

Guide to the Financial Sector Legislation Amendment (Simplifying Regulation and Review) Bill 2007

This Guide is designed to assist stakeholders in examining how the proposals covered in the Government's proposals paper *Streamlining Prudential Regulation: Response to 'Rethinking Regulation'*, released in December 2006, have been reflected in the draft Financial Sector Legislation Amendment (Simplifying Regulation and Review) Bill 2007 (SPR Bill).

The Guide refers to the numbered proposals in the *Streamlining Prudential Regulation* proposals paper as well as draft amendments implementing the outcomes of the Government's review of the financial assistance provisions in the *Superannuation Industry (Supervision) Act 1993*.

Amendments to the prudential Acts and the Corporations Act are set out first, followed by amendments to other Acts.

Items making amendments that substantially implement the proposals are in **bold**.

Items amending definitions are underlined.

Remaining items make minor or consequential or technical amendments.

| Proposal number in SPR proposals paper (except where otherwise shown) | Issue | Item number in draft SPR Bill (in Schedule 1, except where otherwise shown) |
|--|---|--|
| <i>Banking Act 1959</i> | | |
| 1.1, 1.2, 1.3, 1.4 | Streamlining breach reporting: <ul style="list-style-type: none"> • 'material' breaches; • timeframe for breach reporting; • reporting requirements of licensees, auditors, actuaries; • reporting requirements to APRA and ASIC. | 15, 20, <u>3</u> Definition of material: 22 21, 23, 24, 25 |
| 1.6 | Protection for whistleblowers. | 18 14, 19 |
| 2.6 | Ensuring flexibility through exemption powers; clarifying review and scrutiny of these powers. | 4 5 and 6 |
| 3.1, 3.2 | Discretionary decisions under prudential standards making powers; scrutiny of variations to prudential standards. | 7, 9, 12, 13 8, 10, 11 |
| 4.1 | Court-enforceable undertakings. | 17 |

| Proposal number in SPR proposals paper (except where otherwise shown) | Issue | Item number in draft SPR Bill (in Schedule 1, except where otherwise shown) |
|---|---|---|
| Banking Act 1959 (continued) | | |
| 4.4 | Cooperation between APRA and professional bodies of actuaries and auditors. | 16 |
| Insurance Act 1973 | | |
| 1.1, 1.2, 1.3, 1.4 | Streamlining breach reporting: <ul style="list-style-type: none"> • ‘material’ breaches; • timeframe for breach reporting; • reporting requirements of licensees, auditors, actuaries; • reporting requirements to APRA and ASIC. | 58, 59, 60, <u>38</u> Definition of material: 48 |
| 1.6 | Protection for whistleblowers. | 49 |
| 2.6 | Ensuring flexibility through exemption powers; clarifying review and scrutiny of these powers. | 39, 40, 41, 56 50 |
| 3.1, 3.2 | Discretionary decisions under prudential standards making powers; scrutiny of variations to prudential standards. | 42, 43, 45 44, 46 |
| 3.3 | Simplifying legislative requirements relating to consultations on prudential standards. | 47, 62 |
| 4.3 | Clarifying processes concerning appointment of auditors and actuaries. | 51, 52, 55, 61 53, 54 |
| 4.4 | Cooperation between APRA and professional bodies of actuaries and auditors. | 57 |

| Proposal number in SPR proposals paper (except where otherwise shown) | Issue | Item number in draft SPR Bill (in Schedule 1, except where otherwise shown) |
|---|---|---|
| <i>Life Insurance Act 1995</i> | | |
| 1.1, 1.2, 1.3, 1.4 | Streamlining breach reporting: <ul style="list-style-type: none"> • ‘material’ breaches; • timeframe for breach reporting; • reporting requirements of licensees, auditors, actuaries; • reporting requirements to APRA and ASIC. | 126, 133, <u>173</u> Definition of material: 136 Requirement to report breaches ‘immediately’: 125, 132 |
| 1.6 | Protection for whistleblowers. | 140, 141 |
| 2.6 | Ensuring flexibility through exemption powers; clarifying review and scrutiny of these powers. | 63 Repeals: 159 67, 153, 156 |
| 3.1, 3.2 | Discretionary decisions under prudential standards making powers; scrutiny of variations to prudential standards. | 147, 160 Repeals: 148 , 150 149, 151, 152 |
| 4.1 | Court-enforceable undertakings. | 137, 139 |
| 4.3 | Clarifying processes concerning appointment of auditors and actuaries. | 124, 128, 129, 154 , <u>160</u>, <u>176</u> Repeals: 155, 159 , 171 66, 122 |
| 4.4 | Cooperation between APRA and professional bodies of actuaries and auditors. | 135 |

| Proposal number in SPR proposals paper (except where otherwise shown) | Issue | Item number in draft SPR Bill (in Schedule 1, except where otherwise shown) |
|---|---|---|
| <i>Life Insurance Act 1995 (continued)</i> | | |
| 5.1 | Phase out Prudential Rules from the Life Act and replace with Prudential Standards. | Amendments to Part 2 (key concepts), items commencing on Royal Assent: 64, 65 Amendments to Part 2 (key concepts), items commencing 1 July 2011: 215, 216, 217 Friendly societies – items commencing on Royal Assent: 68 , 69, 70, 71, 72, 73, 76, 77, 78, 81, 82, 83, 84 Friendly societies - items commencing 1 July 2011: 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231 Life companies - items commencing on Royal Assent: 165 , 92, 96, 97, 101, 102, 104, 105, 106, 107, 108, 109, 112, 113, 135, 158, 164, 166 Life companies - items commencing on 1 July 2011: 245 (repeals), 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 244, 246, 247 |
| 5.2 | Abolish Life Insurance Actuarial Standards Board and replacing with prudential standards in relation to capital adequacy. | 120, 169, 172, 159, 161 , 177, 178 243 (commencing 1 July 2011) 95, 103, 110, 111, 114, 115, 116, 117, 118, 119, 130, 135, 142, 143, 144, 145, 146, 166 |
| 5.3 | Auditor, audit committee and actuarial requirements under Life Act. | <u>122, 123, 127, 128, 131 , 134, 135</u> 98, 99, 100, 159, 170, 175 |
| 5.4 | Overlaps in reporting requirements between APRA and ASIC. | 75, 80, 86 Repeals: 74, 79, 85, 162 |
| 5.5 | Reinsurance arrangements under Life Act. | 135 |

| Proposal number in SPR proposals paper (except where otherwise shown) | Issue | Item number in draft SPR Bill (in Schedule 1, except where otherwise shown) |
|---|---|--|
| <i>Life Insurance Act 1995 (continued)</i> | | |
| 5.6 | Registration of life companies. | 87, 88 Repeals: 89, 90, 91 , 167 121, 163 |
| 5.9 | Simplifying Acts through deletion of obsolete legislation. | 168 93 |
| | Technical amendments. | 94, 138, 157, 174 |
| <i>Superannuation Industry (Supervision) Act 1993</i> | | |
| 1.1, 1.2, 1.3, 1.4 | Streamlining breach reporting: <ul style="list-style-type: none"> • ‘material’ breaches; • timeframe for breach reporting; • reporting requirements of licensees, auditors, actuaries; • reporting requirements to APRA and ASIC. | 191, 192, 201, 204 Definition of material: 193 |
| 1.6 | Protection for whistleblowers. | 213 |
| 2.6 | Ensuring flexibility through exemption powers; clarifying review and scrutiny of these powers. | Definitions relating to modifiable provisions: 209, 210, 211, 212 Definitions relating to reviewable provisions: <u>182</u> , <u>184</u> , <u>186</u> Repeals: 183, 185 , 195, 199, 206, 207 205 |
| 4.3 | Clarifying processes concerning appointment of auditors, actuaries, investment managers and custodians. | 202, 203, 208, <u>180</u>, <u>181</u> |
| 5.7 | Clarifying reporting obligations under SIS Act. | Schedule 3, items 2 to 11 |

| Proposal number in SPR proposals paper (except where otherwise shown) | Issue | Item number in draft SPR Bill (in Schedule 1, except where otherwise shown) |
|--|---|---|
| <i>Superannuation Industry (Supervision) Act 1993 (continued)</i> | | |
| 5.8 | Replacing RSE license numbers with ABNs. | 194, 196, 179 Inserting requirements relating to ABN: 188, 189, 190, 197, 198 Repeals: 187 |
| 5.9 | Simplifying Acts through deletion of obsolete legislation. | 214 |
| | Miscellaneous amendments. | 200 |
| Part 23 Review | Review of Part 23 Financial Assistance Scheme. | Schedule 2, items 3 to 21 |
| <i>Corporations Act 2001</i> | | |
| 1.2, 1.3, 1.4 | Streamlining breach reporting: <ul style="list-style-type: none"> • timeframe for breach reporting; • reporting requirements of licensees, auditors, actuaries; • reporting requirements to APRA and ASIC. | 26 to 31, 33 |
| 5.4 | Overlaps in reporting requirements between APRA and ASIC. | 32 |
| <i>Financial Institutions Supervisory Levies Collection Act 1998</i> | | |
| Part 23 Review | Review of Part 23 Financial Assistance Scheme. | Schedule 2, items 1 and 2 |
| <i>Superannuation (Self Managed Superannuation Funds) Taxation Act 1987</i> | | |
| 5.7 | Clarifying reporting obligations under SIS Act. | Schedule 3, items 12 and 13 |
| <i>Anti-Money Laundering and Counter-Terrorism Financing Act 2006</i> | | |
| 5.2 | Abolish Life Insurance Actuarial Standards Board and replacing with prudential standards in relation to capital adequacy. | 1, 2 |

| Proposal number in SPR proposals paper (except where otherwise shown) | Issue | Item number in draft SPR Bill (in Schedule 1, except where otherwise shown) |
|---|---|---|
| <i>Income Tax Assessment Act 1936</i> | | |
| 5.7 | Clarifying reporting obligations under SIS Act. | Schedule 3, Item 1 |
| <i>Income Tax Assessment Act 1997</i> | | |
| 5.2 | Abolish Life Insurance Actuarial Standards Board and replacing with prudential standards in relation to capital adequacy. | 34, 35, 36, 37 |