

EXPOSURE DRAFT

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| EXPOSURE DRAFT |
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Inserts for
**Treasury Laws Amendment Bill 2026:
Payments System Modernisation—
amendment of the *Corporations Act 2001*
and other Acts**

| Commencement information | | |
|--------------------------|---|--------------|
| Column 1 | Column 2 | Column 3 |
| Provisions | Commencement | Date/Details |
| 1. Schedule 1 | The day after the end of the period of 12 months beginning on the day this Act receives the Royal Assent. | |

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Schedule 1—Payments system modernisation

Part 1—Core concepts

Division 1—Main concepts

Corporations Act 2001

1 Section 761A

Insert:

*fun***ds**, when used in connection with a transfer of funds, means:

- (a) money; or
- (b) another medium of exchange prescribed by the regulations;
or
- (c) a right to redeem:
 - (i) money; or
 - (ii) a medium of exchange prescribed for the purposes of paragraph (b).

Before recommending the making of regulations prescribing a medium of exchange for the purposes of paragraph (b), the Minister must be satisfied that the medium of exchange is commonly used or accepted in Australia.

payment product means:

- (a) a stored value facility; or
- (b) a payment instrument.

2 After section 761EA

Insert:

761EB *Meaning of stored value facility*

- (1) A *stored value facility* is a facility under which:
 - (a) funds may be transferred to a person without any instruction as to the further transfer of the funds; and
 - (b) another person acquires one or more rights to redeem from a person (whether or not the person mentioned in paragraph (a)) amounts not exceeding the amount from time to time standing to the credit of the facility; and
 - (c) each such right may be exercised by:

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- 1 (i) the person who possesses the right; or
2 (ii) a person nominated by that person;
3 by one or more methods that include making a non-cash
4 funds transfer.

5 Note: For paragraph (c), if the right is transferred, the person who possesses
6 the right may be a person other than the person mentioned in
7 paragraph (b).

- 8 (2) However, a facility is not a *stored value facility* if:
9 (a) a person can, as the payer, make non-cash funds transfers of
10 funds from the credit of the facility only to:
11 (i) themselves; or
12 (ii) one other person, where that person cannot change over
13 time; or
14 (b) funds may be transferred from the credit of the facility only:
15 (i) to the holder of the facility; or
16 (ii) to return to a person funds transferred as mentioned in
17 paragraph (1)(a).
- 18 (3) In addition, none of the following is a *stored value facility*:
19 (a) a digital asset platform;
20 (b) a tokenised custody platform;
21 (c) a managed investment scheme;
22 (d) a facility through which, or through the acquisition of which,
23 a person makes a financial investment;
24 (e) a deposit product.
- 25 (4) The regulations may declare that a specified facility is not a *stored*
26 *value facility*. Regulations made for the purposes of this subsection
27 have effect despite anything else in this section.
- 28 (5) For the purposes of subsection 761EE(1) (meaning of *non-cash*
29 *funds transfer*), funds equal to so much of the amount standing to
30 the credit of a stored value facility as relates to a right mentioned in
31 paragraph (1)(b) of this section are taken to stand to the credit of
32 the person covered by subparagraph (1)(c)(i) or (ii) of this section.

33 761EC Meaning of *tokenised stored value facility*

- 34 (1) A *tokenised stored value facility* is a stored value facility in
35 relation to which the following conditions are satisfied:
36 (a) each right to redeem a particular amount in respect of the
37 amount standing to the credit of the facility is exercisable
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1 only by the person who possesses the digital token attached
2 to that right;

3 (b) the amount that may be redeemed in exercising that right is
4 fixed and denominated in a single currency (whether
5 Australian or foreign currency).

6 (2) The regulations may declare that a specified stored value facility is
7 not a *tokenised stored value facility*. Regulations made for the
8 purposes of this subsection have effect despite subsection (1).

9 **761ED Meaning of *payment instrument***

10 (1) A *payment instrument* is a facility that provides the terms on
11 which a person may, as the payer, use a particular method to make
12 non-cash funds transfers of funds standing to the person's credit
13 under a facility.

14 Note: A payment instrument and the facility from the credit of which
15 non-cash funds transfers of funds are made using the payment
16 instrument may be components of the same arrangement (see
17 section 762B).

18 (2) However, the first-mentioned facility is not a *payment instrument*
19 if a person can, as the payer, make non-cash funds transfers of
20 funds from the credit of the last-mentioned facility only to:

21 (a) themselves; or

22 (b) one other person, where that person cannot change over time.

23 (3) The regulations may declare that a specified facility is not a
24 *payment instrument*. Regulations made for the purposes of this
25 subsection have effect despite subsection (1).

26 **761EE Meaning of *non-cash funds transfer***

27 (1) A person (the *payer*) makes a *non-cash funds transfer* if:

28 (a) funds standing to the credit of the payer under a facility are
29 transferred:

30 (i) to another person (the *payee*); or

31 (ii) from the credit of that facility to the credit of the payer
32 under a different facility (in which case the payer is also
33 the *payee* for the transfer); and

34 (b) the funds are transferred to the payee on the instruction of the
35 payer or the payee; and

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1 (c) the transfer does not involve the physical delivery of
2 Australian or foreign currency in the form of notes and/or
3 coins.

4 Note: For stored value facilities, see also subsection 761EB(5).

5 (2) If there are one or more persons interposed between the payer and
6 the payee, disregard those interposed persons in working out the
7 identities of the payer and the payee.

8 (3) However, a person does not make a *non-cash funds transfer* if the
9 funds are transferred by means of:

- 10 (a) a letter of credit from a financial institution; or
11 (b) a cheque drawn by a financial institution on itself; or
12 (c) a guarantee given by a financial institution.

13 **3 After paragraph 764A(1)(i)**

14 Insert:

- 15 (ia) a payment product;

16 **4 After section 766D**

17 Insert:

18 **766DA Meaning of *payment service***

19 A person provides a *payment service* if the person provides any of
20 the following:

- 21 (a) a payment initiation service;
22 (b) a payment facilitation service;
23 (c) a payment technology and enablement service.

24 Note 1: A person does not provide a service mentioned in paragraph (a), (b) or
25 (c) unless the person is a constitutionally-covered corporation or takes
26 the action constituting the service on behalf of such a corporation (see
27 paragraphs 766DB(1)(c), 766DC(1)(c) and 766DD(1)(c)).

28 Note 2: Section 766DE provides for circumstances in which a person does not
29 provide a payment service of a particular kind despite this section.

30 **766DB Meaning of *payment initiation service***

31 (1) A person (the *provider*) provides a *payment initiation service* if:

- 32 (a) the person takes action that has the effect of initiating a
33 non-cash funds transfer to be made by another person
34 (whether or not the transfer is completed); and

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- 1 (b) the provider is not:
2 (i) the issuer of the facility from the credit of which the
3 funds are transferred; or
4 (ii) the issuer of a payment instrument that relates to that
5 facility; or
6 (iii) the payer for the non-cash funds transfer; or
7 (iv) the payee acting other than on behalf of the payer; and
8 (c) the provider:
9 (i) is a constitutionally-covered corporation; or
10 (ii) takes the action mentioned in paragraph (a) on behalf of
11 a constitutionally-covered corporation.

12 Note: Section 766DE provides for circumstances in which a person does not
13 provide a payment initiation service despite this section.

- 14 (2) The following provisions apply in relation to a payment initiation
15 service:
16 (a) the payment initiation service is provided to the person with
17 whom the provider has an arrangement to take the action
18 mentioned in paragraph (1)(a);
19 (b) except as otherwise provided, the provider provides a
20 payment initiation service each time the provider takes action
21 to initiate a non-cash funds transfer under that arrangement.

22 Note: Because of paragraph (b) of this subsection, the provider will (for
23 example) be subject to the licensing and related requirements of
24 Part 7.6 for so long as they provide payment initiation services under
25 the arrangement.

26 **766DC Meaning of *payment facilitation service***

- 27 (1) A person (the *provider*) provides a *payment facilitation service* if:
28 (a) under an arrangement with another person, funds are
29 transferred to the provider in connection with the making of a
30 non-cash funds transfer; and
31 (b) the funds are so transferred on the basis that the provider will
32 further transfer the funds in accordance with the instructions
33 for the non-cash funds transfer; and
34 (c) either:
35 (i) the provider is a constitutionally-covered corporation; or
36 (ii) the funds are transferred as mentioned in paragraph (a)
37 on the basis that the provider will further transfer the
38 funds as mentioned in paragraph (b) on behalf of a
39 constitutionally-covered corporation.

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1 Note: Section 766DE provides for circumstances in which a person does not
2 provide a payment facilitation service despite this section.

3 (2) The following provisions apply in relation to a payment facilitation
4 service:

5 (a) the payment facilitation service is provided to the person
6 with whom the provider has the arrangement mentioned in
7 paragraph (1)(a);

8 (b) except as otherwise provided, the provider provides a
9 payment facilitation service:

10 (i) each time funds are transferred to the provider as
11 mentioned in paragraph (1)(a); and

12 (ii) each time funds are further transferred as mentioned in
13 paragraph (1)(b).

14 Note: Because of paragraph (b) of this subsection, the provider will (for
15 example) be subject to the licensing and related requirements of
16 Part 7.6 for so long as they provide payment facilitation services under
17 the arrangement mentioned in paragraph (1)(a).

18 **766DD Meaning of *payment technology and enablement service***

19 (1) A person (the *provider*) provides a *payment technology and*
20 *enablement service* if:

21 (a) the provider takes any of the following actions for the
22 dominant purpose of enabling a person to make or receive
23 one or more non-cash funds transfers (whether in general or
24 in connection with a particular non-cash funds transfer):

25 (i) verifying the payer's identity;

26 (ii) transmitting an instruction for the making or receiving
27 of the transfer or transfers;

28 (iii) transmitting any information necessary for producing
29 such an instruction; and

30 (b) if the action is taken in relation to a particular non-cash funds
31 transfer—the provider is not:

32 (i) the issuer of the facility from the credit of which the
33 funds are transferred; or

34 (ii) the issuer of a payment instrument that relates to the
35 facility; or

36 (iii) the payer or payee for the non-cash funds transfer; and

37 (c) the provider:

38 (i) is a constitutionally-covered corporation; or

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1 (ii) takes the action mentioned in paragraph (a) on behalf of
2 a constitutionally-covered corporation.

3 Note: If a person does not provide a payment technology and enablement
4 service because of paragraph (b), the action may still be regulated by
5 another provision of this Act, for example, because the action amounts
6 to providing a different kind of payment service.

7 (2) However, the provider does not provide a *payment technology and*
8 *enablement service* if:

9 (a) the action mentioned in paragraph (1)(a) is taken:

10 (i) in connection with the making or receiving of a
11 particular non-cash funds transfer; and

12 (ii) under an arrangement between the provider and a
13 person other than the payer or payee for the transfer;

14 and

15 (b) there is no arrangement of any kind between the provider and
16 either the payer or the payee relating to the making or
17 receiving of non-cash funds transfers.

18 Note: Section 766DE also provides for circumstances in which a person
19 does not provide a payment technology and enablement service
20 despite this section.

21 (3) The following provisions apply in relation to a payment technology
22 and enablement service:

23 (a) the payment technology and enablement service is provided
24 to the person with whom the provider has the arrangement
25 under which the provider takes the action mentioned in
26 subparagraph (1)(a)(i), (ii) or (iii);

27 (b) except as otherwise provided, the provider provides a
28 payment technology and enablement service each time the
29 provider takes such an action under the arrangement.

30 Note: Because of paragraph (b) of this subsection, the provider will (for
31 example) be subject to the licensing and related requirements of
32 Part 7.6 for so long as they provide payment facilitation services under
33 the arrangement.

34 766DE Services that are not payment services

35 (1) A person does not provide any of the following:

36 (a) a *payment initiation service*;

37 (b) a *payment facilitation service*;

38 (c) a *payment technology and enablement service*;

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1 if the arrangement under which the service would otherwise be
2 provided is a facility that is covered by paragraph 765A(1)(i), (j),
3 (l) or (x).

4 (2) The regulations may prescribe circumstances in which a person
5 does not provide one or more of the following:

- 6 (a) a *payment initiation service*;
- 7 (b) a *payment facilitation service*;
- 8 (c) a *payment technology and enablement service*.

9 (3) ASIC may, by legislative instrument, declare circumstances in
10 which a person does not provide one or more of the following:

- 11 (a) a *payment initiation service*;
- 12 (b) a *payment facilitation service*;
- 13 (c) a *payment technology and enablement service*.

14 (4) The following have effect despite anything else in sections 766DA
15 to 766DD:

- 16 (a) subsection (1);
- 17 (b) regulations made for the purposes of subsection (2);
- 18 (c) a declaration made for the purposes of subsection (3).

19 **5 At the end of Division 4 of Part 7.1**

20 Add:

21 **Subdivision B—Specific limitations**

22 **766J Conduct relating to payment products is a financial service** 23 **only if engaged in by or on behalf of a** 24 **constitutionally-covered corporation**

25 Despite anything in Subdivision A, conduct that:

- 26 (a) relates to a payment product that is a financial product only
27 because of paragraph 764A(1)(ia); and
- 28 (b) would, apart from this section, be a financial service (or a
29 kind of financial service) other than a payment service;

30 is a *financial service* (or a kind of financial service) only if the
31 conduct is engaged in by, or on behalf of, a
32 constitutionally-covered corporation.

33 Note: Dealing in a financial product is an example of a kind of financial
34 service (see section 766A).

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1 Division 2—Related amendments

2 *Corporations Act 2001*

3 **6 Section 9**

4 Insert:

5 *approved netting arrangement* has the same meaning as in the
6 *Payment Systems and Netting Act 1998*.

7 *approved RTGS system* has the same meaning as in the *Payment*
8 *Systems and Netting Act 1998*.

9 **7 Section 9 (note to the definition of *arrangement*)**

10 Omit “subsection 761B(2)”, substitute “subsections 761B(2) and (3)”.

11 **8 Section 9**

12 Insert:

13 *constitutionally-covered corporation* means:

14 (a) a corporation to which paragraph 51(xx) of the Constitution
15 applies; or

16 (b) a body that is a corporation within the meaning of this Act as
17 originally enacted (see section 57A).

18 *funds*, when used in connection with a transfer of funds, has the
19 meaning given by section 761A.

20 *major stored value facility provider* has the same meaning as in
21 the *Payment Entities (Prudential Regulation) Act 2026*.

22 *major SVF provider*: see *major stored value facility provider*.

23 **9 Section 9 (definition of *makes non-cash payments*)**

24 Repeal the definition.

25 **10 Section 9**

26 Insert:

27 *non-cash funds transfer* has the meaning given by section 761EE.

28 **11 Section 9 (definition of *non-cash payments*)**

29 Repeal the definition.

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12 Section 9

Insert:

payee for a non-cash funds transfer has the meaning given by subsection 761EE(1).

payer for a non-cash funds transfer has the meaning given by subsection 761EE(1).

payment facilitation service has the meaning given by sections 766DC and 766DE.

payment initiation service has the meaning given by sections 766DB and 766DE.

payment instrument has the meaning given by section 761ED.

payment product has the meaning given by section 761A.

payment product-related service has the meaning given by section 761A.

payment service has the meaning given by section 766DA.

payment technology and enablement service has the meaning given by sections 766DD and 766DE.

stored value facility has the meaning given by section 761EB.

stored value facility provider means a person who:

- (a) carries on a financial services business in this jurisdiction that consists wholly or partly of issuing stored value facilities; and
- (b) is a constitutionally-covered corporation.

SVF provider: see *stored value facility provider*.

tokenised stored value facility has the meaning given by section 761EC.

tokenised stored value facility provider means a person who:

- (a) carries on a financial services business in this jurisdiction that consists wholly or partly of issuing tokenised stored value facilities; and
- (b) is a constitutionally-covered corporation.

tokenised SVF: see *tokenised stored value facility*.

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1 *tokenised SVF provider*: see *tokenised stored value facility*
2 *provider*.

3 *transfer* of funds includes any act or thing, or any series or
4 combination of acts or things, that may reasonably be regarded as
5 the economic equivalent of a transfer of funds (for example,
6 debiting an amount from a person's account and crediting an
7 equivalent amount to another person's account).

8 **13 Section 761A**

9 Insert:

10 *payment product-related service* means a financial service that
11 relates to a payment product.

12 **14 At the end of section 761B**

13 Add:

14 (3) For the purposes of this Part, if:

15 (a) a payment service would not be provided under an
16 arrangement (as defined in subsection (1)), when considered
17 by itself; and

18 (b) the payment service would have been provided under an
19 arrangement if the arrangement mentioned in paragraph (a)
20 and one or more other arrangements had instead been a single
21 arrangement; and

22 (c) it is reasonable to assume that the parties to the arrangements
23 regard them as constituting a single scheme;

24 the arrangements are to be treated as if they together constituted a
25 single arrangement.

26 **15 Paragraph 761G(7)(a)**

27 Repeal the paragraph, substitute:

28 (a) any of the following equals or exceeds the amount specified
29 in regulations made for the purposes of this paragraph as
30 being applicable in the circumstances (but see also
31 subsection (10)):

32 (i) the price for the provision of the financial product;

33 (ii) the value of the financial product to which the financial
34 service relates;

35 (iii) in the case of a payment service—the value of the
36 service provided;

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1 **16 Paragraph 761G(10)(a)**

2 After “financial products”, insert “or payment services”.

3 **17 Section 761GA**

4 After “other than”, insert “a payment service,”.

5 **18 Paragraph 761GA(b)**

6 Omit “or an RSA”, substitute “, an RSA or a payment product”.

7 **19 Subsection 763A(1)**

8 Omit “one or more”, substitute “either or both”.

9 **20 Paragraph 763A(1)(b)**

10 Omit “risk;”, substitute “risk.”.

11 **21 Paragraph 763A(1)(c)**

12 Repeal the paragraph.

13 **22 Subsection 763A(2)**

14 Omit “make financial investments, manage financial risks or make
15 non-cash payments”, substitute “make financial investments or manage
16 financial risks”.

17 **23 Section 763D**

18 Repeal the section.

19 **24 Subsection 763E(2) (paragraph (b) of the definition of**
20 ***financial product purpose*)**

21 Omit “risk; or”, substitute “risk.”.

22 **25 Subsection 763E(2) (paragraph (c) of the definition of**
23 ***financial product purpose*)**

24 Repeal the paragraph.

25 **26 Subparagraph 765A(1)(h)(ii)**

26 Repeal the subparagraph, substitute:

27 (ii) a payment instrument issued by the provider of a credit
28 facility, if the credit facility is the only facility from the
29 credit of which non-cash funds transfers of funds may
30 be made using the payment instrument;

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27 After paragraph 765A(1)(h)

Insert:

- (ha) a right under a tokenised stored value facility to redeem amounts standing to the credit of the facility;

28 Paragraph 765A(1)(i)

Repeal the paragraph, substitute:

(i) a facility that is:

(i) an approved RTGS system; or

(ii) an approved netting arrangement; or

(iii) a facility for establishing and settling obligations between providers of payment products or payment services through such a system or arrangement;

29 Paragraph 765A(1)(k)

Repeal the paragraph.

30 Division 4 of Part 7.1 (after the heading)

Insert:

Subdivision A—General meanings

31 After paragraph 766A(1)(d)

Insert:

- (daa) provide a payment service; or

32 Subsection 766A(3)

After “is not”, insert “(subject to subsection (3A))”.

33 After subsection 766A(3)

Insert:

- (3A) Subsection (3) does not prevent conduct described in that subsection from being a payment service.

34 Before paragraph 766C(1)(d)

Insert:

- (cb) in relation to a tokenised stored value facility:

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- 1 (i) minting or otherwise creating a digital token that is
2 attached to a right to redeem an amount standing to the
3 credit of the facility; or
4 (ii) conduct relating to redeeming an amount standing to the
5 credit of the facility;

6 **35 Paragraph 768A(2)(h)**

- 7 Repeal the paragraph, substitute:
8 (h) operating a facility for exchanging and settling payments
9 between providers of payment products or payment services;

10 **36 Subparagraph 839A(1)(b)(v)**

- 11 Omit “(within the meaning of that Act)”.

12 **37 Subparagraph 911B(1)(c)(iv)**

- 13 Omit “facility for making non-cash payments”, substitute “payment
14 instrument”.

15 **38 Subparagraph 916F(1AA)(d)(iii)**

- 16 Omit “facility for making non-cash payments”, substitute “payment
17 instrument”.

18 **39 Paragraph 941C(6)(b)**

- 19 Omit “facility for making non-cash payments”, substitute “payment
20 instrument”.

21 **40 Paragraph 946B(5)(b)**

- 22 Omit “facility for making non-cash payments”, substitute “payment
23 instrument”.

24 **41 Paragraphs 961F(b) and (d)**

- 25 Repeal the paragraphs, substitute:
26 (b) a payment product;

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1 Part 2—Safeguarding money

2 *Corporations Act 2001*

3 **42 Section 9**

4 Insert:

5 *end user*, of relevant PS money, has the meaning given by section
6 983HC.

7 *payment system licensee* means a person who:

- 8 (a) holds an Australian financial services licence authorising the
9 provision of a payment system service; and
10 (b) is a constitutionally-covered corporation.

11 *payment system service* means:

- 12 (a) a payment service; or
13 (b) a financial service that relates to a payment product if the
14 service is being provided by the issuer of the product.

15 *relevant PS money* has the meaning given by section 983HB.

16 *relevant PS money reporting rules* has the meaning given by
17 subsection 983HN(1).

18 **43 After paragraph 981A(2)(d)**

19 Insert:

- 20 ; or (e) the money is relevant PS money within the meaning of either
21 Division 2A of this Part or the *Payment Entities (Prudential*
22 *Regulation) Act 2026*.

23 **44 After Division 2 of Part 7.8**

24 Insert:

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1 Division 2A—Dealing with end users' money in the 2 payment system

3 Subdivision A—Preliminary

4 983HA Simplified outline of this Division

5 Payment system licensees must safeguard money paid to them:

- 6 (a) in connection with payment products or payment system
7 services; and
- 8 (b) for the benefit of the end users of those products or
9 services.

10 The default method for safeguarding the money involves
11 segregating it from other money. ASIC may, on application,
12 approve other safeguarding methods for a licensee to use. A
13 licensee may use a combination of the default method and other
14 approved methods to safeguard the money.

15 Licensees must also comply with related reporting rules.

16 The Court is given extra powers relating to safeguarding the
17 money.

18 983HB Meaning of *relevant PS money*

- 19 (1) Money is *relevant PS money*, of a payment system licensee, if the
20 money:
 - 21 (a) is paid to or received by the licensee in connection with:
 - 22 (i) a payment system service that has been provided, or that
23 will or may be provided, to a person; or
 - 24 (ii) a payment product that has been issued, or that will or
25 may be issued, to a person; or
 - 26 (b) is an amount credited to a stored value facility issued by the
27 licensee; or
 - 28 (c) is the proceeds paid under a method covered by paragraph
29 983HI(b) (such as the proceeds of an insurance policy or
30 guarantee) that the licensee is using to safeguard other
31 relevant PS money;
- 32 and the money is so paid, received or credited (and then held) for
33 the benefit of an end user of the money.

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- 1 (2) Despite subsection (1), money is not (or ceases to be) **relevant PS**
2 **money** to the extent that:
- 3 (a) the money is for the licensee’s remuneration, or the licensee
4 is entitled to deduct such remuneration from the money; or
- 5 (b) the money is for any of the following:
- 6 (i) reimbursing the licensee for payments in connection
7 with the provision of the service, the issuing of the
8 product, or the operation of the facility;
- 9 (ii) discharging a liability incurred by the licensee in
10 connection with the provision of the service, the issuing
11 of the product, or the operation of the facility;
- 12 (iii) indemnifying the licensee in respect of such a liability;
13 or
- 14 (c) Subdivision B of Division 2 (about loan money) applies to
15 the money; or
- 16 (d) the money is relevant PS money (within the meaning of the
17 *Payment Entities (Prudential Regulation) Act 2026*); or
- 18 (e) the money relates to the provision of a financial service for
19 which the licensee is exempt from the requirement to hold an
20 Australian financial services licence.
- 21 (3) Despite subsection (1), money is not **relevant PS money** to the
22 extent that the money is paid by a person to an ADI (within the
23 meaning of the *Banking Act 1959*) in order for the money to be
24 deposited to the credit of a deposit product held by a person with
25 the ADI.
- 26 (4) Despite subsection (1), money is not **relevant PS money** to the
27 extent that the arrangement under which the money is paid,
28 received or credited (and then held) is a facility covered by
29 paragraph 765A(1)(i), (j) or (l).
- 30 (5) The regulations may exempt money paid, received or credited in
31 specified circumstances from some or all of the provisions of this
32 Division.
- 33 (6) An exemption in regulations made for the purposes of
34 subsection (5) may be made subject to conditions specified in, or
35 imposed in accordance with, the regulations.

983HC Meaning of an *end user* of relevant PS money

36
37 A person is an **end user** of relevant PS money at a particular time if
38 the person:

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- 1 (a) is entitled to the money at that time; and
2 (b) is not the provider of a payment system service who, at that
3 time, is acting as an intermediary in a transfer of the relevant
4 PS money.

5 **983HD Relevant PS money taken to be held in trust**

- 6 (1) Relevant PS money of a payment system licensee that is paid,
7 received or credited (and then held) for the benefit of an end user
8 of the money is taken to be held in trust by the licensee for the
9 benefit of the end user.
- 10 (2) The licensee may choose to enter into one or more arrangements
11 with other persons in relation to the relevant PS money. However,
12 such arrangements do not reduce the fiduciary duties the licensee
13 has as trustee.
- 14 (3) Despite subsection (1), the regulations may:
15 (a) provide that subsection (1) does not apply in relation to
16 money in specified circumstances; and
17 (b) provide for matters relating to the taking of money to be held
18 in trust (including, for example, terms on which the money is
19 taken to be held in trust and circumstances in which it is no
20 longer taken to be held in trust).

21 **Subdivision B—Methods for safeguarding relevant PS money**

22 **983HE Segregation method for safeguarding relevant PS money**

- 23 (1) A person contravenes this subsection if:
24 (a) the person is a payment system licensee; and
25 (b) money becomes relevant PS money of the person; and
26 (c) the person:
27 (i) is not using another method covered by paragraph
28 983HI(b) to safeguard the relevant PS money; or
29 (ii) is using such a method to safeguard the relevant PS
30 money, but is contravening section 983HI when doing
31 so; and
32 (d) the person fails to ensure that:
33 (i) the money is paid into an account covered by
34 subsection (2) by the end of the next business day after
35 the day on which it becomes relevant PS money; or

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- 1 (ii) if at a particular time after the money is paid into that
2 account the money is still relevant PS money of the
3 person—the money is held in that account in trust for
4 the benefit of the end user of the money at that time; or
5 (iii) any money paid into that account that is not money
6 covered by subsection (3) is identified, and removed, as
7 soon as practicable from that account; or
8 (iv) money is paid from that account only in accordance
9 with any regulations made for the purposes of this
10 subparagraph; or
11 (v) any obligation prescribed by regulations made for the
12 purposes of this subparagraph that relates to that
13 account, or to money or investments referred to in
14 subsection (3), is complied with.

15 Note 1: This subsection is a civil penalty provision (see section 1317E).

16 Note 2: The person will contravene paragraph (d) if the person fails to comply
17 with any of subparagraphs (d)(i) to (v).

18 Note 3: The person may use a combination of methods to safeguard all of the
19 person's relevant PS money (see paragraph (c)).

20 (2) An account is covered by this subsection if:

- 21 (a) the account is:
22 (i) with an Australian ADI; or
23 (ii) of a kind prescribed by regulations made for the
24 purposes of this subparagraph; and
25 (b) the requirements (if any) prescribed by regulations made for
26 the purposes of this paragraph are met for the account; and
27 (c) the account is designated as an account for the purposes of
28 this subsection.

29 Note: A requirement prescribed for paragraph (b) includes one that must be
30 met by a person in relation to the account.

31 (3) Money is covered by this subsection if it is:

- 32 (a) relevant PS money of the payment system licensee held in
33 trust for the benefit of an end user (which could include other
34 relevant PS money to that referred to in paragraph (1)(b)); or
35 (b) interest on the amount from time to time standing to the
36 credit of the account; or
37 (c) either:
38 (i) interest or other earnings on an investment of money
39 withdrawn from the account; or

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- 1 (ii) the proceeds of the realisation of such an investment;
2 if the interest, earnings or proceeds are dealt with in
3 accordance with any requirements prescribed by regulations
4 made for the purposes of paragraph (2)(b); or
5 (d) other money of a class for which the conditions (if any)
6 prescribed by regulations made for the purposes of this
7 paragraph are met.

8 Note: A condition prescribed for paragraph (d) includes one that must be
9 met by a person in relation to the money.

- 10 (4) Subsection (1) does not apply to relevant PS money of the payment
11 system licensee if circumstances exist of a kind prescribed by
12 regulations made for the purposes of this subsection.
- 13 (5) A payment system licensee may, for the purposes of subsection (1),
14 maintain one or more accounts.

15 **983HF Segregation method—related regulations**

- 16 (1) For the purposes of (but without limiting) paragraph 983HE(2)(b),
17 the regulations may prescribe one or more of the following as
18 requirements that must be met for an account:
19 (a) the circumstances in which payments may be made out of the
20 account, including how an end user may authorise payment
21 transactions such as refunds, reversals and chargebacks;
22 (b) the minimum balance to be maintained in the account;
23 (c) how interest on the account is to be dealt with;
24 (d) how interest or other earnings on an investment of money
25 withdrawn from the account, or the proceeds of the
26 realisation of such an investment, are to be dealt with.
- 27 (2) For the purposes of (but without limiting) subparagraph
28 983HE(1)(d)(iv), the regulations may deal with one or more of the
29 following:
30 (a) the process for withdrawing money in order to invest it;
31 (b) the classes of investment that may be made;
32 (c) the process for the end user to authorise payments from the
33 account;
34 (d) the process for withdrawing money in order to pay fees or
35 charges incurred by the end user;
36 (e) the process for withdrawing money that has ceased to be
37 relevant PS money of the payment system licensee;

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- 1 (f) the process for making payments authorised by law.
- 2 (3) For the purposes of (but without limiting) subparagraph
- 3 983HE(1)(d)(v), obligations prescribed by the regulations could
- 4 cover how money in an account covered by subsection 983HE(2),
- 5 or an investment of such money, is to be dealt with if the payment
- 6 system licensee that holds the account:
- 7 (a) ceases to be a payment system licensee; or
- 8 (b) becomes a Chapter 5 body corporate; or
- 9 (c) merges with another financial services licensee; or
- 10 (d) ceases to provide all payment system services authorised by
- 11 their licence.

12 **983HG Segregation method—protecting from attachment etc.**

- 13 Money covered by, and an investment referred to in, subsection
- 14 983HE(3) is not capable:
- 15 (a) of being attached or otherwise taken in execution; or
- 16 (b) of being made subject to a set-off, security interest or
- 17 charging order, or to any process of a similar nature;
- 18 except at the suit of a person who is otherwise entitled to the
- 19 money or investment.

20 **983HH Segregation method—account provider not liable merely**

21 **because of licensee’s contravention**

- 22 Nothing in this Division makes a body, that a payment system
- 23 licensee’s account covered by subsection 983HE(2) is with, subject
- 24 to any liability merely because of a failure by the licensee to
- 25 comply with a provision of this Division.

26 **983HI Other safeguarding methods—compliance**

- 27 A person contravenes this subsection if:
- 28 (a) the person is a payment system licensee; and
- 29 (b) the person is, or is purportedly, using one of the following
- 30 other methods to safeguard relevant PS money of the person:
- 31 (i) insurance;
- 32 (ii) a guarantee;
- 33 (iii) a method determined under paragraph 983HM(1)(a);
- 34 and
- 35 (c) one or more of the following subparagraphs apply:
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- 1 (i) the person is not approved under subsection 983HJ(3) to
2 use the method to safeguard the relevant PS money;
3 (ii) there is a contravention of a condition on such an
4 approval;
5 (iii) the relevant PS money is credited to a stored value
6 facility issued by the person.

7 Note: This section is a civil penalty provision (see section 1317E).

8 **983HJ Other safeguarding methods—approvals**

- 9 (1) A payment system licensee may apply to ASIC for approval to use
10 a method covered by paragraph 983HI(b) to safeguard relevant PS
11 money.
- 12 (2) The application must be lodged with ASIC in the prescribed form.
- 13 (3) ASIC must, by written notice given to the applicant, give the
14 approval if ASIC is reasonably satisfied that the applicant meets
15 the approval requirements determined under paragraph
16 983HM(1)(b).
- 17 (4) If under subsection (3) ASIC refuses to give the approval, ASIC
18 must give written notice of the refusal to the applicant.

19 **983HK Other safeguarding methods—duration of, and conditions 20 on, approval**

- 21 (1) An approval may be given under subsection 983HJ(3):
22 (a) subject to conditions; and
23 (b) for a limited or unlimited duration.
- 24 (2) ASIC may by written notice given to the holder of such an
25 approval:
26 (a) impose one or more conditions or further conditions on the
27 approval; or
28 (b) vary or revoke any condition on the approval (whether
29 imposed under subsection (1) or this subsection); or
30 (c) vary the duration of the approval.
- 31 (3) ASIC's power under subsection (2) may be exercised:
32 (a) on ASIC's own initiative; or
33 (b) on application by the holder of the approval.

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- 1 (4) If ASIC refuses to exercise its power under subsection (2) on an
2 application made under paragraph (3)(b), ASIC must give written
3 notice of the refusal to the applicant.

4 **983HL Other safeguarding methods—revoking an approval**

- 5 (1) ASIC may, by written notice given to the holder of an approval
6 under subsection 983HJ(3), revoke the approval if ASIC is
7 satisfied that there has been a contravention of a condition on the
8 approval.
- 9 (2) ASIC must, by written notice given to a person, revoke the
10 person's approval given under subsection 983HJ(3) if the person
11 requests ASIC to do so.
- 12 (3) A revocation under this section takes effect on the day specified in
13 the notice of revocation (which must be prospective, and for a
14 notice under subsection (1) at least 30 days after the day the notice
15 is given).

16 **983HM Other safeguarding methods—ASIC determinations**

- 17 (1) ASIC may by legislative instrument:
- 18 (a) determine one or more other methods to safeguard the
19 relevant PS money of one or more specified classes of
20 payment system licensee; or
- 21 (b) determine requirements that must be met for a person to be
22 approved to use a specified other method covered by
23 paragraph 983HI(b).

24 Note: Determinations under this subsection may be contained in a single
25 document.

- 26 (2) Without limiting paragraph (1)(b), requirements that must be met
27 for a person to be approved to use a method could include that
28 ASIC be reasonably satisfied of one or more of the following:
- 29 (a) the person has appropriate processes to identify the relevant
30 PS money to be safeguarded using the method;
- 31 (b) the person has appropriate processes for ensuring that in the
32 event of the person:
- 33 (i) becoming a Chapter 5 body corporate; or
34 (ii) ceasing to be a payment system licensee; or
35 (iii) ceasing to carry on a financial services business as a
36 payment system licensee;

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- 1 the person's relevant PS money would be able to be
2 identified, safeguarded and processed in an effective and
3 timely manner using the method;
- 4 (c) the method provides sufficient minimum cover to adequately
5 safeguard the person's relevant PS money;
- 6 (d) the person has appropriate processes to:
- 7 (i) identify and implement any increase in the method's
8 cover should this become necessary to adequately
9 safeguard the person's relevant PS money; and
- 10 (ii) report to ASIC in writing about the increase, including
11 of the circumstances that necessitated the increase;
- 12 (e) the person has appropriate processes to identify and manage
13 any additional operational risks relating to using the method,
14 including for adequately safeguarding the person's relevant
15 PS money in the event that any cover provided by the method
16 ends;
- 17 (f) if the method is insurance or a guarantee—any capping or
18 limiting of the insurer's or guarantor's liability is not
19 excessive.

20 **Subdivision C—Relevant PS money reporting rules**

21 **983HN Relevant PS money reporting rules**

- 22 (1) ASIC may, by legislative instrument, make rules (the *relevant PS*
23 *money reporting rules*) dealing with matters as permitted by this
24 Subdivision, for purposes relating to relevant PS money.
- 25 (2) The regulations may provide that the relevant PS money reporting
26 rules:
- 27 (a) cannot impose requirements (or certain classes of
28 requirements) in relation to certain classes of persons or
29 money; or
- 30 (b) can only impose requirements (or certain classes of
31 requirements) in relation to certain classes of persons or
32 money in certain circumstances.

33 **983HO Matters that may be dealt with in the relevant PS money** 34 **reporting rules**

- 35 (1) The relevant PS money reporting rules may impose any of the
36 following classes of requirements:

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- 1 (a) requirements to report information (see also
2 paragraph (2)(b));
3 (b) reconciliation requirements (see also paragraph (2)(c));
4 (c) requirements that are incidental or related to the requirements
5 mentioned in paragraph (a) or (b).
- 6 (2) The relevant PS money reporting rules may also deal with matters
7 incidental or related to requirements referred to in subsection (1),
8 including any of the following:
9 (a) the classes of money in relation to which particular
10 requirements apply;
11 (b) for requirements to report information:
12 (i) to whom information is required to be reported; and
13 (ii) the information that is required to be reported;
14 (c) for reconciliation requirements:
15 (i) the information that is required to be reconciled; and
16 (ii) how reconciliations are required to be reviewed or
17 approved, including who is required to review or
18 approve reconciliations; and
19 (iii) to whom reconciliations are required to be submitted;
20 (d) the payment system licensees who are required to comply
21 with requirements imposed by the rules;
22 (e) the manner and form in which persons must comply with
23 requirements imposed by the rules;
24 (f) the circumstances in which persons are, or may be, relieved
25 from complying with requirements in the rules that would
26 otherwise apply to them;
27 (g) the keeping of records, or the provision of records or other
28 information, relating to accounts maintained for the purposes
29 of section 983HE;
30 (h) the keeping of records, or the provision of records or other
31 information, relating to compliance with (or determining
32 whether there has been compliance with) the rules;
33 (i) any matters that the regulations provide, for the purposes of
34 this paragraph, may be dealt with in the relevant PS money
35 reporting rules;
36 (j) any other matters that the provisions of this Act provide may
37 be dealt with in the relevant PS money reporting rules.

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1 983HP Complying with the relevant PS money reporting rules

2 A payment system licensee must comply with the relevant PS
3 money reporting rules.

4 Note: This section is a civil penalty provision (see section 1317E).

5 983HQ Alternatives to civil proceedings

6 (1) The regulations may provide for a person who is alleged to have
7 contravened section 983HP (complying with relevant PS money
8 reporting rules) to do one or more of the following as an alternative
9 to civil proceedings:

- 10 (a) pay a penalty to the Commonwealth;
- 11 (b) undertake or institute remedial measures (including education
12 programs);
- 13 (c) accept sanctions other than the payment of a penalty to the
14 Commonwealth;
- 15 (d) enter into a legally enforceable undertaking.

16 (2) The penalty payable under regulations made under paragraph (1)(a)
17 in relation to an alleged contravention of a provision of the relevant
18 PS money reporting rules must not exceed:

- 19 (a) for an individual—3,000 penalty units; and
- 20 (b) for a body corporate—15,000 penalty units.

21 (3) Without limiting regulations that may be made for the purposes of
22 paragraph (1)(d), those regulations may provide for one or more of
23 the following classes of undertakings:

- 24 (a) an undertaking to take specified action within a specified
25 period;
- 26 (b) an undertaking to refrain from taking specified action;
- 27 (c) an undertaking to pay a specified amount within a specified
28 period to the Commonwealth or to some other specified
29 person.

30 983HR Compliance with requirements to provide data or other 31 information to ASIC—protection from liability

32 If:

- 33 (a) a payment system licensee, or a person acting on behalf of a
34 payment system licensee:
 - 35 (i) provides data or information to ASIC; or

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- 1 (ii) otherwise allows ASIC access to data or information;
2 and
3 (b) the licensee or person does so, in good faith, in compliance
4 with a requirement imposed by or under a provision of the
5 relevant PS money reporting rules;
6 the licensee or person is not liable to an action or other proceeding,
7 whether civil or criminal, for or in relation to the conduct
8 mentioned in paragraph (a).

9 **Subdivision D—Additional requirements relating to relevant** 10 **PS money**

11 **983HS Guaranteed period for redemption rights**

- 12 (1) A person who possesses a right to redeem relevant PS money
13 credited to a facility that:
14 (a) is a stored value facility; and
15 (b) is issued by a payment system licensee;
16 may redeem the relevant PS money during the 6-year period
17 starting on the first day the money can no longer be used under the
18 facility for making payments.
- 19 (2) Any fees for redeeming money under subsection (1) must be
20 proportionate and commensurate with the costs actually incurred
21 by the payment system licensee.
- 22 (3) An arrangement has no effect to the extent that it is inconsistent
23 with subsection (1) or (2).

24 **Subdivision E—Powers of the Court**

25 **983HT Court may freeze certain accounts**

- 26 (1) The Court may, by order, restrain dealings in respect of specified
27 accounts with financial institutions that a person holds or maintains
28 (whether in Australia or elsewhere), subject to such terms and
29 conditions as the Court imposes, if subsection (2) or (3) applies in
30 relation to the person.
- 31 (2) This subsection applies in relation to a person if, on application by
32 ASIC, the Court is satisfied that:
33 (a) the person is or was a payment system licensee; and

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- 1 (b) there are reasonable grounds for believing that the person has
2 contravened, or is likely to contravene, subsection 983HE(1),
3 section 983HI or 983HP or subsection 983HY(1); and
4 (c) the contravention, or likely contravention, relates to:
5 (i) the account; or
6 (ii) money (or investments) in the account.
- 7 (3) This subsection applies to a person if, on application by ASIC, the
8 Court is satisfied that:
9 (a) the person is or was a payment system licensee; and
10 (b) the person:
11 (i) has ceased to be a payment system licensee; or
12 (ii) has become a Chapter 5 body corporate; or
13 (iii) has merged with another financial services licensee; or
14 (iv) has ceased to provide all payment system services
15 authorised by their licence.

16 **983HU Interim order freezing accounts**

- 17 (1) Before considering an application under section 983HT, the Court
18 may, if it considers it desirable to do so, grant an interim order that
19 is an order of the kind applied for and is expressed to apply until
20 the application is determined.
- 21 (2) The Court must not require ASIC or any other person, as a
22 condition of granting an order under subsection (1), to give an
23 undertaking as to damages.

24 **983HV Duty of person to whom order directed to make full** 25 **disclosure**

- 26 A person contravenes this section if:
27 (a) the person is a financial institution; and
28 (b) an order under section 983HT is directed to the financial
29 institution in relation to another person who is or was a
30 payment system licensee; and
31 (c) the financial institution fails to:
32 (i) disclose to ASIC every account kept at the institution in
33 the name of the other person, and any account that the
34 institution reasonably suspects is held or kept at the
35 institution for the benefit of the other person; or

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- 1 (ii) permit ASIC to make a copy of, or to take an extract
2 from, such an account or any of the institution's books
3 relating to the other person.

4 Note: This section is a civil penalty provision (see section 1317E).

5 **983HW Further orders and directions**

- 6 (1) If an order is made under section 983HT or 983HU, the Court may,
7 on application by ASIC or a person whom the order affects, make a
8 further order that does one or more of the following:
- 9 (a) deals with such ancillary matters as the Court thinks
10 necessary or desirable;
 - 11 (b) directs that specified amounts in an account affected by the
12 first-mentioned order be paid to ASIC or a person nominated
13 by ASIC;
 - 14 (c) varies or discharges the first-mentioned order or an order
15 under this section.
- 16 (2) An order under this section may be made subject to such terms and
17 conditions as the Court imposes.

18 **983HX Power of Court to make order relating to payment of money**

- 19 (1) An order made under section 983HW may include directions to a
20 person to whom money is ordered to be paid directing that the
21 person:
- 22 (a) must pay the money into a separate account; or
 - 23 (b) is authorised to prepare a scheme for distributing the money
24 to persons who claim, within 6 months after the person
25 receives the money, to be entitled to the money and satisfy
26 the person that they are so entitled; or
 - 27 (c) if the money received is insufficient to pay all proved claims,
28 may, despite any rule of law or equity to the contrary,
29 apportion the money among the claimants in proportion to
30 their proved claims and show in the scheme how the money
31 is so apportioned.
- 32 (2) If a person prepares a scheme for a distribution of money under
33 subsection (1), the person must apply to the Court for approval of
34 the scheme and for directions in respect of it.

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- 1 (3) The Court may, in relation to money held in a separate account
2 under subsection (1), give such directions as the Court thinks fit as
3 to:
4 (a) the persons to whom that money is to be paid, and in what
5 amounts the whole or any portion of that money is to be paid;
6 and
7 (b) the payment of the balance of the money (if any) remaining
8 in the account.

9 Subdivision F—Other matters

10 983HY Anti-avoidance

- 11 (1) A person must not, either alone or together with one or more other
12 persons, enter into, begin to carry out or carry out a scheme if:
13 (a) it would be concluded that the person, or any of the persons,
14 who entered into, began to carry out or carried out the
15 scheme or any part of the scheme did so for:
16 (i) the sole purpose; or
17 (ii) a purpose (that is not incidental);
18 of avoiding the application of any provision of this Division
19 in relation to any person or persons (whether or not the
20 person or persons who entered into, began to carry out or
21 carried out the scheme or any part of the scheme); and
22 (b) the scheme or the part of the scheme has achieved, or apart
23 from this section, would achieve, that purpose.

24 Note: This subsection is a civil penalty provision (see section 1317E).

- 25 (2) The Court may set aside a scheme to which subsection (1) applies.
- 26 (3) Subsection (1) does not apply to a scheme to the extent that the
27 operation of the subsection would result in an acquisition of
28 property (within the meaning of paragraph 51(xxxi) of the
29 Constitution) from a person otherwise than on just terms (within
30 the meaning of that paragraph).

31 45 Section 986A

32 Repeal the section, substitute:

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1 **986A Reporting for certain money and property to which this Part**
2 **applies**

3 The regulations may impose reporting requirements to be complied
4 with by a financial services licensee in relation to:

- 5 (a) money to which Subdivision A or B of Division 2 applies; or
6 (b) relevant PS money (see Division 2A); or
7 (c) property to which Division 3 applies.

8 **46 Paragraph 988E(a)**

9 Omit “or 982B”, substitute “, 982B or 983HE”.

10 **47 After subparagraph 990K(2)(b)(i)**

11 Insert:

- 12 (ia) a provision of Division 2A (or a provision of regulations
13 made for the purposes of such a provision); or

14 **48 Paragraphs 993B(1)(a) and (3)(a)**

15 After “981B(1)”, insert “or 983HE(1)”.

16 **49 Subsection 993C(1)**

17 After “981C”, insert “or paragraph 983HE(2)(b)”.

18 **50 At the end of subsection 993C(1)**

19 Add:

20 Note: Requirements made for paragraph 983HE(2)(b) could include those
21 mentioned in subsection 983HF(1).

22 **51 Paragraph 993C(3)(a)**

23 After “981C”, insert “or paragraph 983HE(2)(b)”.

24 **52 At the end of subsection 993C(3)**

25 Add:

26 Note: Requirements made for paragraph 983HE(2)(b) could include those
27 mentioned in subsection 983HF(1).

28 **53 After paragraph 1013D(1)(j)**

29 Insert:

- 30 (ja) if the financial product is a stored value facility—a statement
31 that the facility is not protected under the financial claims

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1 scheme provided for by Division 2AA of Part II of the
2 *Banking Act 1959*); and

3 **54 Subsection 1017E(1A)**

4 Repeal the subsection, substitute:

5 (1A) However, this section does not apply in relation to money that:

- 6 (a) is relevant PS money of the product provider; or
7 (b) is paid to an issuer (the *product provider*) of foreign passport
8 fund products if the money is paid to:

9 (i) acquire; or

10 (ii) acquire an increased interest in;

11 one or more of those foreign passport fund products from the
12 product provider (whether or not the acquisition would be by
13 a person as a retail client).

14 **55 After paragraph 1317C(gdl)**

15 Insert:

- 16 (gdla) a determination by ASIC under paragraph 983HM(1)(a) or
17 (b); or

18 **56 Subsection 1317E(3) (in the appropriate position in the 19 table)**

20 Insert:

| | | |
|---------------------|--|---------------|
| subsection 983HE(1) | complying with segregation method to safeguard relevant PS money | uncategorised |
| section 983HI | complying with another method to safeguard relevant PS money | uncategorised |
| section 983HP | complying with relevant PS money reporting rules | uncategorised |
| section 983HV | duty to make full disclosure | uncategorised |
| subsection 983HY(1) | anti-avoidance | uncategorised |

EXPOSURE DRAFT

1 **Part 3—Unclaimed SVF money**

2 ***Banking Act 1959***

3 **57 At the end of subsection 69(1A)**

4 Add:

- 5 ; (d) money that is standing to the credit of a regulated facility
6 (within the meaning of the *Payment Entities (Prudential*
7 *Regulation) Act 2026*) issued by a major SVF provider
8 (within the meaning of that Act).

9 Note: For paragraph (d), such money is instead dealt with under Part 9.8 of
10 the *Corporations Act 2001*.

11 **58 After subsection 69(11C)**

12 Insert:

13 (11D) If:

- 14 (a) an entity was an ADI at the time the entity paid an amount to
15 the Commonwealth under subsection (5); and
16 (b) sometime after paying the amount, the entity ceased being an
17 ADI; and
18 (c) the entity is a major SVF provider (within the meaning of the
19 *Payment Entities (Prudential Regulation) Act 2026*);

20 then, for the purposes of this section, the entity is treated as an ADI
21 in relation to the amount while the entity is a major SVF provider.

22 Note: Broadly, this subsection helps ensure that certain unclaimed money
23 can be paid, under subsection (7), to the persons entitled to the money
24 even though the entity that paid the money to the Commonwealth
25 under subsection (5) is no longer an ADI.

26 ***Corporations Act 2001***

27 **59 Section 9**

28 Insert:

29 ***inactive stored value facility*** has the meaning given by section
30 1343AB.

31 ***Part 9.8 provider***, for a calendar year, means a person that was a
32 major SVF provider at any time during the calendar year.

EXPOSURE DRAFT

1 *regulated facility* has the same meaning as in the *Payment Entities*
2 *(Prudential Regulation) Act 2026*.

3 *responsible provider* has the meaning given by section 1343AN.

4 *unclaimed SVF money* (or *unclaimed stored value facility*
5 *money*): the total amount of money that is standing to the credit of
6 a regulated facility is *unclaimed SVF money* at a particular time if,
7 at that time:

8 (a) the facility is an inactive stored value facility; and

9 (b) the total amount of the money is greater than:

10 (i) unless subparagraph (ii) applies—\$0; or

11 (ii) if the regulations prescribe an amount—that amount.

12 **60 Subsection 1317E(3) (in the appropriate position in the** 13 **table)**

14 Insert:

| | | |
|---|--|---------------|
| section 1343AD and subsections 1343AF(1), 1343AI(1) and (3), and 1343AO(4) and (6) | unclaimed SVF money in regulated facilities that are issued by major SVF providers | uncategorised |
|---|--|---------------|

15 **61 After Part 9.7**

16 Insert:

17 **Part 9.8—Unclaimed SVF money in stored value** 18 **facilities issued by major SVF providers**

19 **Division 1—Definitions**

20 **1343AB Meaning of *inactive stored value facility***

21 (1) A regulated facility is an *inactive stored value facility* at a
22 particular time if there has been no transaction activity under the
23 facility by any holder of the facility for:

24 (a) unless paragraph (b) applies—the period of 7 years; or

25 (b) if the regulations prescribe a period—that period;

26 that ends at that time.

27 (2) For the purposes of subsection (1), if:

EXPOSURE DRAFT

-
- 1 (a) a business that includes the operation of a stored value
2 facility (the *old facility*) is transferred to another entity (the
3 *transferee entity*); and
4 (b) as a result of that transfer, it is reasonable to say that the
5 holder of the old facility now holds one or more new stored
6 value facilities (the *new facilities*) with the transferee entity;
7 and
8 (c) the new facilities operate in the same, or substantially the
9 same, manner as the old facility;
10 then treat the new facilities and the old facility as a single stored
11 value facility.
12 Note 1: A consequence of this subsection is that the transfer will not cause any
13 period of inactivity by a holder of the old facility to restart.
14 Note 2: For a series of transfers, this subsection can apply to each transfer in
15 the series.

16 **Division 2—Major SVF providers must lodge annual** 17 **statements on unclaimed SVF money**

18 **1343AC Application of this Division**

19 This Division applies to a Part 9.8 provider in relation to a calendar
20 year.

21 **1343AD Provider must lodge statement with ASIC**

22 The Part 9.8 provider must lodge with ASIC, in the prescribed
23 form and within 3 months after the end of the calendar year, a
24 statement about any unclaimed SVF money that is, at the end of
25 the calendar year, standing to the credit of regulated facilities that
26 are issued by the provider.

27 Note: This section is a civil penalty provision (see section 1317E).

28 **1343AE ASIC must cause particulars of statement to be publicly** 29 **available**

30 ASIC must cause particulars of every amount of unclaimed SVF
31 money shown in a statement lodged under section 1343AD to be
32 made available to the public in such manner as ASIC determines.

EXPOSURE DRAFT

1343AF Provider and associates must not disclose particulars in statement

(1) If an amount of unclaimed SVF money is specified in a statement that the Part 9.8 provider lodges with ASIC under section 1343AD, then the provider and its associates must not disclose:

- (a) particulars of the amount of unclaimed SVF money; or
- (b) particulars of the person (the *potential claimant*) to whom the money is, or is reasonably expected to be, payable;

to a person other than the potential claimant or an agent of the potential claimant.

Note 1: This subsection is a civil penalty provision (see section 1317E).

Note 2: This subsection is specified in Schedule 3 to the *Freedom of Information Act 1982*. This means that a document containing particulars that are protected from disclosure by this subsection is an exempt document under that Act.

(2) However, subsection (1) does not apply in relation to the disclosure of any particulars that have, at the time of the disclosure, been made available to the public under section 1343AE.

1343AG Certain State and Territory laws of no effect

A law of a State or Territory has no effect to the extent that it would, apart from this subsection, require the Part 9.8 provider to lodge:

- (a) a return; or
- (b) some other document;

relating to unclaimed SVF money with, or with an authority of, a State or Territory.

Division 3—Major SVF providers must pay unclaimed SVF money to the Commonwealth

1343AH Application of this Division

This Division applies to a Part 9.8 provider in relation to a calendar year.

EXPOSURE DRAFT

1343AI Provider must pay Commonwealth unclaimed SVF money

Provider must pay amount after the end of calendar year

- (1) The Part 9.8 provider must pay the Commonwealth, within 3 months after the end of the calendar year, an amount (the **payable amount**) equal to the total amount of any unclaimed SVF money that is, at the end of the calendar year, standing to the credit of each regulated facility issued by the provider.

Note: This subsection is a civil penalty provision (see section 1317E).

- (2) Despite subsection (1), the Part 9.8 provider must not pay the payable amount to the extent that the unclaimed SVF money ceases to be (otherwise than by operation of this section) unclaimed SVF money after the end of the calendar year.

Note: Unclaimed SVF money that is standing to the credit of an inactive stored value facility at the end of a calendar year may cease to be unclaimed SVF money if, for example, it is redeemed from the stored value facility shortly after the end of the calendar year.

Provider may be required to make early payment

- (3) In addition to subsection (1), if the Part 9.8 provider reasonably believes that it will:
- (a) cease to exist before the end of the calendar year; or
 - (b) otherwise be unable to pay the payable amount after the end of the calendar year;
- then the provider must, on or before the expected finish time:
- (c) pay the early payable amount to the Commonwealth; and
 - (d) lodge with ASIC, in the prescribed form, a statement about the early payable amount.

Note: This subsection is a civil penalty provision (see section 1317E).

Definitions

- (4) In this section:

early payable amount means the total amount of any unclaimed SVF money that is standing to the credit of each regulated facility issued by the Part 9.8 provider at a time that:

- (a) is chosen by the provider; and
- (b) is within the 2-month period ending immediately before the expected finish time.

EXPOSURE DRAFT

1 *expected finish time* means the earliest time that the Part 9.8
2 provider reasonably believes that they will cease to exist or
3 otherwise be unable to pay the payable amount.

4 **1343AJ Provider may be refunded**

5 If:

- 6 (a) the Part 9.8 provider pays an amount to the Commonwealth
7 under subsection 1343AI(1) or (3); and
8 (b) that amount exceeds the amount that should have been paid
9 by the provider;

10 then:

- 11 (c) the provider may lodge with ASIC, in the prescribed form, an
12 application for the excess to be refunded; and
13 (d) upon receiving the application, ASIC must pay (on behalf of
14 the Commonwealth) an amount equal to the excess to the
15 provider.

16 **1343AK Provider discharged from further liability**

17 If a net amount is paid by the Part 9.8 provider to the
18 Commonwealth as a result of applying:

- 19 (a) subsection 1343AI(1) or (3); and
20 (b) if necessary—section 1343AJ;

21 then the provider is discharged from further liability in respect of
22 the unclaimed SVF money in respect of which the net amount is
23 paid.

24 **1343AL Certain State and Territory laws of no effect**

25 A law of a State or Territory has no effect to the extent that it
26 would, apart from this subsection, require the Part 9.8 provider to
27 pay an amount to, or to an authority of, a State or Territory in
28 respect of an amount of unclaimed SVF money.

29 **1343AM Appropriation provision**

30 The Consolidated Revenue Fund is appropriated for the purposes
31 of paragraph 1343AJ(d).

EXPOSURE DRAFT

Division 4—Reimbursing a client for unclaimed SVF money that has been paid to the Commonwealth

1343AN Application of this Division

- (1) This Division applies if:
 - (a) a net amount is paid by a person (the *original provider*) to the Commonwealth under Division 3 (as a result of applying sections 1343AI and, if necessary, 1343AJ); and
 - (b) the whole or a part (the *client's amount*) of the net amount relates to an amount of unclaimed SVF money:
 - (i) that, immediately before the payment, was standing to the credit of a facility (the *client's facility*) held by an entity (the *client*); and
 - (ii) in respect of which an amount has not already been paid under section 1343AO or 1343AP.
- (2) The *responsible provider* for the client's facility is:
 - (a) unless paragraph (b) applies—the original provider; or
 - (b) if another person now operates the client's facility as the result of one or more transfers originating with the original operator—that other person.

1343AO Reimbursing a client if there is a responsible provider for the client's facility

- (1) This section applies if the responsible provider in relation to the client's facility still exists and is currently:
 - (a) a major SVF provider; or
 - (b) a financial services licensee that is a constitutionally-covered corporation; or
 - (c) an ADI.
- (2) The client may apply to the responsible provider for payment of an amount equal to the client's amount.
- (3) The application must contain sufficient information to allow the responsible provider to reasonably assess whether this Division applies in relation to the original provider and the client (see section 1343AN for when this Division applies).

EXPOSURE DRAFT

1 (4) The responsible provider must, on receiving such an application
2 from the client, lodge with ASIC in the prescribed form a request
3 for payment of an amount equal to the client's amount.

4 Note: This subsection is a civil penalty provision (see section 1317E).

5 (5) ASIC must, on receiving such a request, pay (on behalf of the
6 Commonwealth) the responsible provider an amount equal to the
7 client's amount.

8 (6) The responsible provider must, on receiving that payment from
9 ASIC, pay the client an amount equal to that payment as soon as
10 reasonably practicable.

11 Note: This subsection is a civil penalty provision (see section 1317E).

12 (7) To avoid doubt, no interest is payable under subsection (5) or (6).

13 (8) The Consolidated Revenue Fund is appropriated for the purposes
14 of subsection (5).

15 **1343AP Reimbursing a client if there is *not* a responsible provider** 16 **for the client's facility**

17 (1) This section applies if section 1343AO does not apply.

18 (2) ASIC must, on application lodged with ASIC in the prescribed
19 form, pay (on behalf of the Commonwealth) the client an amount
20 equal to the client's amount.

21 (3) To avoid doubt, no interest is payable under subsection (2).

22 (4) The Consolidated Revenue Fund is appropriated for the purposes
23 of subsection (2).

24 **Division 5—Miscellaneous**

25 **1343AQ Commonwealth and ASIC not liable for loss or damage**

26 Neither the Commonwealth nor ASIC is liable for any loss or
27 damage suffered by an entity arising out of the exercise of, or the
28 failure to exercise, any of the powers:

- 29 (a) that are conferred on ASIC under this Part; or
30 (b) that ASIC has in relation to unclaimed SVF money.

EXPOSURE DRAFT

1 *Freedom of Information Act 1982*

2 **62 Schedule 3**

3 After:

4 *Civil Aviation Act 1988*, subsections 32AP(1) and (2)

5 Insert:

6 *Corporations Act 2001*, subsection 1343AF(1)

EXPOSURE DRAFT

Part 4—ePayments Code

Corporations Act 2001

63 Section 9

Insert:

covered entity, in relation to the ePayments Code, has the meaning given by 1101AH.

electronic payment, in relation to the ePayments Code, includes any of the following kinds of transaction that are made, carried out or facilitated by electronic equipment or processes:

- (a) a payment;
- (b) a funds transfer;
- (c) a cash withdrawal or deposit;
- (d) a kind of transaction that is prescribed by the regulations for the purposes of this paragraph.

electronic payment service, in relation to the ePayments Code, means a service that makes, carries out or facilitates an electronic payment.

ePayments Code has the meaning given by section 1101AG.

mistaken payment, in relation to an electronic payment:

- (a) includes circumstances where the electronic payment is mistakenly made or authorised by the payer; but
- (b) does not include circumstances where the electronic payment is mistakenly made or authorised by the payer because of deliberate deception by a person other than the payer.

Note: If an electronic payment is mistakenly made or authorised by the payer because of deliberate deception by a person other than the payer, then Part IVF of the *Competition and Consumer Act 2010* (Scams Prevention Framework) may apply in relation to the payment.

unauthorised transaction, in relation to an electronic payment, includes circumstances where the electronic payment:

- (a) is not authorised by the payer; or
- (b) does not occur or proceed as instructed by the payer.

EXPOSURE DRAFT

64 At the end of Division 2 of Part 7.12

Add:

Subdivision C—ePayments Code

1101AG Minister may make ePayments Code

The Minister may, by legislative instrument, make a code (the *ePayments Code*) that deals with matters relating to the following:

- (a) electronic payments;
- (b) electronic payment services;
- (c) related and incidental matters.

1101AH Covered entity must comply with ePayments Code

Each entity that is of any of the following kinds (a *covered entity*) must comply with the ePayments Code:

- (a) an ADI (within the meaning of the *Banking Act 1959*);
- (b) a payment entity (within the meaning of the *Payment Entities (Prudential Regulation) Act 2026*);
- (c) a participant (within the meaning of the *Payment Systems (Regulation) Act 1998*);
- (d) an entity to the extent that it is acting on behalf of an entity mentioned in any of the above paragraphs.

Note: This section is a civil penalty provision (see section 1317E).

1101AJ ePayments Code may make different provision for different kinds of things

Without limiting subsection 33(3A) of the *Acts Interpretation Act 1901*, the ePayments Code may make different provision for different kinds of:

- (a) covered entities; and
- (b) electronic payments; and
- (c) electronic payment services; and
- (d) consumers of electronic payment services; and
- (e) mistaken payments; and
- (f) unauthorised transactions.

EXPOSURE DRAFT

1 1101AK Matters the ePayments Code may deal with

2 Without limiting section 1101AG, the ePayments Code may deal
3 with the following matters:

- 4 (a) the processes (including remediation processes) a covered
5 entity must undertake in relation to an unauthorised
6 transaction, or a mistaken payment, relating to an electronic
7 payment that the entity is involved with;
- 8 (b) the circumstances in which a covered entity is held liable for
9 loss or damage suffered in relation to an unauthorised
10 transaction, or a mistaken payment, relating to an electronic
11 payment that the entity is involved with;
- 12 (c) how a covered entity must conduct itself in relation to
13 electronic payments that it is involved with;
- 14 (d) the terms and conditions on which a covered entity can offer
15 or provide an electronic payment service;
- 16 (e) the fees and charges in relation to an electronic payment
17 service that a covered entity offers or provides;
- 18 (f) disclosure requirements in relation to an electronic payment
19 service that a covered entity offers or provides;
- 20 (g) if a covered entity provides an electronic payment service to
21 a person (the *consumer*)—what the covered entity must do if
22 the consumer wishes to cease the service or switch to another
23 electronic payment service (whether or not the other service
24 is provided by the covered entity or another entity);
- 25 (h) procedures (including complaints handling and dispute
26 resolution procedures) that a covered entity must implement
27 and undertake in relation to electronic payments or electronic
28 payment services;
- 29 (i) how disputes under the Code must be resolved;
- 30 (j) remedies that are available for a breach of the Code
31 (including remedies that involve a covered entity being
32 required to pay money to another entity);
- 33 (k) the establishment of mandatory arrangements in relation to
34 electronic payments, or electronic payment services, between
35 2 or more covered entities (including the establishment of
36 arrangements for dealing with how an unauthorised
37 transaction, or a mistaken payment, relating to an electronic
38 payment that involves 2 or more covered entities must be
39 dealt with by those entities);

EXPOSURE DRAFT

-
- 1 (l) requiring covered entities that are involved with electronic
2 payments or electronic payment services to become a
3 member of the AFCA scheme;
- 4 (m) requiring covered entities to cooperate with AFCA in
5 resolving any complaint under the AFCA scheme that relates
6 to the Code;
- 7 (n) requiring covered entities to provide information to ASIC in
8 relation to matters dealt with by the Code;
- 9 (o) requiring ASIC to regularly report on the administration of
10 the Code (including requiring ASIC to undertake and present
11 such reports in accordance with particular requirements);
- 12 (p) how a covered entity that is acting on behalf of another
13 covered entity in relation to an electronic payment, or an
14 electronic payment service, must conduct itself in relation to
15 that payment or service;
- 16 (q) any other matters that the Minister considers appropriate.
- 17 Note: Paragraph (p) is referring to entities that are covered entities because
18 of paragraph 1101AH(d).

19 **1101AL Exemption and modification powers**

- 20 (1) The Minister may, by legislative instrument, do any of the
21 following:
- 22 (a) exempt a class of covered entity from all or specified
23 provisions of the ePayments Code;
- 24 (b) provide that the Code applies in relation to a class of covered
25 entity as if specified provisions of the Code were omitted,
26 modified or varied.
- 27 (2) ASIC may, by notifiable instrument, do any of the following:
- 28 (a) exempt a particular covered entity from all or specified
29 provisions of the ePayments Code;
- 30 (b) provide that the Code applies in relation to a particular
31 covered entity as if specified provisions of the Code were
32 omitted, modified or varied.

33 **65 Subsection 1317E(3) (in the appropriate position in the 34 table)**

35 Insert:
section 1101AH Compliance with ePayments Code uncategorised

EXPOSURE DRAFT

1 **Part 5—Tokenised SVF providers: ongoing**
2 **disclosure obligations**

3 *Corporations Act 2001*

4 **66 Subparagraph 1012D(2)(b)(ii)**

5 After “client under”, insert “subsection 1017BAA(1) or”.

6 **67 After section 1017B**

7 Insert:

8 **1017BAA Tokenised stored value facility providers—ongoing**
9 **disclosure of certain matters**

10 *Disclosing certain changes and events*

11 (1) A tokenised stored value facility provider must, in accordance with
12 subsections (2) and (3), publish on the internet notice of any
13 material change or significant event that may reasonably be
14 expected to affect:

15 (a) the value of the reserve assets held by the provider to meet its
16 obligations under tokenised stored value facilities it has
17 issued; or

18 (b) its ability to meet those obligations.

19 Note: Failure to comply with this subsection is an offence (see
20 subsection 1311(1)).

21 (2) The notice must include the information that is reasonably
22 necessary for a reasonable person considering whether to:

23 (a) take or relinquish possession of a digital token that relates to
24 any of the tokenised stored value facilities the provider has
25 issued; or

26 (b) exercise a right to redeem an amount standing to the credit of
27 any of those facilities;

28 to understand the nature and effect of the change or event.

29 (3) The provider must publish the notice:

30 (a) before the change or event occurs; or

31 (b) if the provider is a major SVF provider—immediately after
32 the change or event occurs; or

EXPOSURE DRAFT

-
- 1 (c) if the provider is not a major SVF provider—as soon as
2 practicable after the change or event occurs.

3 *Monthly disclosure of information about reserve assets and*
4 *outstanding liabilities*

- 5 (4) Within 7 days after the end of each calendar month, a tokenised
6 SVF provider must publish on the internet a statement containing
7 information:
8 (a) that relates to:
9 (i) the reserve assets held by the provider, as at the end of
10 that calendar month, to meet its obligations under
11 tokenised stored value facilities it has issued; and
12 (ii) the provider’s outstanding liabilities, as at the end of
13 that calendar month, relating to tokenised stored value
14 facilities it has issued; and
15 (b) that meets the content and verification requirements (if any)
16 determined under subsection (5).

17 Note: This subsection is a civil penalty provision (see section 1317E).

- 18 (5) ASIC may, by legislative instrument, determine:
19 (a) kinds of information that must be included in statements
20 under subsection (4); and
21 (b) how such information is to be verified (including by statutory
22 declaration).

23 Note: Information determined for paragraph (a) must relate to a matter in
24 paragraph (4)(a).

25 *Meaning of certain terms*

- 26 (6) The regulations may make provision determining all or any of the
27 following for the purposes of this section:
28 (a) the meaning of *reserve asset*;
29 (b) how to work out the *value* of reserve assets held by a
30 tokenised stored value facility provider;
31 (c) how to work out a tokenised stored value facility provider’s
32 *outstanding liabilities* at a particular time relating to
33 tokenised stored value facilities it has issued.

34 Regulations made for the purposes of this subsection have effect
35 despite anything else in this section.

EXPOSURE DRAFT

68 After paragraph 1020E(1)(b)

Insert:

- (ba) a statement published on the internet under subsection 1017BAA(4) is defective (see subsection (11) of this section); or

69 Paragraph 1020E(2)(b)

After “(1)(b)”, insert “or (ba)”.

70 Subsection 1020E(11) (after paragraph (b) of the definition of defective)

Insert:

- (ba) in relation to a statement published on the internet under subsection 1017BAA(4)—means:
 - (i) the information set out in the statement is misleading or deceptive; or
 - (ii) there is an omission from the information set out in the statement; and

71 After section 1021N

Insert:

1021NAA Offences relating to disclosure of information by tokenised stored value facility providers

Failure to comply with obligation to disclose information

- (1) A person commits an offence if:
 - (a) the person is a tokenised stored value facility provider; and
 - (b) the person is required, under subsection 1017BAA(4), to publish a statement on the internet; and
 - (c) the statement is not published on the internet as required by that subsection.

Offence where information known to be defective

- (2) A person commits an offence if:
 - (a) the person is a tokenised stored value facility provider; and
 - (b) the person is required, under subsection 1017BAA(4), to publish a statement on the internet; and

EXPOSURE DRAFT

-
- 1 (c) a statement is published on the internet in purported
2 compliance with that requirement; and
3 (d) the person knows that:
4 (i) the information set out in the statement is misleading or
5 deceptive; or
6 (ii) there is an omission from the information set out in the
7 statement.

8 *Offence whether or not information known to be defective*

- 9 (3) A person commits an offence if:
10 (a) the person is a tokenised stored value facility provider; and
11 (b) the person is required, under subsection 1017BAA(4), to
12 publish a statement on the internet; and
13 (c) a statement is published on the internet in purported
14 compliance with that requirement; and
15 (d) either:
16 (i) the information set out in the statement is misleading or
17 deceptive; or
18 (ii) there is an omission from the information set out in the
19 statement.
- 20 (4) For the purposes of an offence based on subsection (3), strict
21 liability applies to the physical element of the offence specified in
22 subparagraph (3)(d)(i) or (ii).

23 *Defences*

- 24 (5) In any proceedings against a tokenised stored value facility
25 provider for an offence based on subsection (1), it is a defence if
26 the statement would have been published on the internet but for the
27 fact that the provider was unable to obtain information required to
28 be set out in the statement after taking reasonable steps to do so.

29 Note: A defendant bears an evidential burden in relation to the matters in
30 this subsection. See subsection 13.3(3) of the *Criminal Code*.

- 31 (6) In any proceedings against a tokenised stored value facility
32 provider for an offence based on subparagraph (2)(d)(ii) or
33 (3)(d)(ii), it is a defence if:
34 (a) there was an omission from information set out in the
35 statement because the provider was unable to obtain the
36 information after taking reasonable steps to do so; or
37 (b) both of the following apply:
-

EXPOSURE DRAFT

-
- 1 (i) the information was omitted because it would have been
2 misleading or deceptive;
3 (ii) the provider took reasonable steps to obtain information
4 that would not have been misleading or deceptive.

5 Note: A defendant bears an evidential burden in relation to the matters in
6 this subsection. See subsection 13.3(3) of the *Criminal Code*.

- 7 (7) In any proceedings against a tokenised stored value facility
8 provider for an offence based on subparagraph (3)(d)(i), it is a
9 defence if the provider took reasonable steps to ensure that the
10 information set out in the statement would not be misleading or
11 deceptive.

12 Note: A defendant bears an evidential burden in relation to the matters in
13 this subsection. See subsection 13.3(3) of the *Criminal Code*.

14 **72 Paragraph 1022B(1)(e)**

15 After “contravenes”, insert “subsection 1017BAA(1) or”.

16 **73 After paragraph 1022B(1)(e)**

17 Insert:

18 (ea) a person is required by subsection 1017BAA(4) to publish a
19 statement on the internet and any of the following
20 circumstances apply:

- 21 (i) the statement is not published as required by that
22 subsection;
23 (ii) the information set out in the statement is misleading or
24 deceptive;
25 (iii) there is an omission from the information set out in the
26 statement; or

27 **74 Paragraph 1022B(2)(f)**

28 Omit “(1)(f) or (g) apply”, substitute “(1)(ea), (f) or (g) applies”.

29 **75 Subsection 1022B(2)**

30 After “(e)” (last occurring), insert “, (ea)”.

31 **76 After paragraph 1022B(3)(d)**

32 Insert:

33 (da) if paragraph (1)(ea) applies—the tokenised stored value
34 facility provider that was required to publish the statement;
35 or

EXPOSURE DRAFT

1 **77 Subsection 1022B(7B)**

2 Omit “(1)(f)(iii)”, substitute “(1)(ea)(ii), (f)(iii)”.

3 **78 Subsection 1022B(7C)**

4 Omit “(1)(f)(iv)”, substitute “(1)(ea)(iii), (f)(iv)”.

5 **79 Subparagraph 1041H(3)(a)(iii)**

6 After “section”, insert “1021NAA,”.

7 **80 Subparagraph 1041K(1)(a)(iii)**

8 After “section”, insert “1021NAA,”.

9 **81 Subsection 1317E(3) (after table item dealing with**
10 **subsection 1012C(11))**

11 Insert:

12

| | | |
|-----------------------|--|---------------|
| subsection 1017BAA(4) | tokenised stored value facility providers—monthly disclosure of information about reserve assets and outstanding liabilities | uncategorised |
|-----------------------|--|---------------|

13 **82 Schedule 3 (after table item dealing with**
14 **subsection 1017B(1))**

15 Insert:

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| Subsection 1017BAA(1) | 5 years imprisonment |
|-----------------------|----------------------|

17 **83 Schedule 3 (after table item dealing with section 1021N)**

18 Insert:

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| | |
|-----------------------|----------------------|
| Subsection 1021NAA(1) | 2 years imprisonment |
| Subsection 1021NAA(2) | 5 years imprisonment |
| Subsection 1021NAA(3) | 2 years imprisonment |

EXPOSURE DRAFT

1 **Part 6—Other amendments of the Corporations Act**
2 **2001**

3 *Corporations Act 2001*

4 **84 Paragraph 911A(2)(b)**

5 After “financial product”, insert “(other than a payment product)”.

6 **85 After paragraph 911A(2)(c)**

7 Insert:

8 (ca) all of the following apply:

- 9 (i) the service is a payment service or a payment
10 product-related service;
- 11 (ii) the service is provided by one person (the *provider*) to
12 another person, incidental to the provider acting as
13 agent for the other person in connection with the
14 negotiation of a supply of goods, services or property to
15 or from the other person;
- 16 (iii) the provider does not, in connection with the supply, act
17 as agent for both the person to whom, and the person
18 from whom, the goods, services or property are
19 supplied;

20 **86 After paragraph 912A(1)(g)**

21 Insert:

22 (ga) if the licensee provides:

23 (i) a payment service; or

24 (ii) a payment product-related service;

25 for the purposes of another licensee providing a financial
26 service described in subparagraph (i) or (ii) to a person as a
27 retail client—comply with subsection (3AAA); and

28 **87 After subsection 912A(3)**

29 Insert:

30 *Payment services etc. provided to retail clients—intermediary*
31 *licensees to cooperate with AFCA and provider licensees*

32 (3AAA) For the purposes of paragraph (1)(ga), the licensee must:

EXPOSURE DRAFT

-
- 1 (a) take reasonable steps to cooperate with AFCA in resolving
2 any complaint under the AFCA scheme, to which the other
3 licensee mentioned in that paragraph is a party, that relates to
4 the provision of the service, including by:
- 5 (i) giving reasonable assistance to AFCA in resolving the
6 complaint; and
 - 7 (ii) identifying, locating and providing to AFCA any
8 documents and information that AFCA reasonably
9 requires for the purposes of resolving the complaint; and
- 10 (b) cooperate with the other licensee mentioned in that paragraph
11 for the purposes of enabling the other licensee to:
- 12 (i) apply its internal dispute resolution procedures required
13 by paragraph (2)(a) for the purposes of resolving a
14 complaint relating to the provision of the service; and
 - 15 (ii) cooperate with AFCA in resolving any complaint under
16 the AFCA scheme, to which the other licensee is a
17 party, that relates to the provision of the service
18 (including by the other licensee doing a thing mentioned
19 in subparagraph (a)(i) or (ii) of this subsection or giving
20 effect to any determination made by AFCA in relation
21 to the complaint).

22 **88 Subsection 912A(5A)**

23 After “(g),” insert “(ga),”.

24 **89 After section 923C**

25 Insert:

26 **923D Restriction on use of terms relating to stored value facilities**

- 27 (1) A person contravenes this subsection if:
- 28 (a) the person provides a financial service (whether or not on
29 behalf of another person); and
 - 30 (b) the person assumes or uses, in this jurisdiction, a restricted
31 word or expression in relation to the service; and
 - 32 (c) the service does not relate to a stored value facility that is or
33 would be issued by:
 - 34 (i) for a restricted word or expression covered by
35 subparagraph (3)(a)(i) or (iii)—a person who holds an
36 Australian financial services licence covering the
37 issuing of stored value facilities of that kind; or

EXPOSURE DRAFT

(ii) for a restricted word or expression covered by subparagraph (3)(a)(ii) or (iv)—a person who is a regulated entity for the purposes of the *Payment Entities (Prudential Regulation) Act 2026*.

Note 1: For the meanings of *restricted word or expression* and *assume or use*, see subsection (3).

Note 2: A contravention of this subsection is an offence (see subsection 1311(1)).

- (2) If a person assumes or uses a word or expression in circumstances that give rise to the person committing an offence under subsection (1), the person commits the offence in respect of:
- (a) the first day on which the offence is committed; and
 - (b) each subsequent day (if any) on which the circumstances that gave rise to the person committing the offence continue (including the day of conviction for any such offence or any later day).

References to restricted word or expression

(3) In this section:

- (a) a reference to a restricted word or expression is a reference to:
 - (i) the expression *Australian regulated SVF* or *Australian regulated payment stablecoin*, or any other word or expression (whether or not in English) that is of like import to either of those expressions; or
 - (ii) the expression *APRA regulated SVF provider*, *APRA regulated tokenised SVF provider*, *APRA regulated payment stable coin provider* or *APRA regulated Australian stablecoin provider*, or any other word or expression (whether or not in English) that is of like import to any of those expressions; or
 - (iii) any other word or expression specified in the regulations as a restricted word or expression for the purposes of this section in relation to persons who are not of a kind described in subparagraph (1)(c)(i), or any other word or expression that is of like import to a word or expression so specified; and
 - (iv) any other word or expression specified in the regulations as a restricted word or expression for the purposes of this section in relation to persons who are not of a kind described in subparagraph (1)(c)(ii), or any

EXPOSURE DRAFT

1 other word or expression that is of like import to a word
2 or expression so specified; and

3 (b) a reference to a restricted word or expression being assumed
4 or used includes a reference to the restricted word or
5 expression being assumed or used:

6 (i) as part of another word or expression; or

7 (ii) in combination with other words, letters or other
8 symbols.

9 **90 After Division 11 of Part 7.6**

10 Insert:

11 **Division 11A—Unlicensed persons providing information** 12 **to ASIC**

13 **925J Direction to provide a statement**

14 (1) ASIC may give a direction under subsection (2) or (4) to a person
15 if ASIC reasonably suspects that the person:

16 (a) carries on a financial services business in this jurisdiction
17 that consists wholly or partly of providing any of the
18 following financial services:

19 (i) payment services;

20 (ii) payment product-related services; and

21 (b) does not hold an Australian financial services licence
22 covering the provision of the financial services.

23 (2) ASIC may, by giving written notice to the person, direct the person
24 to give to ASIC a written statement containing the specified
25 information about:

26 (a) financial services provided by the person or the person's
27 representatives; or

28 (b) a financial services business carried on by the person.

29 (3) Notices under subsection (2):

30 (a) may require a statement containing information to be
31 provided on a periodic basis, or each time a particular event
32 or circumstance occurs, without ASIC having to give a
33 further written notice; and

34 (b) may require a statement containing information to be given
35 in a specified manner (including in electronic form).

EXPOSURE DRAFT

1 (4) ASIC may also, by giving written notice to the person, direct the
2 person to obtain an audit report, prepared by a suitably qualified
3 person specified in the notice, on a statement, or each statement in
4 a class of statements, under subsection (2) before the statement is
5 given to ASIC.

6 (5) A person must comply with a direction given under this section:
7 (a) within the time specified in the direction if that is a
8 reasonable time; or
9 (b) in any other case—within a reasonable time.

10 ASIC may extend the time within which the person must comply
11 with the direction by giving written notice to the person.

12 Note: Failure to comply with this subsection is an offence (see
13 subsection 1311(1)).

14 **925K Regulations may require information to be provided**

15 (1) The regulations may require a person who:
16 (a) carries on a financial services business in this jurisdiction
17 that consists wholly or partly of providing any of the
18 following financial services:

19 (i) payment services;
20 (ii) payment product-related services; and

21 (b) does not hold an Australian financial services licence
22 covering the provision of the financial services;

23 to provide ASIC with specified information about:

24 (c) financial services provided by the person or the person's
25 representatives; or

26 (d) a financial services business carried on by the person.

27 (2) Regulations made for the purposes of subsection (1) may make
28 different provision for different classes of persons covered by
29 paragraphs (1)(a) and (b).

30 (3) If regulations made for the purposes of subsection (1) require a
31 person to give ASIC information, the person must give ASIC that
32 information.

33 Civil penalty: 20 penalty units (or 200 penalty units if the
34 person is a body corporate).

EXPOSURE DRAFT

-
- 1 (4) The fact that subsection (3) is a civil penalty provision does not
2 prevent the regulations from prescribing a penalty for contravening
3 regulations made for the purposes of subsection (1).

4 **91 After Division 4A of Part 7.8**

5 Insert:

6 **Division 4B—Special provisions relating to stored value** 7 **facilities**

8 **985N Tokenised SVF providers must not unreasonably restrict** 9 **redemption rights**

10 A person contravenes this section if:

- 11 (a) the person issues a tokenised stored value facility; and
12 (b) the person is a tokenised SVF provider; and
13 (c) another person possesses the digital token attached to the
14 right to redeem an amount in respect of the amount standing
15 to the credit of the facility; and
16 (d) either or both of the following subparagraphs apply:
17 (i) the facility is part of a financial services business being
18 carried on in this jurisdiction;
19 (ii) the other person is incorporated, or is ordinarily
20 resident, in this jurisdiction; and
21 (e) the provider restricts, or the terms of the facility restrict, the
22 other person from:
23 (i) exercising that right; or
24 (ii) if the other person is not the holder of the facility—
25 entering into an arrangement with the provider for the
26 purposes of exercising of that right; and
27 (f) the restriction is unreasonable because the restriction:
28 (i) is not applied equally; or
29 (ii) if the restriction is the terms of the facility—is capable
30 of not being applied equally;
31 to all persons who possess the digital tokens attached to the
32 rights to redeem amounts in respect of the amounts standing
33 to the credit of tokenised SVFs issued by the provider.

34 Note 1: This section is a civil penalty provision (see section 1317E).

35 Note 2: Paragraph (e) can apply to the terms of the facility when the facility is
36 issued, and to those terms as later varied.

EXPOSURE DRAFT

985P SVF providers must not pay interest or like benefits

- (1) A person contravenes this subsection if:
- (a) the person issues a stored value facility; and
 - (b) the person is an SVF provider; and
 - (c) another person is able to exercise the right under the facility to redeem an amount in respect of the amount standing to the credit of the facility; and
 - (d) either or both of the following subparagraphs apply:
 - (i) the facility is part of a financial services business being carried on in this jurisdiction;
 - (ii) the other person is incorporated, or is ordinarily resident, in this jurisdiction; and
 - (e) the person pays, or the terms of the facility provide for the payment of, interest or interest-like benefits in connection with an amount standing to the credit of the facility.

Note: Paragraph (e) can apply to the terms of the facility when the facility is issued, and to those terms as later varied.

- (2) A person must not contravene subsection (1). The physical elements of the offence are set out in that subsection.

Note: Failure to comply with this subsection is an offence (see subsection 1311(1)).

- (3) A person contravenes this subsection if the person contravenes subsection (1).

Note: This subsection is a civil penalty provision (see section 1317E).

92 Subsection 1317E(3) (after table item dealing with subsection 922M(5))

Insert:

| | | |
|--------------------|--|---------------|
| subsection 925K(3) | regulations requiring certain unlicensed persons to give information to ASIC | Uncategorised |
|--------------------|--|---------------|

93 Subsection 1317E(3) (after table item dealing with subsection 985M(2))

Insert:

| | | |
|--------------|--|---------------|
| section 985N | Tokenised SVF providers must not unreasonably restrict redemption rights | Uncategorised |
|--------------|--|---------------|

| | | |
|--------------------|-------------------------------------|---------------|
| subsection 985P(3) | SVF providers must not pay interest | Uncategorised |
|--------------------|-------------------------------------|---------------|

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or like benefits

1 **94 Schedule 3 (after table item dealing with**
2 **subsection 923C(2))**

3 Insert:

Subsection 923D(1)

(a) for an individual—10 penalty units for each day, or part of a day, in respect of which the offence is committed; and

(b) for a body corporate—100 penalty units for each day, or part of a day, in respect of which the offence is committed

Subsection 925J(5)

2 years imprisonment

4 **95 Schedule 3 (after table item dealing with**
5 **subsection 985K(1))**

6 Insert:

Subsection 985P(2)

2 years imprisonment

EXPOSURE DRAFT

1 **Part 7—Amendment of the ASIC Act**

2 *Australian Securities and Investments Commission Act 2001*

3 **96 Subsection 12BAA(6) (paragraph (c) of the note)**

4 Repeal the paragraph.

5 **97 After paragraph 12BAA(7)(h)**

6 Insert:

7 (ha) a payment product;

8 **98 Paragraph 12BAA(8)(d)**

9 Repeal the paragraph, substitute:

10 (d) a facility that is:

11 (i) an approved RTGS system; or

12 (ii) an approved netting arrangement;

13 (da) a facility for establishing and settling obligations between
14 either or both of the following through a facility covered by
15 paragraph (d):

16 (i) providers of payment products or payment services;

17 (ii) providers of non-cash payment facilities;

18 **99 Paragraph 12BAA(8)(f)**

19 Repeal the paragraph.

20 **100 After paragraph 12BAB(1)(d)**

21 Insert:

22 (daa) provide a payment service; or

23 **101 Before subsection 12BAB(1AA)**

24 Insert:

25 *Financial products are also financial services*

26 **102 Subsection 12BAB(1AA)**

27 After “financial product”, insert “other than a payment product that is a
28 financial product only because of paragraph 12BAA(7)(ha)”.

EXPOSURE DRAFT

103 Paragraph 12BAB(18)(h)

Repeal the paragraph, substitute:

- (h) operating a facility for exchanging and settling payments between either or both of the following:
 - (i) providers of payment products or payment services;
 - (ii) providers of non-cash payment facilities;

104 Before section 12BB

Insert:

12BAD Conduct relating to certain payment products is a financial service only if engaged in by or on behalf of a constitutionally-covered corporation

Despite anything in section 12BAB, conduct that:

- (a) relates to a payment product that is a financial product only because of paragraph 12BAA(7)(ha); and
 - (b) would, apart from this subsection, be a financial service (or a kind of financial service) other than a payment service;
- is a *financial service* (or a kind of financial service) only if the conduct is engaged in by, or on behalf of, a constitutionally-covered corporation.

Note: Dealing in a financial product is an example of a kind of financial service (see section 12BAB).

105 At the end of subsections 12BF(1), (2A) and (2C)

Add:

Note: Not all contracts that are payment products will be covered by this subsection (see subsection (9)).

106 At the end of section 12BF

Add:

- (9) A reference in this section to a contract that is a financial product includes a payment product only to the extent that the product:
 - (a) is a financial product otherwise than because of paragraph 12BAA(7)(ha); or
 - (b) is issued by, or on behalf of, a constitutionally-covered corporation.

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107 At the end of subsection 12DK(6)

Add:

; and (d) a reference to a financial product includes a facility that:

(i) is a payment product; and

(ii) is a financial product only because of paragraph 12BAA(7)(ha);

only if the promoter, or each of the promoters, is a constitutionally-covered corporation.

108 Subsection 12DL(5) (subparagraph (a)(ii) of the definition of *debit card*)

After “financial product”, insert “(other than a payment product that is a financial product only because of paragraph 12BAA(7)(ha), if the product is not issued by a constitutionally-covered corporation)”.

109 After subsection 12GND(3)

Insert:

(3A) The reference to a financial product in paragraph (3)(a) includes a payment product only to the extent that the product:

(a) is a financial product otherwise than because of paragraph 12BAA(7)(ha); or

(b) is issued by, or on behalf of, a constitutionally-covered corporation.

110 After subsection 13(1)

Insert:

(1A) If the contravention referred to in paragraph (1)(b) is of a law of a State, then subparagraph (1)(b)(ii) applies in relation to a facility that:

(a) is a payment product; and

(b) is a financial product only because of paragraph 764A(1)(ia) of the Corporations Act;

only if the contravention is suspected to have been committed by, or on behalf of, a constitutionally-covered corporation.

111 At the end of section 14

Add:

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-
- 1 (5) If the contravention referred to in paragraph (2)(b) is of a law of a
2 State, then subparagraph (2)(b)(ii) applies in relation to a facility
3 that:
4 (a) is a payment product; and
5 (b) is a financial product only because of paragraph 764A(1)(ia)
6 of the Corporations Act;
7 only if the contravention is alleged or suspected to have been
8 committed by, or on behalf of, a constitutionally-covered
9 corporation.
- 10 (6) Paragraph (2)(j) applies in relation to a facility that:
11 (a) is a payment product; and
12 (b) is a financial product only because of paragraph 764A(1)(ia)
13 of the Corporations Act;
14 only if the conduct referred to in paragraph (2)(j) is engaged in by,
15 or on behalf of, a constitutionally-covered corporation.

16 **112 Section 28**

17 Before “A power”, insert “(1)”.

18 **113 At the end of section 28**

19 Add:

- 20 (2) If the contravention referred to in paragraph (1)(c) is of a law of a
21 State, then subparagraph (1)(c)(ii) applies in relation to a facility
22 that:
23 (a) is a payment product; and
24 (b) is a financial product only because of paragraph 764A(1)(ia)
25 of the Corporations Act;
26 only if the contravention is alleged or suspected to have been
27 committed by, or on behalf of, a constitutionally-covered
28 corporation.

29 **114 After subsection 39D(3)**

30 Insert:

- 31 (3A) If the contravention referred to in paragraph (3)(b) is of a law of a
32 State, then subparagraph (3)(b)(ii) applies in relation to a facility
33 that:
34 (a) is a payment product; and
35 (b) is a financial product only because of paragraph 764A(1)(ia)
36 of the Corporations Act;
-

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1 only if the offence is alleged or suspected to have been committed
2 by, or on behalf of, a constitutionally-covered corporation.

3 **115 Section 40**

4 Before “A power”, insert “(1)”.

5 **116 At the end of section 40**

6 Add:

7 (2) If the contravention referred to in paragraph (1)(c) is of a law of a
8 State, then subparagraph (1)(c)(ii) applies in relation to a facility
9 that:

10 (a) is a payment product; and

11 (b) is a financial product only because of paragraph 764A(1)(ia)
12 of the Corporations Act;

13 only if the contravention is alleged or suspected to have been
14 committed by, or on behalf of, a constitutionally-covered
15 corporation.

16 **117 After paragraph 127(2A)(g)**

17 Insert:

18 (ga) the Australian Transaction Reports and Analysis Centre;

19 ***Corporations Act 2001***

20 **118 Subsection 994AA(1)**

21 After “ASIC Act”, insert “(other than a facility that is only a financial
22 product within the meaning of that Division because of
23 paragraph 12BAA(1)(c) of that Act)”.

24 **119 Subsection 994AA(1) (note)**

25 Omit “Note”, substitute “Note 1”.

26 **120 At the end of subsection 994AA(1)**

27 Add:

28 Note 2: Paragraph 12BAA(1)(c) of the ASIC Act covers facilities through
29 which, or through the acquisition of which, a person makes non-cash
30 payments.

31 Note 3: Payment products are financial products because of
32 paragraph 764A(1)(ia) of this Act and are therefore financial products

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for the purposes of this Division even if, in some cases, they are also covered by paragraph 12BAA(1)(c) of the ASIC Act.

- Note 4: However, an arrangement under which a person provides a payment service will generally not be a financial product for the purposes of this Division, because such arrangements are generally:
- (a) not financial products for the purposes of this Act; and
 - (b) only financial products for the purposes of Division 2 of Part 2 of the ASIC Act if they are covered by paragraph 12BAA(1)(c) of that Act.

EXPOSURE DRAFT

1 **Part 8—Amendments relating to the Payment**
2 **Entities (Prudential Regulation) Act 2026**

3 **Division 1—Repeal of RBA’s existing purchased**
4 **payment facility regulatory framework**

5 *Payment Systems (Regulation) Act 1998*

6 **121 Title**

7 Omit “and purchased payment facilities”.

8 **122 Subsection 6(1)**

9 Omit “and purchased payment facilities”.

10 **123 Subsection 6(1) (note)**

11 Repeal the note.

12 **124 Subsection 6(4)**

13 Repeal the subsection.

14 **125 Section 7**

15 Repeal the following definitions:

16 (a) definition of *holder of the stored value*;

17 (b) definition of *purchased payment facility*.

18 **126 Section 9**

19 Repeal the section.

20 **127 Part 4**

21 Repeal the Part.

22 **128 Subsection 26(2)**

23 Repeal the subsection.

EXPOSURE DRAFT

1 **Division 2—Amendments consequential on the**
2 **enactment of the Payment Entities (Prudential**
3 **Regulation) Act 2026**

4 *Australian Prudential Regulation Authority Act 1998*

5 **129 Subsection 3(1) (after paragraph (j) of the definition of**
6 ***prudential regulation framework law*)**

7 Insert:

8 (jaa) the *Payment Entities (Prudential Regulation) Act 2026*;

9 **130 After paragraph 3(2)(g)**

10 Insert:

11 ; (h) a regulated entity, or a registered NOHC, within the meaning
12 of the *Payment Entities (Prudential Regulation) Act 2026*.

13 **131 After paragraph 58(4)(c)**

14 Insert:

15 (ca) section 79, 181 or 182 of the *Payment Entities (Prudential*
16 *Regulation) Act 2026*;

17 **132 After paragraph 58A(1)(c)**

18 Insert:

19 (ca) an examination under Division 3 of Part 10 of the *Payment*
20 *Entities (Prudential Regulation) Act 2026* by an investigator
21 appointed by APRA;

22 **133 At the end of paragraph 59(2)(aaa)**

23 Add:

24 (iv) the activities of statutory managers (within the meaning
25 of the *Payment Entities (Prudential Regulation) Act*
26 *2026*);

27 **134 After paragraph 59(2)(aa)**

28 Insert:

29 (ab) information on the activities of persons conducting
30 investigations under Division 2 of Part 10 of the *Payment*
31 *Entities (Prudential Regulation) Act 2026*;

EXPOSURE DRAFT

135 After subsection 59(3)

Insert:

(3A) Paragraph (2)(ab) does not authorise the inclusion in the annual report of information with respect to the affairs of any of the following (all within the meaning of the *Payment Entities (Prudential Regulation) Act 2026*):

- (a) a particular regulated entity or registered NOHC;
- (b) a particular subsidiary of a regulated entity or registered NOHC;
- (c) a particular customer, or end user of relevant PS money, of a regulated entity.

Australian Securities and Investments Commission Act 2001

136 After paragraph 12A(1)(e)

Insert:

- (ea) the *Payment Entities (Prudential Regulation) Act 2026*;
- (eb) the *Payment Systems (Regulation) Act 1998*;

Anti-Money Laundering and Counter-Terrorism Financing Act 2006

Banking Act 1959

137 Subsection 9AA(1)

Omit the second sentence.

138 After subsection 9AA(1)

Insert:

(1A) The conditions must relate to prudential matters which, if the body corporate is a regulated entity for the purposes of the *Payment Entities (Prudential Regulation) Act 2026*, includes prudential matters within the meaning of that Act.

139 After subparagraph 9A(2)(b)(ia)

Insert:

- (iib) a requirement of the *Payment Entities (Prudential Regulation) Act 2026*;

EXPOSURE DRAFT

1 **140 Subsection 11AAA(1)**

2 Omit the second sentence.

3 **141 After subsection 11AAA(1)**

4 Insert:

5 (1A) The conditions must relate to prudential matters which, if the body
6 corporate is a regulated NOHC for the purposes of the *Payment*
7 *Entities (Prudential Regulation) Act 2026*, includes prudential
8 matters within the meaning of that Act.

9 **142 After subparagraph 11AB(2)(a)(iia)**

10 Insert:

11 (iib) a requirement of the *Payment Entities (Prudential*
12 *Regulation) Act 2026*;

13 ***Competition and Consumer Act 2010***

14 **143 At the end of paragraph 51ABZZQ(1)(b)**

15 Add:

16 ; or (iv) if the transferring body is a regulated entity—to protect
17 the interests of customers, or end users of relevant PS
18 money, of the transferring body.

19 **144 At the end of section 51ABZZQ**

20 Add:

21 (3) In this section, the following terms have the same meaning as in
22 the *Payment Entities (Prudential Regulation) Act 2026*:

23 (a) *customer*;

24 (b) *end user*;

25 (c) *relevant PS money*;

26 (d) *regulated entity*.

27 ***Corporations Act 2001***

28 **145 After subparagraph 1317AA(5)(c)(vii)**

29 Insert:

30 (viiia) the *Payment Entities (Prudential Regulation) Act 2026*;

EXPOSURE DRAFT

146 After paragraph 1317AAB(e)

Insert:

(ea) any of the following (all within the meaning of the *Payment Entities (Prudential Regulation) Act 2026*):

(i) a regulated entity;

(ii) a registered NOHC;

(iii) a subsidiary of a regulated entity or a registered NOHC;

Financial Accountability Regime Act 2023

147 Title

After “insurance”, insert “, payments”.

148 Subparagraph 3(a)(i)

After “insurance”, insert “, payments”.

149 Section 4 (paragraph beginning “This Act”)

After “insurance”, insert “, payments”.

150 Section 8 (at the end of the definition of *foreign accountable entity*)

Add:

; or (d) a foreign regulated entity (within the meaning of the *Payment Entities (Prudential Regulation) Act 2026*).

151 Section 8 (definition of *registered NOHC*)

Repeal the definition, substitute:

registered NOHC:

(a) of a life company—means a registered NOHC (within the meaning of the *Life Insurance Act 1995*) of the life company; and

(b) of a regulated entity—means a registered NOHC (within the meaning of the *Payment Entities (Prudential Regulation) Act 2026*) of the regulated entity.

Note: NOHC is short for non-operating holding company.

152 Section 8

Insert:

EXPOSURE DRAFT

1 *regulated entity* has the same meaning as in the *Payment Entities*
2 *(Prudential Regulation) Act 2026*.

3 **153 After subparagraph 9(3)(a)(iv)**

4 Insert:

5 (iva) a regulated entity; or

6 (ivb) a registered NOHC of a regulated entity; or

7 **154 Paragraph 14(h)**

8 Omit “licensee.”, substitute “licensee;”.

9 **155 Section 14**

10 After:

11 Note: RSE is short for registrable superannuation entity.

12 Insert:

13 (i) a regulated entity;

14 (j) a registered NOHC of a regulated entity.

15 **156 After subparagraph 21(1)(d)(vii)**

16 Insert:

17 (viiia) the *Payment Entities (Prudential Regulation) Act 2026*;

18 **157 Subsection 24(4)**

19 Omit “an ADI, an authorised NOHC of an ADI, a general insurer, an
20 authorised NOHC of a general insurer, a life company, a registered
21 NOHC of a life company, a private health insurer or an RSE licensee”,
22 substitute “a body of a kind mentioned in paragraph 9(1)(a) or any of
23 subparagraphs 9(3)(a)(i) to (vi) (accountable entities)”.

24 **158 After paragraph 67(2)(c)**

25 Insert:

26 (ca) to protect the interests of customers, or end users of relevant
27 PS money, of any regulated entity (all within the meaning of
28 the *Payment Entities (Prudential Regulation) Act 2026*); or

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1 *Financial Institutions Supervisory Levies Collection Act*
2 *1998*

3 **159 Section 7 (definition of *authorised NOHC*)**

4 Repeal the definition.

5 **160 Section 7 (paragraph (b) of the definition of *leviable***
6 ***body*)**

7 Repeal the paragraph.

8 **161 Section 7 (after paragraph (d) of the definition of *leviable***
9 ***body*)**

10 Insert:

11 (daa) a regulated entity;

12 (dab) a regulated NOHC;

13 **162 Section 7 (paragraph (b) of the definition of *levy*)**

14 Repeal the paragraph.

15 **163 Section 7 (after paragraph (d) of the definition of *levy*)**

16 Insert:

17 (daa) in respect of a leviable body that is a regulated entity—levy
18 imposed by the *Payment Entities Supervisory Levy*
19 *Imposition Act 2026*; or

20 (dab) in respect of a leviable body that is a regulated NOHC—levy
21 imposed by the *Regulated Non-operating Holding*
22 *Companies Supervisory Levy Imposition Act 1998*; or

23 **164 Section 7**

24 Insert:

25 ***regulated entity*** has the same meaning as in the *Payment Entities*
26 *(Prudential Regulation) Act 2026*.

27 ***regulated NOHC*** means:

28 (a) an authorised NOHC within the meaning of the *Banking Act*
29 *1959* or the *Insurance Act 1973*; or

30 (b) a registered NOHC within the meaning of the *Life Insurance*
31 *Act 1995* or the *Payment Entities (Prudential Regulation) Act*
32 *2026*.

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1 Note: NOHC is short for non-operating holding company.

2 **165 Subsection 8(2)**

3 Repeal the subsection.

4 **166 After subsection 8(4)**

5 Insert:

6 *Regulated entity*

7 (4AA) A body corporate that is a regulated entity at any time during a
8 financial year that ends after the commencement of the *Payment*
9 *Entities Supervisory Levy Imposition Act 2026* is liable to pay a
10 levy in respect of that financial year.

11 *Regulated NOHCs*

12 (4AB) A body corporate that is a regulated NOHC at any time during a
13 financial year that ends on or after the commencement of the
14 *Authorised Non-operating Holding Companies Supervisory Levy*
15 *Imposition Amendment Act 2026* is liable to pay a levy in respect of
16 that financial year.

17 Note: That Act:

- 18 (a) expands the NOHCs that are liable to pay levy; and
19 (b) amends the short title of the *Authorised Non-operating Holding*
20 *Companies Supervisory Levy Imposition Act 1998* to become the
21 *Regulated Non-operating Holding Companies Supervisory Levy*
22 *Imposition Act 1998*.

23 ***Financial Sector (Collection of Data) Act 2001***

24 **167 After paragraph 5(2)(d)**

25 Insert:

26 (da) a person who provides a payment service, or a financial
27 service relating to a stored value facility or a payment
28 instrument (all within the meaning of the *Corporations Act*
29 *2001*); or

30 **168 Subparagraph 5(2)(e)(ii)**

31 Omit “(d)”, substitute “(da)”.

32 **169 At the end of subsection 5(4)**

33 Add:

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1 ; (d) a subsidiary of a regulated entity, or a subsidiary of a
2 registered NOHC, within the meaning of the *Payment*
3 *Entities (Prudential Regulation) Act 2026*.

4 **170 After paragraph 7(2)(f)**

5 Insert:

6 (fa) the corporation is a regulated entity within the meaning of the
7 *Payment Entities (Prudential Regulation) Act 2026*; or

8 **171 Paragraph 13(1)(a)**

9 Omit “(d)”, substitute “(da)”.

10 ***Financial Sector (Shareholdings) Act 1998***

11 **172 Section 3 (after paragraph (b) of the definition of *financial*** 12 ***sector company*)**

13 Insert:

14 (ba) a regulated entity; or

15 **173 Section 3 (paragraph (c) of the definition of *financial*** 16 ***sector company*)**

17 Omit “or (b)”, substitute “, (b) or (ba)”.

18 **174 Section 3**

19 Insert:

20 ***regulated entity*** has the same meaning as in the *Payment Entities*
21 *(Prudential Regulation) Act 2026*.

22 **175 Paragraph 14A(3)(b)**

23 Repeal the paragraph, substitute:

24 (b) the company has:

25 (i) applied for authority under the *Banking Act 1959* to
26 carry on banking business; or

27 (ii) applied for authorisation under the *Insurance Act 1973*
28 to carry on insurance business; or

29 (iii) applied for registration under section 21 of the *Life*
30 *Insurance Act 1995*; or

31 (iv) requested registration under Division 2 of Part 3 of the
32 *Payment Entities (Prudential Regulation) Act 2026*;

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1 but that application or request has not yet been decided; and

2 **176 Subparagraph 14A(4)(b)(iii)**

3 Omit “and”, substitute “or”.

4 **177 At the end of paragraph 14A(4)(b)**

5 Add:

6 (iv) a company that is registered under Division 2 of Part 3
7 of the *Payment Entities (Prudential Regulation) Act*
8 *2026*; and

9 **178 After paragraph 14A(6)(b)**

10 Insert:

11 or (ba) a regulated entity;

12 **179 Paragraph 19(1)(b)**

13 After “authorised deposit-taking institution”, insert “, a regulated
14 entity”.

15 ***Financial Sector (Transfer and Restructure) Act 1999***

16 **180 Subsection 4(1) (definition of *Australian business assets***
17 ***and liabilities*)**

18 Omit “or an eligible foreign life insurance company,”, substitute “, an
19 eligible foreign life insurance company or a foreign regulated payment
20 entity”.

21 **181 Subsection 4(1)**

22 Insert:

23 ***foreign regulated payment entity*** means a foreign regulated entity
24 (within the meaning of the *Payment Entities (Prudential*
25 *Regulation) Act 2026*).

26 ***interested party***:

- 27 (a) of an ADI—means a depositor (within the meaning of the
28 *Banking Act 1959*) of the ADI; and
29 (b) of a life insurance company—means a policy owner (within
30 the meaning of the *Life Insurance Act 1995*) of the life
31 insurance company; and

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-
- 1 (c) of a general insurer—means a policy owner (within the
2 meaning of the *Insurance Act 1973*) of the general insurer;
3 and
4 (d) of a regulated payment entity—means a customer, or end
5 user of relevant PS money, of the entity (all within the
6 meaning of the *Payment Entities (Prudential Regulation) Act*
7 *2026*).

8 ***regulated payment entity*** means a regulated entity (within the
9 meaning of the *Payment Entities (Prudential Regulation) Act*
10 *2026*).

11 **182 Subsection 4(1) (at the end of the definition of *regulated***
12 ***body*)**

13 Add:
14 ; or (d) a regulated payment entity.

15 **183 Subsection 4(1) (at the end of the definition of *regulated***
16 ***business*)**

17 Add:
18 ; or (d) for a body that is a regulated payment entity—the body’s
19 regulated business (within the meaning of the *Payment*
20 *Entities (Prudential Regulation) Act 2026*).

21 **184 At the end of section 4B**

22 Add:
23 ; (e) a registered NOHC (within the meaning of the *Payment*
24 *Entities (Prudential Regulation) Act 2026*) and its
25 subsidiaries.

26 **185 Subsection 8(7)**

27 Omit “or life insurance company”, insert “, life insurance company or
28 regulated payment entity”.

29 **186 At the end of subsection 10(3)**

30 Add:
31 ; or (c) they are both regulated payment entities.

32 **187 Subparagraph 11(1)(c)(i)**

33 Omit “depositors or policy owners of the transferring body”, substitute
34 “transferring body’s interested parties”.

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1 **188 Subparagraph 11(1)(c)(ii)**

2 Omit “depositors or policy owners of the receiving body”, substitute
3 “receiving body’s interested parties”.

4 **189 Paragraph 25(1A)(b)**

5 Omit “depositors of the transferring body”, substitute “the transferring
6 body’s interested parties”.

7 **190 Subsection 25(1B)**

8 Omit “or life insurance company”, substitute “, life insurance company
9 or regulated payment entity”.

10 **191 Paragraph 25(1C)(b)**

11 Omit “policy owners of the transferring body”, substitute “the
12 transferring body’s interested parties”.

13 **192 Paragraph 25(1C)(c)**

14 Omit “policy owners of the receiving body”, substitute “the receiving
15 body’s interested parties”.

16 **193 Paragraph 25(1D)(b)**

17 Omit “policy owners of the transferring body”, substitute “the
18 transferring body’s interested parties”.

19 **194 Subsection 25(1DA)**

20 Omit “or life insurance company”, substitute “, life insurance company
21 or regulated payment entity”.

22 **195 Paragraph 25(1E)(b)**

23 Omit “policy owners of the transferring body”, substitute “the
24 transferring body’s interested parties”.

25 **196 Paragraph 25(1E)(c)**

26 Omit “policy owners of the receiving body”, substitute “the receiving
27 body’s interested parties”.

28 **197 Paragraph 25(1F)(b)**

29 Omit “policy owners of the transferring body”, substitute “the
30 transferring body’s interested parties”.

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198 Subsection 25(1G)

Omit “or life insurance company”, substitute “, life insurance company or regulated payment entity”.

199 After subsection 25(1G)

Insert:

Transfer from one regulated payment entity to another

(1H) APRA may make a written determination that there is to be a total transfer or partial transfer of business from one regulated payment entity to another regulated payment entity. APRA may make the determination only if:

- (a) either the Minister has declared under section 25A that a transfer of business should occur from the transferring body to the receiving body or APRA is satisfied that:
 - (i) the transferring body has contravened a provision of the *Payment Entities (Prudential Regulation) Act 2026*, any rules or other instruments made under that Act or conditions imposed under that Act; or
 - (ii) the transferring body has informed APRA under subsection 40(4) of the *Payment Entities (Prudential Regulation) Act 2026* that it considers that it is likely to become unable to meet its obligations, or that it is about to suspend payment; or
 - (iii) APRA is investigating the affairs of the transferring body, or has appointed a person to investigate the affairs of the transferring body, under subsection 143(1) of the *Payment Entities (Prudential Regulation) Act 2026*; or
 - (iv) there is a statutory manager of the transferring body under the *Payment Entities (Prudential Regulation) Act 2026*; or
 - (v) APRA has appointed a person to investigate and report on prudential matters in relation to the transferring body under subsection 145(1) of the *Payment Entities (Prudential Regulation) Act 2026*; and
- (b) APRA has considered the interests of the transferring body’s interested parties (when viewed as a group) and considers that, having regard to their interests, it would be appropriate for the transfer to be made; and

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- 1 (c) APRA is satisfied that the transfer is appropriate, having
2 regard to the interests of the receiving body's interested
3 parties when viewed as a group; and
4 (d) the conditions in subsection (2) exist.

5 *Transfer from a regulated payment entity to a body corporate that*
6 *is not a regulated payment entity*

- 7 (1J) APRA may make a written determination that there is to be a
8 partial transfer of business from a regulated payment entity to a
9 body corporate that is not a regulated payment entity. APRA may
10 make the determination only if:
11 (a) at least one of the following applies:
12 (i) the condition in paragraph (1H)(a) is met (for the
13 regulated payment entity as the transferring body and
14 the body corporate that is not a regulated payment entity
15 as the receiving body);
16 (ii) APRA has made a determination relating to the
17 transferring body under subsection (1H) for the partial
18 transfer of some or all of its regulated business to
19 another regulated payment entity (whether or not the
20 transfer provided for in that determination has
21 occurred); and
22 (b) APRA has considered the interests of the transferring body's
23 interested parties (when viewed as a group) and considers
24 that, having regard to their interests, it would be appropriate
25 for the transfer to be made; and
26 (c) the conditions in subsection (2) exist.

27 *Transfer from a body corporate related to a regulated payment*
28 *entity to another body*

- 29 (1K) APRA may make a written determination that there is to be a total
30 transfer or partial transfer of business from a body corporate that is
31 related to a regulated payment entity and is not a regulated
32 payment entity, ADI, general insurer or life insurance company to
33 another body corporate (the *transferee*). APRA may make the
34 determination only if:
35 (a) APRA is making, or has made within a reasonable period:
36 (i) a determination under subsection (1H) or (1J) relating to
37 the regulated payment entity for the total transfer or
38 partial transfer of its business to a body corporate (*the*

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-
- 1 *original receiving body*) (whether or not the transfer
2 provided for in that determination has occurred); or
3 (ii) a determination under section 25AA relating to the
4 regulated payment entity for the transfer of the shares in
5 the regulated payment entity to a body corporate (also
6 the *original receiving body*) (whether or not the transfer
7 provided for in that determination has occurred); and
8 (b) the transferee is the original receiving body or is related to
9 the original receiving body.

10 **200 Subparagraph 25AA(1)(a)(i)**

11 After “is an ADI”, insert “or a regulated payment entity”.

12 **201 Subparagraph 25AA(1)(a)(iv)**

13 Omit “and”.

14 **202 At the end of paragraph 25AA(1)(a)**

15 Add:

- 16 (v) if the regulated body is a regulated payment entity and
17 subparagraph (i) does not apply—APRA is satisfied that
18 any of the conditions in subparagraphs 25(1H)(a)(i), (ii),
19 (iii), (iv) or (v) have been satisfied; and

20 **203 Paragraphs 25AA(1)(b) to (e)**

21 Repeal the paragraphs, substitute:

- 22 (b) APRA has considered the interests of the transferring body’s
23 interested parties (when viewed as a group) and considers
24 that, having regard to their interests, it would be appropriate
25 for the transfer to be made; and
26 (c) if the receiving body is a regulated body—APRA is satisfied
27 that the transfer is appropriate, having regard to the interests
28 of the receiving body’s interested parties when viewed as a
29 group; and

30 **204 At the end of subsection 25AA(2)**

31 Add:

- 32 ; (d) a foreign regulated payment entity.

33 **205 Section 25A (at the end of the heading)**

34 Add “or regulated payment entity”.

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206 After subsection 25A(1)

Insert:

(1A) The Minister may declare, in writing given to APRA, that:

(a) a transfer of business should occur from a specified regulated payment entity to another specified body corporate; or

(b) a transfer of shares in a specified regulated payment entity to another specified body corporate should occur; or

(c) either:

(i) a transfer of business should occur from a specified regulated payment entity to another specified body corporate; or

(ii) a transfer of shares in a specified regulated payment entity to another specified body corporate should occur.

207 Subsection 25A(2)

After “subsection (1)”, insert “or (1A)”.

208 Subsection 36A(1)

Omit “or life insurer”, substitute “, life insurer or regulated payment entity”.

209 Subparagraph 36B(1)(a)(iii)

Omit “and”.

210 At the end of paragraph 36B(1)(a)

Add:

(iv) a regulated payment entity; and

211 After subparagraph 36B(1A)(a)(iii)

Insert:

(iiia) section 112 of the *Payment Entities (Prudential Regulation) Act 2026*;

212 Subsection 36C(4) (at the end of the definition of *prudential requirements*)

Add:

; (d) if the body is a regulated payment entity—standards in force under section 33 of the *Payment Entities (Prudential Regulation) Act 2026*.

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213 At the end of section 41

Add:

- (6) For the purposes of deciding whether or how to perform or exercise functions or powers under this Act in relation to things mentioned in subsection (7) each of the following provisions:
- (a) section 33 of the *Payment Entities (Prudential Regulation) Act 2026*;
 - (b) any other provision of that Act, or of another Act, prescribed by the regulations;
- has effect as if this Act were part of the Act that contains the provision.
- (7) For the purposes of subsection (6), the things mentioned in this subsection are as follows:
- (a) a transfer of business, or a proposed transfer or possible transfer of business, from or to a regulated payment entity;
 - (b) a transfer of shares, or a proposed or possible transfer of shares in a regulated payment entity;
 - (c) the restructure, or the possible restructure, of a regulated payment entity and one or more related bodies corporate.

214 At the end of subsection 43A(1)

Add:

; or (d) a foreign regulated payment entity.

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1 **Part 9—Application and transitional provisions**

2 **Division 1—Application and transitional provisions**
3 **relating to the Corporations Act 2001**

4 *Corporations Act 2001*

5 **215 In the appropriate position in Chapter 10**

6 Insert:

7 **Part 10.84—Transitional provisions relating to the**
8 **Treasury Laws Amendment Act 2026**

9 **Division 1—Preliminary**

10 **1804 Definitions**

11 In this Part:

12 *AFSL* means an Australian financial services licence.

13 *amended Corporations Act* means this Act as in force on
14 commencement.

15 *commencement* means the day Schedule 1 to the *Treasury Laws*
16 *Amendment Act 2026* commences.

17 Note: This is the day after the end of the 12-month period beginning on the
18 day that Act receives the Royal Assent.

19 *default transition period* for a person means:

- 20 (a) if, immediately before commencement, the person held an
21 AFSL that was subject to a condition authorising the
22 provision of financial services in relation to non-cash
23 payment financial products—the 1-month period starting on
24 commencement; or
25 (b) otherwise—the 6-month period starting on commencement.

26 *non-cash payment financial product* means a financial product
27 that is a facility through which, or through the acquisition of
28 which, a person makes non-cash payments within the meaning of

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1 section 763D of this Act, as in force immediately before
2 commencement.

3 *payments system modernisation amendments* means the
4 amendments made by Parts 1 and 6 of Schedule 1 to the *Treasury*
5 *Laws Amendment Act 2026*.

6 *relevant financial service* means:

- 7 (a) a payment service; or
8 (b) a payment product-related service.

9 *responsible person* for the provision of a financial service means:

- 10 (a) if the person providing the service is doing so not as an agent
11 or representative of any other person—the person providing
12 the service; or
13 (b) otherwise—the person on whose behalf the service is being
14 provided.

15 **Division 2—Application of core payments system** 16 **modernisation amendments**

17 **1804A Application of amendments to financial services—general**

18 The payments system modernisation amendments apply in relation
19 to a relevant financial service to the extent that the service is
20 provided on or after commencement.

21 Note: The amendments apply only to services provided by or on behalf of
22 constitutionally-covered corporations.

23 **1804B Transitional—delay in how amendments apply**

24 (1) Despite section 1804A, the payments system modernisation
25 amendments do not apply in relation to the provision of a relevant
26 financial service during the responsible person’s grace period (see
27 subsections (4) and (5)).

28 (2) However:

- 29 (a) the following provisions of the amended Corporations Act
30 apply in relation to the provision of a relevant financial
31 service from the end of the responsible person’s default
32 transition period as if the person were a financial services
33 licensee:

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- 1 (i) paragraphs 912A(1)(g) and (ga) and
2 subsections 912A(2) and (3AAA) (dispute resolution);
3 (ii) Division 2A of Part 7.8 (dealing with end users' money
4 in the payment system);
5 (iii) any other provision of that Act to the extent that it
6 relates to a provision referred to in subparagraph (i) or
7 (ii) of this paragraph; and
8 (b) during a person's default transition period, the person may
9 apply under the amended Corporations Act for ASIC to
10 decide whether or not to:
11 (i) grant the person an AFSL that is subject to a condition
12 authorising the provision of a relevant financial service;
13 or
14 (ii) vary the conditions on the person's AFSL to authorise
15 the provision of a relevant financial service; or
16 (iii) vary the conditions on the person's AFSL to no longer
17 authorise the provision of a relevant financial service;
18 and
19 (c) ASIC may, subject to subsection (3), make such a decision
20 under the amended Corporations Act in response to the
21 application.
- 22 (3) If:
23 (a) immediately before commencement, a person held an AFSL
24 that was subject to a condition authorising the provision of
25 financial services in relation to non-cash payment financial
26 products; and
27 (b) the person applies under paragraph 914A(2)(b) of the
28 amended Corporations Act, during the person's default
29 transition period, for ASIC to vary the conditions on the
30 person's AFSL to do either or both of the following:
31 (i) to authorise the provision of a relevant financial service
32 that it carries on at the time the application is made;
33 (ii) to no longer authorise the provision of a relevant
34 financial service;
- 35 ASIC must, under subsection 914A(1) of that Act, vary the
36 conditions of the AFSL to the extent necessary to achieve the
37 outcome mentioned in whichever one or more of
38 subparagraphs (b)(i) and (ii) of this subsection apply.
- 39 Note: To the extent that the application seeks to vary the conditions of the
40 AFSL in some other respect, ASIC retains a discretion under
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1 subsection 914A(1) of the amended Corporations Act whether or not
2 to vary the conditions of the AFSL.

- 3 (4) Subject to subsection (5), the responsible person's *grace period* is
4 the same as the person's default transition period.
- 5 (5) Despite section 1804A, if the responsible person applies under the
6 amended Corporations Act, during the person's default transition
7 period, for ASIC to:
- 8 (a) grant the person an AFSL that is subject to a condition
9 authorising the provision of a relevant financial service; or
 - 10 (b) vary the conditions on the person's AFSL to authorise the
11 provision of a relevant financial service;
- 12 then the responsible person's *grace period* ends at the end of the
13 later of:
- 14 (c) the last day of the person's default transition period; and
 - 15 (d) whichever of the following applies:
 - 16 (i) if the person withdraws the application—the day the
17 application is withdrawn;
 - 18 (ii) otherwise—the day ASIC makes a decision in response
19 to the application.

20 **1804C Application of amendments otherwise than in connection** 21 **with financial services**

- 22 If a provision of the amended Corporations Act:
- 23 (a) would, apart from this section, be capable of applying in
24 relation to a payment product that is not a non-cash payment
25 financial product; and
 - 26 (b) does not relate to the product in connection with a financial
27 service;
- 28 then the payments system modernisation amendments of that
29 provision apply in relation to the product only in relation to
30 conduct engaged in on or after commencement.

31 **1804D Acquisition of property**

- 32 (1) Despite section 1350, sections 1804A to 1804C do not apply, and
33 are taken never to have applied, to the extent that their operation
34 would result in an acquisition of property from a person otherwise
35 than on just terms.

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- 1 (2) In subsection (1), *acquisition of property* and *just terms* have the
2 same meanings as in paragraph 51(xxxi) of the Constitution.

3 **Division 3—Application of unclaimed money amendments**

4 **1804E Application of amendments**

5 *General application provision*

- 6 (1) Part 9.8 (as inserted by Part 3 of Schedule 1 to the *Treasury Laws*
7 *Amendment Act 2026*) applies in relation to calendar years starting
8 after the day on which that Schedule commences (the
9 *commencement day*).

10 *Transaction activity before commencement*

- 11 (2) For the purposes of determining under subsection 1343AB(1)
12 whether there has been no transaction activity under the regulated
13 facility by any holder of the facility for a particular period:
- 14 (a) have regard to whether there was any transaction history
15 under the facility during any period the facility was in
16 existence that:
 - 17 (i) starts before the commencement day; and
 - 18 (ii) ends on or after that day; and
 - 19 (b) treat the definition of *stored value facility* in section 761EB
20 as applying to the facility as it exists before, on or after the
21 commencement day.

22 Note: This subsection ensures that a stored value facility is capable of being
23 an inactive stored value facility in the first calendar year that Part 9.8
24 applies to.

25 **Division 4—Other matters**

26 **1804F Regulations**

- 27 (1) The regulations may make provisions of a transitional, application
28 or saving nature relating to this Part and the amendments and
29 repeals made by the amending Schedule.
- 30 (2) Without limiting subsection (1), regulations made for the purpose
31 of that subsection may modify provisions of this Act.

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1 Division 2—Application and transitional provisions 2 relating to other Acts

3 216 Definitions

4 In this Division:

5 *commencement* means the day the *Payment Entities (Prudential*
6 *Regulation) Act 2026* commences.

7 *old Financial Institutions Supervisory Levies Collection Act* means the
8 *Financial Institutions Supervisory Levies Collection Act 1998* as in
9 force immediately before commencement.

10 *transition period*, for a body corporate, means:

- 11 (a) if, immediately before commencement, the body held (under
12 the *Corporations Act 2001*) an Australian financial services
13 licence covering the provision of financial services relating to
14 the making of non-cash payments—the 1-month period
15 starting on commencement; or
16 (b) otherwise—the 6-month period starting on commencement.

17 217 Application of amendments—Financial Institutions 18 Supervisory Levies Collection Act 1998

19 The amendments of the *Financial Institutions Supervisory Levies*
20 *Collection Act 1998* made by Part 8 of this Schedule apply in relation to
21 financial years ending on or after commencement.

22 Note 1: A corollary of this is that the old Financial Institutions Supervisory Levies Collection
23 Act continues to apply on and after commencement in relation to *earlier* financial years.
24 See also item 15 of Schedule 1 to the *Authorised Non-operating Holding Companies*
25 *Supervisory Levy Imposition Amendment Act 2026*.

26 Note 2: So, for example, neither of the following:

- 27 (a) the amendments of the *Financial Institutions Supervisory Levies*
28 *Collection Act 1998* made by Part 8 of this Schedule;
29 (b) the amendments made by the *Authorised Non-operating Holding*
30 *Companies Supervisory Levy Imposition Amendment Act 2026*;

31 will affect any liability after commencement of an authorised NOHC to pay levy in
32 respect of an earlier financial year under subsection 8(2) of the old Financial Institutions
33 Supervisory Levies Collection Act.

34 218 Application of the *Payment Entities (Prudential* 35 *Regulation) Act 2026*

- 36 (1) During a payment entity's transition period, the following provisions
37 have effect:

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- 1 (a) the *Payment Entities (Prudential Regulation) Act 2026* does
2 not apply in relation to the payment entity, except for
3 sections 18, 19, 28 and 29 of that Act;
4 (b) for the purposes of any other law of the Commonwealth, the
5 payment entity is taken not to be a regulated payment entity
6 for the purposes of that Act.
- 7 (2) During a NOHC's transition period, the following provisions have
8 effect:
9 (a) the *Payment Entities (Prudential Regulation) Act 2026* does
10 not apply in relation to the NOHC, except for sections 22, 23,
11 28 and 29 of that Act;
12 (b) for the purposes of any other law of the Commonwealth, the
13 NOHC is taken not to be a registered NOHC for the purposes
14 of that Act.

15 **219 Continued application of the old *Payment Systems*** 16 ***(Regulation) Act 1998***

17 Despite the amendments made by Division 1 of Part 8 of this Schedule,
18 the *Payment Systems (Regulation) Act 1998* as in force immediately
19 before commencement, continues to apply in relation to a constitutional
20 corporation within the meaning of that Act during the corporation's
21 transition period.