a responsibility; and
 - (b) as at the banking start time, APRA has not revoked the direction.

Direction under FAR Act taken to be given

- (2) After the banking start time, the direction continues in force (and may be dealt with) as if it had been given by the Regulator under section 65 of the FAR Act.
- (3) For the purposes of section 65 of the FAR Act:
- (a) the requirements in paragraphs 65(3)(a) and (c) are taken to be met; and
 - (b) if the direction under section 37DB of the old Banking Act did not specify a period within which the direction is to be complied with—paragraph 65(3)(b) does not apply to the direction.

Secrecy obligations

- (4) If, immediately before the banking start time, the direction was covered by a determination under subsection 11CH(2) of the old Banking Act, then it is taken after the banking start time to be covered by a determination under subsection 67(2) of the FAR Act.
- (5) If, immediately before the banking start time, the direction was covered by a determination under subsection 11CK(2) or (5) of the old Banking Act, then it is taken after the banking start time to be covered by:
 - (a) for a direction covered by a determination under subsection 11CK(2) of the old Banking Act—a determination under subsection 70(2) of the FAR Act;
 - (b) for a direction covered by a determination under subsection 11CK(5) of the old Banking Act—a determination under subsection 70(4) of the FAR Act.

16 Directions under FAR for non-compliance with BEAR

When this item applies

- (1) This item applies if:
 - (a) APRA has reason to believe that a body corporate has contravened a provision of Part IIAA of the old Banking Act before the banking start time; and
 - (b) as at the banking start time, APRA has not given a direction under section 11CA of the old Banking Act in relation to the contravention; and
 - (c) immediately after the banking start time, the body corporate is an accountable entity.

APRA may give direction under FAR Act

- (2) Both of the following apply:
 - (a) APRA may give the body corporate a direction under section 64 of the FAR Act;
 - (b) for the purposes of paragraph 64(3)(b) of the FAR Act, the ground for giving the direction is the contravention of the old Banking Act provision.

17 Revocation of authority for non-compliance with FAR

The amendment of section 9A of the *Banking Act 1959* made by Part 1 of Schedule 1 applies in relation to a body corporate's authority under section 9 of that Act whether the authority was granted before or after the banking start time.

18 Contraventions under BEAR—savings provision

- (1) Despite the repeal of Part IIAA of the *Banking Act 1959* by Part 2 of Schedule 1, the old Banking Act continues to apply, after the banking start time, in relation to a contravention (or an alleged contravention) of a provision of the BEAR that occurs before that time, as if that repeal had not been made.

- (2) This item does not limit any other item of this Schedule.

Note: As a result, APRA may have a choice as to whether to deal with BEAR non-compliance under the old Banking Act or whether to take action under the FAR Act in reliance on item 9 or 16 of this Schedule.

19 Directions under BEAR for non-compliance with BEAR—savings provision

When this item applies

- (1) This item applies if:
- (a) before the banking start time, APRA gives a body corporate a direction under section 11CA of the old Banking Act in relation to a contravention of the BEAR; and
 - (b) as at the banking start time, APRA has not revoked the direction.

Old Banking Act continues to apply

- (2) Despite the repeals and amendments of the *Banking Act 1959* made by Part 2 of Schedule 1, the old Banking Act continues to apply, after the banking start time, in relation to the direction, as if those repeals and amendments had not been made.

20 Review of decisions under BEAR—savings provision

Despite the repeal of Part IIAA of the *Banking Act 1959* by Part 2 of Schedule 1, Part VI (review of decisions) of the old Banking Act continues to apply, after the banking start time, in relation to a decision made under Part IIAA of the *Banking Act 1959*:

- (a) before the banking start time; or
- (b) after the banking start time as a result of the operation of a provision of this Schedule;

as if that repeal had not been made.

21 Enforceable undertakings and injunctions under BEAR—savings provision

To avoid doubt, the repeal of Part IIAA of the *Banking Act 1959* by Part 2 of Schedule 1 does not affect:

- (a) an enforceable undertaking given under section 18A of the old Banking Act before the banking start time; or
- (b) an injunction granted under section 65A of the old Banking Act before the banking start time.

Part 3—Other sectors

Division 1—Key personnel obligations

22 Applications to register under FAR

When this item applies

- (1) This item applies to a body corporate that is any of the following:
 - (a) a general insurer;
 - (b) an authorised NOHC of a general insurer;
 - (c) a life company;
 - (d) a registered NOHC of a life company;
 - (e) a private health insurer;
 - (f) an RSE licensee.

Early application for registration of accountable persons

- (2) From 30 days before the FAR start time for the body corporate, the body may apply to the Regulator under section 41 of the FAR Act to register a person as an accountable person in respect of the body or a significant related entity of the body.
- (3) If the body corporate makes the application before the FAR start time, section 41 of the FAR Act (and any other provision of the FAR Act that applies in relation to that section) applies in relation to the body corporate as if the body corporate were an accountable entity.

Note: Under paragraph 41(2)(d) of the FAR Act, if the accountable entity meets the enhanced notification threshold under subsection 31(3) of the FAR Act, the application must include an accountability statement for the person complying with section 33 of the FAR Act.

When registration comes into force

- (4) The registration of the person as an accountable person comes into force at the later of the following times:
 - (a) the FAR start time for the body corporate;
 - (b) when the Regulator registers the person.

Division 2—Deferred remuneration obligations

23 Deferral of remuneration under FAR

When this item applies

- (1) This item applies in relation to a person who is an accountable person under section 10 of the FAR Act of:
 - (a) an accountable entity under subsection 9(3) of the FAR Act;
or
 - (b) a significant related entity of such an accountable entity.

Deferred remuneration obligations apply when entity becomes an accountable entity

- (2) Part 5 of Chapter 2 of the FAR Act applies in relation to the variable remuneration of the accountable person only if the day referred to in paragraph 28(2)(a) of the FAR Act in relation to the remuneration occurs after the FAR start time for the accountable entity referred to in paragraph (1)(a) or (b) of this item.

Division 3—Insurance

24 Revocation of authorisation for non-compliance with FAR

The amendment of section 15 of the *Insurance Act 1973* made by Part 1 of Schedule 1 applies in relation to a body corporate's authorisation under section 12 of that Act whether the authorisation was granted before or after the FAR start time for the body corporate.

Division 4—Life insurance

25 Application for registration as a life company

The amendment of section 21 of the *Life Insurance Act 1995* made by Part 1 of Schedule 1 applies in relation to an application under section 20 of the *Life Insurance Act 1995* for registration as a life company if:

- (a) the application was made before the commencement of this Part and, as at that commencement, APRA has not decided the application; or
- (b) the application is made after that commencement.

26 Revocation of registration for non-compliance with FAR

The amendment of section 26 of the *Life Insurance Act 1995* made by Part 1 of Schedule 1 applies in relation to a body corporate's registration under section 21 of that Act whether the registration was made before or after the FAR start time for the body corporate.

Division 5—Private health insurance

27 Cancellation of registration for non-compliance with FAR

The amendment of section 21 of the *Private Health Insurance (Prudential Supervision) Act 2015* made by Part 1 of Schedule 1 applies in relation to a body corporate's registration under section 15 of that Act whether the registration was made before or after the FAR start time for the body corporate.

Division 6—Superannuation

28 Cancellation of RSE licence for non-compliance with FAR

The amendment of the definition of *RSE licensee law* in subsection 10(1) of the *Superannuation Industry (Supervision) Act 1993* made by Part 1 of Schedule 1 applies in relation to a body corporate's RSE licence under section 29D of that Act whether the RSE licence was granted before or after the FAR start time for the body corporate.

Part 4—APRA and ASIC

Division 1—Transition from the BEAR

29 Doing things under repealed provisions

- (1) The amendments of the *Australian Prudential Regulation Authority Act 1998* and the *Banking Act 1959* made by Part 2 of Schedule 1 do not apply for the purpose of APRA exercising any right or power, performing any obligation or duty or doing any other thing (including under a provision that is itself repealed or amended):
- (a) in relation to variable remuneration to which the old Banking Act applies under item 10 of this Schedule; or
 - (b) in relation to any other matter in relation to which an item of this Schedule requires or permits APRA to do something under the old Banking Act.

Secrecy

- (2) In addition to subitem (1), despite the amendments of section 56 of the *Australian Prudential Regulation Authority Act 1998* made by Part 2 of Schedule 1, that Act as in force immediately before the banking start time, continues to apply in relation to:
- (a) information disclosed or obtained before or after the commencement of that Part and relating to the affairs of a person in relation to whom information is, or was, required to be given under Part IIAA of the *Banking Act 1959* (including that Part as it continues to apply under an item of this Schedule); and
 - (b) a document given or produced before or after the commencement of that Part and containing information relating to the affairs of a person in relation to whom information is, or was, required to be given under Part IIAA of the *Banking Act 1959* (including that Part as it continues to apply under an item of this Schedule).

30 Agreement about exercise of powers

Section 38 of the FAR Act does not apply in relation to APRA performing a function, or exercising a power, that an item of this Schedule requires or permits APRA to perform or exercise.

Division 2—Application of the FAR

31 Secrecy

The amendments of sections 3 and 56 of the *Australian Prudential Regulation Authority Act 1998* made by Part 1 of Schedule 1 apply in relation to:

- (a) any disclosure of information after the commencement of that Part, whether the information was disclosed or obtained under, or for the purposes of, a prudential regulation framework law before or after that commencement; and
- (b) any production of a document after the commencement of that Part, whether the document was given or produced under, or for the purposes of, a prudential regulation framework law before or after that commencement.

32 Information to be included in APRA's annual report

The amendment of section 59 of the *Australian Prudential Regulation Authority Act 1998* made by Part 1 of Schedule 1 applies to reports on APRA's investigations during the financial year ending on 30 June 2024, and later financial years.

33 Sharing information and documents between APRA and ASIC

- (1) Section 39 of the FAR Act is taken to apply in relation to information disclosed to or obtained by APRA or ASIC, or a document that is given or produced to APRA or ASIC, under or for the purposes of:
 - (a) the BEAR; or
 - (b) this Schedule.
- (2) Section 39 of the FAR Act (including as it applies because of subitem (1) of this item) applies in relation to information disclosed or obtained, or a document that is given or produced, whether before or after the FAR Act commences.

Part 5—Transitional rules

34 Transitional rules

- (1) ASIC and APRA may jointly, by legislative instrument, make rules prescribing matters of a transitional nature (including prescribing any saving or application provisions) relating to:
 - (a) the amendments or repeals made by this Act; or
 - (b) the enactment of this Act or the FAR Act.
- (2) To avoid doubt, the rules may not do the following:
 - (a) create an offence or civil penalty;
 - (b) provide powers of:
 - (i) arrest or detention; or
 - (ii) entry, search or seizure;
 - (c) impose a tax;
 - (d) set an amount to be appropriated from the Consolidated Revenue Fund under an appropriation in this Act;
 - (e) directly amend the text of this Act or the FAR Act.
- (3) This Act (other than subitem (2) of this item) does not limit the rules that may be made.

*[Minister's second reading speech made in—
House of Representatives on 8 March 2023
Senate on 22 March 2023]*

(20/23)
