





# **Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Regulations 2018**

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I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 19 April 2018

Peter Cosgrove  
Governor-General

By His Excellency's Command

Kelly O'Dwyer  
Minister for Revenue and Financial Services

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## 1 Name

This instrument is the *Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Regulations 2018*.

## 2 Commencement

- (1) Each provision of this instrument 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.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 4 and anything in this instrument not elsewhere covered by this table	The day after this instrument is registered.	25 April 2018
2. Schedule 1, items 1 to 14	The day after this instrument is registered.	25 April 2018
3. Schedule 1, items 15 to 28	Immediately after the commencement of the provisions covered by table item 2.	25 April 2018
4. Schedule 1, items 29 to 36	The day after this instrument is registered.	25 April 2018
5. Schedule 1, items 37 to 42	Immediately after the commencement of the provisions covered by table item 2.	25 April 2018
6. Schedule 1, items 43 to 48	Immediately after the commencement of the provisions covered by table item 3.	25 April 2018
7. Schedule 1, items 49 to 51	Immediately after the commencement of the provisions covered by table item 4.	25 April 2018
8. Schedule 2, items 1 to 3	Immediately after the commencement of the provisions covered by table item 2.	25 April 2018
9. Schedule 2, items 4 to 7	The day after this instrument is registered.	25 April 2018
10. Schedule 3	The later of: (a) immediately after the commencement of the provisions covered by table item 4; and (b) the commencement of Schedule 3 to the <i>Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Act 2018</i> .  However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.	

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

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

### **3 Authority**

This instrument is made under the following:

- (a) the *ASIC Supervisory Cost Recovery Levy Act 2017*;
- (b) the *Australian Prudential Regulation Authority Act 1998*;
- (c) the *Corporations Act 2001*;
- (d) the *National Consumer Credit Protection Act 2009*;
- (e) the *Retirement Savings Accounts Act 1997*;
- (f) the *Superannuation Industry (Supervision) Act 1993*;
- (g) the *Superannuation (Resolution of Complaints) Act 1993*.

### **4 Schedules**

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

## **Schedule 1—External dispute resolution**

### **Part 1—Amendments relating to requiring membership of the AFCA scheme**

#### ***Corporations Regulations 2001***

##### **1 Subregulation 7.6.02(5)**

Omit “paragraph 912A(2)(b)”, substitute “paragraphs 912A(2)(b) and (c)”.

##### **2 Paragraph 7.6.02AAA(1)(a)**

After “paragraph 912A(2)(b)”, insert “or (c)”.

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

Insert:

### **Part 10.27—Transitional provisions relating to the Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Regulations 2018**

#### **10.27.01 Membership of the AFCA scheme**

The amendments made by items 1 and 2 of Schedule 1 to the *Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Regulations 2018* apply on and after the day, under item 44 of Schedule 1 to the *Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Act 2018*, on and after which the amendments made by Part 3 of Schedule 1 to that Act apply.

#### ***National Consumer Credit Protection Regulations 2010***

##### **4 Subregulation 3(1)**

Insert:

*AFCA scheme* has the same meaning as in Chapter 7 of the *Corporations Act 2001*.

##### **5 Paragraph 12(1)(a)**

After “Act”, insert “, and of the AFCA scheme”.

##### **6 Regulation 16**

Omit “scheme”, substitute “the AFCA scheme”.

##### **7 Paragraph 23B(1)(c)**

After “scheme”, insert “and the AFCA scheme”.

**8 After paragraph 23C(1)(c)**

Insert:

(ca) it is a member of the AFCA scheme; and

**9 After paragraph 29(1)(g)**

Insert:

(ga) whether the licensee is a member of the AFCA scheme;

**10 After paragraph 29(3)(h)**

Insert:

(ha) whether the credit representative is a member of the AFCA scheme;

**11 After paragraph 29(4)(g)**

Insert:

(ga) whether the registered person is a member of the AFCA scheme;

**12 At the end of subregulation 30A(1)**

Add:

; (g) whether the lender is a member of the AFCA scheme.

**13 In the appropriate position in Part 6-3**

Insert:

**49C Transitional—Part 1 of Schedule 1 to the *Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Regulations 2018***

The amendments made by items 4 to 12 and item 14 of Schedule 1 to the *Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Regulations 2018* apply on and after the day, under item 44 of Schedule 1 to the *Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Act 2018*, on and after which the amendments made by Part 3 of Schedule 1 to that Act apply.

**14 Items 2.17 of Schedule 2 (paragraph 47(1)(f)), 2.23 of Schedule 2 (subsection 49(3A)) and 2.27 of Schedule 2 (subsection 52(1))**

After “scheme”, insert “and the AFCA scheme”.

## **Part 2—Amendments relating to closing off existing external dispute resolution schemes**

### *National Consumer Credit Protection Regulations 2010*

#### **15 Regulation 28 (heading)**

Repeal the heading, substitute:

#### **28 Credit guide of credit representatives—contact details for the AFCA scheme**

#### **16 Regulation 28**

Omit “an approved external dispute resolution scheme” (wherever occurring), substitute “the AFCA scheme”.

#### **17 Subregulation 28B(3)**

Omit “an approved external dispute resolution scheme”, substitute “the AFCA scheme”.

#### **18 Subregulation 28B(3) (note)**

Omit “an approved external dispute resolution scheme”, substitute “the AFCA scheme”.

#### **19 Paragraph 28N(1)(a)**

Omit “approved external dispute resolution scheme of which the person is a member”, substitute “AFCA scheme”.

#### **20 Subregulation 28N(3) (note)**

Omit “an approved external dispute resolution scheme”, substitute “the AFCA scheme”.

#### **21 Paragraph 28P(2)(b)**

Omit “an approved external dispute resolution scheme—the person’s contact details for access to the scheme of which the person is a member”, substitute “the AFCA scheme—the contact details for access to the AFCA scheme”.

#### **22 Subregulation 28P(2) (note)**

Omit “an approved external dispute resolution scheme”, substitute “the AFCA scheme”.

#### **23 In the appropriate position in Part 6-3**

Insert:

#### **49D Transitional—Part 2 of Schedule 1 to the *Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Regulations 2018***

The amendments made by items 15 to 22 and items 24 to 28 of Schedule 1 to the *Treasury Laws Amendment (Putting Consumers First—Establishment of the*

*Australian Financial Complaints Authority) Regulations 2018* apply on and after the day, under item 58 of Schedule 1 to the *Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Act 2018*, on and after which the amendments made by Part 4 of Schedule 1 to that Act apply.

## 24 Regulation 69C (heading)

Repeal the heading, substitute:

### 69C Exemption—requirement to disclose information about the AFCA scheme

## 25 Paragraphs 69C(1)(b) and (c)

Omit “an approved external dispute resolution scheme”, substitute “the AFCA scheme”.

## 26 Subparagraph 69C(1)(c)(i)

Repeal the subparagraph, substitute:

- (i) subparagraph 72(4)(b)(iv);

## 27 Subparagraphs 69C(1)(c)(v) to (viii)

Repeal the subparagraphs, substitute:

- (v) subparagraph 94(2)(b)(ii);
- (vi) paragraph 102(1)(c);
- (vii) subsection 136(2);
- (viii) subsection 149(2);
- (ix) subsection 175(1);
- (x) subparagraph 177B(4)(b)(iv);
- (xi) subsection 179C(2);
- (xii) subparagraph 179D(2)(f)(ii);
- (xiii) subparagraph 179H(2)(b)(ii).

## 28 Amendments of forms

Make the following amendments to Forms 5, 9, 10, 11, 11A, 12, 12A, 14, 15, 16, 17, 18 and 18A in Schedule 1:

- (a) omit “your credit provider’s external dispute resolution scheme” (wherever occurring), substitute “the AFCA scheme”;
- (b) omit “External dispute resolution is” (wherever occurring), substitute “The AFCA scheme is”;
- (c) omit “Your credit provider’s external dispute resolution provider is (name of external dispute resolution provider) and” (wherever occurring), substitute “The AFCA scheme”;
- (d) omit “their external dispute resolution scheme” (wherever occurring), substitute “the AFCA scheme”;
- (e) omit “external dispute resolution scheme that your credit provider belongs to” (wherever occurring), substitute “AFCA scheme”;
- (f) omit “the credit provider’s external dispute resolution scheme” (wherever occurring), substitute “the AFCA scheme”;

- (g) omit “**YOUR CREDIT PROVIDER’S EXTERNAL DISPUTE RESOLUTION SCHEME**” (wherever occurring), substitute “**THE AFCA SCHEME**”;
- (h) omit “**EXTERNAL DISPUTE RESOLUTION IS**” (wherever occurring), substitute “**THE AFCA SCHEME IS**”;
- (i) omit “**YOUR CREDIT PROVIDER’S EXTERNAL DISPUTE RESOLUTION PROVIDER IS [INSERT NAME OF EXTERNAL DISPUTE RESOLUTION PROVIDER] AND**” (wherever occurring), substitute “**THE AFCA SCHEME**”;
- (j) omit “[*insert name of relevant external dispute resolution scheme*]” (wherever occurring), substitute “the AFCA scheme”;
- (k) omit “our external dispute resolution scheme for” (wherever occurring), substitute “the AFCA scheme for”;
- (l) omit “Our external dispute resolution scheme is [*insert name of external dispute resolution scheme*] and” (wherever occurring), substitute “The AFCA scheme”;
- (m) omit “[*insert name of EDR scheme*]” (wherever occurring), substitute “the AFCA scheme”;
- (n) omit “our external dispute resolution scheme, [*insert name of external dispute resolution scheme*],” (wherever occurring), substitute “the AFCA scheme”;
- (o) omit “If you go to [*insert name of external dispute resolution scheme*]” (wherever occurring), substitute “If you go to the AFCA scheme”;
- (p) omit “external dispute resolution scheme that your lessor belongs to” (wherever occurring), substitute “AFCA scheme”.

## ***Superannuation Industry (Supervision) Regulations 1994***

### **29 Subregulation 1.03(1)**

Insert:

*AFCA scheme* has the same meaning as in Chapter 7 of the *Corporations Act 2001*.

### **30 Paragraph 2.36C(1)(h)**

Repeal the paragraph, substitute:

- (h) details of the AFCA scheme;

### **31 In the appropriate position in Part 14**

Insert:

## **Division 14.15—Transitional arrangements arising out of the Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Regulations 2018**

### **14.15 Arrangements relating to membership of existing external dispute resolution schemes**

The amendments made by items 29 and 30 of Schedule 1 to the *Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Regulations 2018* apply on and after the day, under item 58 of Schedule 1 to the *Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Act 2018*, on and after which the amendments made by Part 4 of Schedule 1 to that Act apply.

### ***Superannuation (Resolution of Complaints) Regulations 1994***

#### **32 Regulation 3**

Insert:

*AFCA scheme* has the same meaning as in Chapter 7 of the *Corporations Act 2001*.

#### **33 Regulation 6**

Repeal the regulation, substitute:

#### **6 Complaint handling bodies**

For the purposes of subsection 22A(1) of the Act, the following bodies are prescribed:

- (a) the operator of the AFCA scheme;
- (b) a body that is responsible for dealing with disputes under an external dispute resolution scheme that complies with paragraph 912A(2)(b) of the *Corporations Act 2001*.

#### **34 After regulation 7**

Insert:

### **8 Transitional provisions relating to the Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Regulations 2018**

The amendments made by items 32, 33 and 35 of Schedule 1 to the *Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Regulations 2018* apply on and after the day, under item 58 of Schedule 1 to the *Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Act 2018*, on and after which the amendments made by Part 4 of Schedule 1 to that Act apply.

**35 Schedule 2**

Repeal the Schedule.

## **Part 3—Amendments relating to no longer requiring membership of existing external dispute resolution schemes**

### ***Corporations Regulations 2001***

#### **36 Subregulations 7.6.02(3) and (4)**

Repeal the subregulations.

#### **37 Subregulation 7.6.02(5)**

Omit “paragraphs 912A(2)(b) and (c)”, substitute “paragraph 912A(2)(c)”.

#### **38 Paragraph 7.6.02AAA(1)(a)**

Omit “a scheme (or schemes) mentioned in paragraph 912A(2)(b) or (c)”, substitute “the scheme mentioned in paragraph 912A(2)(c)”.

#### **39 Subregulations 7.9.77(3) and (4)**

Repeal the subregulations.

#### **40 Regulation 10.2.47**

Repeal the regulation.

#### **41 Regulation 10.2.87**

Repeal the regulation.

#### **42 In the appropriate position in Part 10.27**

Insert:

#### **10.27.02 Membership of existing external dispute resolution schemes**

The amendments made by items 36 to 39 of Schedule 1 to the *Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Regulations 2018* apply on and after the day, under item 72 of Schedule 1 to the *Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Act 2018*, on and after which the amendments made by Part 5 of Schedule 1 to that Act apply.

### ***National Consumer Credit Protection Regulations 2010***

#### **43 Subregulations 10(3) and (4)**

Repeal the subregulations.

#### **44 Paragraph 12(1)(a)**

Omit “an approved external dispute resolution scheme (or schemes) mentioned in paragraph 47(1)(i) of the Act, and of”.

**45 Paragraph 23B(1)(c)**

Omit “an approved external dispute resolution scheme and”.

**46 Paragraphs 23C(1)(c), 29(1)(g), 29(3)(h), 29(4)(g) and 30A(1)(f)**

Repeal the paragraphs.

**47 In the appropriate position in Part 6-3**

Insert:

**49E Transitional—Part 3 of Schedule 1 to the *Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Regulations 2018***

The amendments made by items 43 to 46 and item 48 of Schedule 1 to the *Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Regulations 2018* apply on and after the day, under item 72 of Schedule 1 to the *Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Act 2018*, on and after which the amendments made by Part 5 of Schedule 1 to that Act apply.

**48 Items 2.17 of Schedule 2 (paragraph 47(1)(f)), 2.23 of Schedule 2 (subsection 49(3A)) and 2.27 of Schedule 2 (subsection 52(1))**

Omit “an approved external dispute resolution scheme and”.

***Superannuation (Resolution of Complaints) Regulations 1994***

**49 Regulation 6**

Repeal the regulation, substitute:

**6 Complaint handling bodies**

For the purposes of subsection 22A(1) of the Act, the operator of the AFCA scheme is prescribed.

**50 Regulation 8**

Before “The amendments”, insert “(1)”.

**51 At the end of regulation 8**

Add:

- (2) The amendments made by item 49 of Schedule 1 to the *Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Regulations 2018* apply on and after the day, under item 72 of Schedule 1 to the *Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Act 2018*, on and after which the amendments made by Part 5 of Schedule 1 to that Act apply.

## Schedule 2—Internal dispute resolution

### Part 1—Amendments relating to internal dispute resolution

#### *Corporations Regulations 2001*

##### **1 Subdivision 5.11 of Division 5 of Part 7.9**

Repeal the Subdivision.

##### **2 In the appropriate position in Part 10.27**

Insert:

###### **10.27.03 Written reasons for internal review decisions**

Regulations 7.9.48, 7.9.48A, 7.9.48C and 7.9.48D of these Regulations continue to have effect, despite their repeal by item 1 of Schedule 2 to the *Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Regulations 2018* until the later of:

- (a) the commencement of the first legislative instrument made under subsection 47(2A) of the *Retirement Savings Accounts Act 1997* as amended by item 7 of Schedule 2 to the *Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Act 2018*; and
- (b) the commencement of the first legislative instrument made under subsection 101(1B) of the *Superannuation Industry (Supervision) Act 1993* as amended by item 9 of Schedule 2 to the *Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Act 2018*.

###### **10.27.04 Disclosing information about the AFCA scheme**

Regulations 7.9.48, 7.9.48A and 7.9.48B of these Regulations continue to have effect, despite their repeal by item 1 of Schedule 2 to the *Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Regulations 2018* until the day that standards and requirements are first made or approved by ASIC under subparagraph 912A(2)(a)(i) of the *Corporations Act 2001* after those regulations are registered.

#### *Superannuation Industry (Supervision) Regulations 1994*

##### **3 Paragraph 2.36C(1)(i)**

Omit “arrangements the fund has to deal with inquiries or complaints”, substitute “the fund’s internal dispute resolution procedures”.

## **Part 2—Other amendments**

### ***Corporations Regulations 2001***

#### **4 Paragraph 7.6.02(1)(a)**

Repeal the paragraph, substitute:

- (a) Australian/New Zealand Standard AS/NZS 10002:2014 *Guidelines for complaint management in organizations* published jointly by, or on behalf of, Standards Australia and Standards New Zealand, as in force or existing on 29 October 2014;

#### **5 Paragraph 7.9.77(1)(a)**

Repeal the paragraph, substitute:

- (a) Australian/New Zealand Standard AS/NZS 10002:2014 *Guidelines for complaint management in organizations* published jointly by, or on behalf of, Standards Australia and Standards New Zealand, as in force or existing on 29 October 2014;

### ***National Consumer Credit Protection Regulations 2010***

#### **6 Paragraph 10(1)(a)**

Repeal the paragraph, substitute:

- (a) Australian/New Zealand Standard AS/NZS 10002:2014 *Guidelines for complaint management in organizations* published jointly by, or on behalf of, Standards Australia and Standards New Zealand, as in force or existing on 29 October 2014;

#### **7 Item 2.20 of Schedule 2 (paragraph 48(1)(a))**

Repeal the paragraph, substitute:

- (a) Australian/New Zealand Standard AS/NZS 10002:2014 *Guidelines for complaint management in organizations* published jointly by, or on behalf of, Standards Australia and Standards New Zealand, as in force or existing on 29 October 2014;

## **Schedule 3—Consequential amendments relating to the repeal of the Superannuation (Resolution of Complaints) Act 1993**

### *ASIC Supervisory Cost Recovery Levy Regulations 2017*

#### **1 Paragraph 5(a)**

Repeal the paragraph.

### *Australian Prudential Regulation Authority Regulations 1998*

#### **2 Paragraph 5(l)**

Repeal the paragraph.

### *Corporations Regulations 2001*

#### **3 Paragraph 7.6.02A(j)**

Omit “1993;”, substitute “1993.”.

#### **4 Paragraph 7.6.02A(k)**

Repeal the paragraph.

#### **5 Division 26 of Part 10.2**

Repeal the Division.

### *Retirement Savings Accounts Regulations 1997*

#### **6 Regulation 6.14**

Repeal the regulation.

#### **7 In the appropriate position in Part 7**

Insert:

#### **7.5 Amendments made by the *Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Regulations 2018***

Regulation 6.14 of these Regulations continues to have effect, despite its repeal by item 6 of Schedule 3 to the *Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Regulations 2018*, in relation to an order, direction or determination made under the *Superannuation (Resolution of Complaints) Act 1993* before the commencement of that item.

## ***Superannuation Industry (Supervision) Regulations 1994***

### **8 Regulation 13.17B**

Repeal the regulation.

### **9 In the appropriate position in Division 14.15**

Insert:

#### **14.16 Arrangements relating internal dispute resolution**

Regulation 13.17B of these Regulations continues to have effect, despite its repeal by item 8 of Schedule 3 to the *Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Regulations 2018*, in relation to an order, direction or determination made under the *Superannuation (Resolution of Complaints) Act 1993* before the commencement of that item.