

EXPOSURE DRAFT



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Competition and Consumer (Scams Prevention Framework—Regulated Sectors) Designation 2025

I, Daniel Mulino, Assistant Treasurer and Minister for Financial Services, having considered the matters set out in paragraph 58AE(1)(a) of the *Competition and Consumer Act 2010*, and having consulted relevant entities, make the following designation.

Dated 2025

Dr Daniel Mulino [**DRAFT ONLY—NOT FOR SIGNATURE**]
Assistant Treasurer
Minister for Financial Services

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Part 1—Preliminary

1 Name

This instrument is the *Competition and Consumer (Scams Prevention Framework—Regulated Sectors) Designation 2025*.

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.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	1 July 2026.	1 July 2026

Note: This table relates only to the provisions of this instrument as originally made.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.

- (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 *Competition and Consumer Act 2010*.

4 Definitions

Note: Expressions have the same meaning in this instrument as in the *Competition and Consumer Act 2010* as in force from time to time—see paragraph 13(1)(b) of the *Legislation Act 2003*.

In this instrument:

accounting standards means:

- (a) accounting standards within the meaning given by the *Corporations Act 2001*; and
- (b) international accounting standards made or adopted by the International Accounting Standards Board; and
- (c) accounting standards made by a responsible body of a foreign country that correspond to, and are equivalent to, standards covered by paragraph (a) or (b).

active Australian user test: see section 8.

ADI has the same meaning as in the *Banking Act 1959*.

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Australian revenue: see section 9.

banking business has the same meaning as in the *Banking Act 1959*.

carriage service has the same meaning as in the *Telecommunications Act 1997*.

carrier has the same meaning as in the *Telecommunications Act 1997*.

control, of an entity by another entity, means control of the entity within the meaning of the accounting standards.

controlled entity: an entity is a **controlled entity** of another entity if the other entity controls the entity.

covered banking service: see section 11.

covered digital platform service: see subsection 15(2).

covered telecommunications service: see subsection 13(2).

designated instant messaging service: see section 5.

designated internet search engine service: see section 6.

designated social media service: see section 7.

electronic service has the same meaning as in the *Online Safety Act 2021*.

instant messaging service includes real-time communication of non-text-based material.

listed carriage service has the same meaning as in the *Telecommunications Act 1997*.

material has the same meaning as in the *Online Safety Act 2021*.

message means a message (within the meaning of the *Spam Act 2003*) other than a message sent using a voice call service.

message service means a service that enables messages to be sent or received using a carriage service (other than where a message is carried wholly over the internet).

public carriage service provider means a carriage service provider (within the meaning of the *Telecommunications Act 1997*) other than a person who is a carriage service provider only because of subsection 87(3) of that Act.

restricted ADI means an ADI that has an authority under section 9 of the *Banking Act 1959* to carry on a banking business in Australia for a limited time in accordance with section 9D of that Act.

the Act means the *Competition and Consumer Act 2010*.

voice call has the same meaning as in the *Do Not Call Register Act 2006*.

voice call service means a service that enables voice calls to be made or received using a carriage service (other than where a voice call is carried wholly over the internet).

5 Designated instant messaging service

For the purposes of this instrument, a **designated instant messaging service** is an electronic service that satisfies all of the following conditions:

- (a) the service is an instant messaging service;
- (b) the provision of that service by an entity is *not* ancillary or incidental to the provision of one or more other electronic services by that entity;
- (c) the service is *not* a designated internet search engine service;
- (d) the service is *not* a designated social media service;
- (e) the service is *not* a covered telecommunications service.

Example: In addition to enabling end-users to play online games with other end-users, an online gaming service also enables end-users to communicate with other end-users, as an ancillary service to the main service of online gaming. This service would *not* be a designated instant messaging service for the purposes of this instrument.

6 Designated internet search engine service

For the purposes of this instrument, a **designated internet search engine service** is an electronic service that satisfies all of the following conditions:

- (a) the service is an internet search engine service;
- (b) the service is *not* limited to searching for items on a limited database rather than searching for items on the internet more broadly;
- (c) the service is *not* limited to searching for items to compare prices for particular goods or services, or across a particular sector, rather than searching for items on the internet more broadly;
- (d) the service is *not* a designated social media service.

7 Designated social media service

For the purposes of this instrument, a **designated social media service** is an electronic service that satisfies all of the following conditions:

- (a) the service is a social media service;
- (b) the provision of that service by an entity is *not* ancillary or incidental to the provision of one or more other electronic services by that entity.

Example: In addition to enabling end-users to play online games with other end-users, an online gaming service also enables online social interaction between end-users, as an ancillary service to the main service of online gaming. This service would *not* be a designated social media service for the purposes of this instrument.

8 Active Australian user test

- (1) A service satisfies the active Australian user test on 1 January each year (the **test time**) and each day of that calendar year if, for the financial year (the **test year**) ending immediately before the test time, the average monthly active Australian users of the service is 500,000 or more.

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Note: A service does *not* satisfy the active user test at any time during a calendar year if it does *not* satisfy that test on 1 January of that calendar year.

- (2) For the purposes of subsection (1), a person is an active Australian user of a service if the person accesses the service from within Australia at least once during the test year.

9 Meaning of *Australian revenue*

For the purposes of this instrument, an entity's *Australian revenue* is so much of the entity's gross revenue, determined in accordance with accounting standards that is attributable to transactions or assets within Australia, or transactions into Australia.

10 Revenue test

- (1) An entity satisfies the revenue test on 1 January each year (the *test time*) and each day of that calendar year if either of the following apply:
- (a) the entity meets the threshold in subsection (2) for the entity's most recently ended 12-month financial reporting period ending immediately before the test time;
 - (b) the entity meets the threshold in subsection (2) in at least 2 of the last 3 financial reporting periods ending immediately before the test time.

Note: An entity does *not* satisfy the revenue test at any time during a calendar year if it does not satisfy that test on 1 January of that calendar year.

- (2) For the purposes of subsection (1), an entity meets the threshold if either of the following apply:
- (a) the sum of the following is \$100 million or more:
 - (i) the Australian revenue of the entity;
 - (ii) the Australian revenue of each controlled entity of the entity mentioned in subparagraph (i);
 - (iii) the Australian revenue of each entity that controls the entity mentioned in subparagraph (i);
 - (iv) the Australian revenue of each controlled entity of an entity mentioned in subparagraph (iii);
 - (b) the sum of the following is \$1 billion or more:
 - (i) the gross revenue, determined in accordance with accounting standards, of the entity;
 - (ii) the gross revenue, determined in accordance with accounting standards, of each controlled entity of the entity mentioned in subparagraph (i);
 - (iii) the gross revenue, determined in accordance with accounting standards, of each entity that controls the entity mentioned in subparagraph (i);
 - (iv) the gross revenue, determined in accordance with accounting standards, of each controlled entity of an entity mentioned in subparagraph (iii).

- (3) For the purposes of paragraphs (2)(a) and (b), do *not* include the Australian revenue or gross revenue (as relevant) of any entity mentioned in a subparagraph of paragraph (2)(a) or (b) if the entity's revenue is already included in the revenue of another entity mentioned in a subparagraph of that paragraph.

Note: When an entity controls one or more entities, the first entity is generally required to prepare consolidated financial statements. To avoid double counting, the Australian revenue or gross revenue of a controlled entity should not be included in the calculation if the parent entity's consolidated revenue is also being included.

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Part 2 Designation of regulated sector—banking

Section 11

Part 2—Designation of regulated sector—banking

11 Designation of services as regulated sector—banking

- (1) For the purposes of subsection 58AC(1) of the Act, covered banking services are designated as a regulated sector of the Australian economy.
- (2) Subject to subsection (3), a ***covered banking service*** is either of the following services:
 - (a) a service provided by an ADI in the course of carrying on its banking business;
 - (b) to the extent that it is *not* covered by paragraph (a)—the provision of a purchased payment facility (within the meaning of the *Payment Systems (Regulation) Act 1998*) by an ADI.
- (3) A service is a *not* a ***covered banking service*** if the service is provided by a restricted ADI.

12 Designation of SPF sector regulator—banking

For the purposes of subsection 58ED(1) of the Act, ASIC is designated as the SPF sector regulator for the regulated sector described in section 11.

Part 3—Designation of regulated sector— telecommunications

13 Designation of services as regulated sector—telecommunications

- (1) For the purposes of subsection 58AC(1) of the Act, covered telecommunications services are designated as a regulated sector of the Australian economy.
- (2) A *covered telecommunications service* is either of the following services:
 - (a) a voice call service;
 - (b) a message service;if the service is:
 - (c) provided by a carrier and a public carriage service provider; and
 - (d) provided using a listed carriage service.

Note: The supply of a covered telecommunications service requires a person acting in the capacity of a carrier and a public carriage service provider. It may be the same person or a different person.

14 Designation of SPF sector regulator—telecommunications

For the purposes of subsection 58ED(1) of the Act, ACMA is designated as the SPF sector regulator for the regulated sector described in section 13.

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Part 4 Designation of regulated sector—digital platforms

Section 15

Part 4—Designation of regulated sector—digital platforms

15 Designation of services as regulated sector—digital platforms

- (1) For the purposes of subsection 58AC(1) of the Act, covered digital platform services are designated as a regulated sector of the Australian economy.
- (2) A service is a ***covered digital platform service***, at a time, if:
 - (a) the service is any one of the following:
 - (i) a designated instant messaging service;
 - (iii) a designated internet search engine service;
 - (iii) a designated social media service; and
 - (b) the service is accessible to, or delivered to, one or more end-users in Australia; and
 - (c) at least one of the following is satisfied:
 - (i) the service meets the active Australian user test at that time; or
 - (ii) the entity that provides the service meets the revenue test at that time.

Part 10—Miscellaneous

50 Translation of amounts into Australian currency

- (1) For the purposes of this instrument, an amount (including an amount which is an element in the calculation of another amount) expressed in a currency other than Australian currency (*foreign currency*) is to be translated into Australian currency.

Example: Where the accounting records and financial reports of an entity are expressed in a foreign currency, the Australian revenue of the entity will need to be translated into Australian currency before the tests in this instrument are applied.

Translation in accordance with accounting standards

- (2) Where:
- (a) an amount is derived from a financial report prepared by an entity; and
 - (b) the report is prepared in accordance with accounting standards; and
 - (c) the report has been audited in accordance with the *Corporations Act 2001* (or a corresponding and equivalent law of a foreign country); and
 - (d) the entity, or another entity, wishes to translate an amount into Australian currency using the exchange rate or rates used in that financial report;
- the entity mentioned in paragraph (d) must translate all amounts into Australian currency using the exchange rates that were used in that financial report and as used in that report.

Translation using published average exchange rates

- (3) Unless subsection (2) applies, an entity must translate all amounts in foreign currency into Australian currency using:
- (a) an average exchange rate for the period most closely corresponding to the period to which the amount relates; and
 - (b) either:
 - (i) the exchange rates published by the Reserve Bank of Australia; or
 - (ii) if the amount is in a currency for which the Reserve Bank of Australia does *not* publish an exchange rate—a publicly and commercially available market exchange rate.

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Part 20 Application and transitional provisions

Section 100

Part 20—Application and transitional provisions

100 Application—active Australian user test and revenue test

In applying the tests in section 8 (the active Australian user test) and section 10 (the revenue test) at any time during the 2026 calendar year, treat the *test time* mentioned in those sections as if the reference to 1 January were a reference to 1 July.