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| **EXPOSURE DRAFT** |

Inserts for

Financial Sector Reform (Hayne Royal Commission Response—Stronger Regulators (2020 Measures)) Bill 2020: FSRC rec 6.14 (Financial Regulator Assessment Authority)

| Commencement information | | |
| --- | --- | --- |
| Column 1 | Column 2 | Column 3 |
| Provisions | Commencement | Date/Details |
| 1. Schedule [6.14] | At the same time as the *Financial Regulator Assessment Authority Act 2020* commences.  However, the provisions do not commence at all if that Act does not commence. |  |

Schedule [6.14]—Consequential amendments related to the Financial Regulator Assessment Authority

Australian Prudential Regulation Authority Act 1998

1 Subsection 56(1)

Insert:

***Financial Regulator Assessment Authority official*** means:

(a) a member of the Financial Regulator Assessment Authority; or

(b) a staff member within the meaning of the *Financial Regulator Assessment Authority Act 2020*.

2 Paragraph 56(2)(c)

After “(6),”, insert “(6AA), (6AB),”.

3 After subsection 56(6)

Insert:

(6AA) It is not an offence if the disclosure of protected information or the production of a protected document is to a Financial Regulator Assessment Authority official for the purposes of the performance of the Financial Regulator Assessment Authority’s functions or the exercise of the Financial Regulator Assessment Authority’s powers.

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

(6AB) It is not an offence if:

(a) the disclosure of protected information or the production of a protected document is by a person who is or has been a Financial Regulator Assessment Authority official; and

(b) the person acquired the information or accessed the document in the person’s capacity as a Financial Regulator Assessment Authority official.

Note 1: A defendant bears an evidential burden in relation to the matters in subsection (6AB) (see subsection 13.3(3) of the *Criminal Code*).

Note 2: Division 3 of Part 4 of the *Financial Regulator Assessment Authority Act 2020* deals with disclosure of information by Financial Regulator Assessment Authority officials.

4 After subsection 56(8)

Insert:

(8A) However, subsection (8) does not prevent a person who is, or has been, an entrusted person (within the meaning of the *Financial Regulator Assessment Authority Act 2020*) from being required to disclose, or produce a document containing, protected information (within the meaning of that Act) where it is necessary to do so for the purposes of that Act.

5 Subsection 56(9)

After “another person”, insert “(other than a Financial Regulator Assessment Authority official)”.

6 Paragraph 56(12)(a)

After “(6),”, insert “(6AA),”.

Australian Securities and Investments Commission Act 2001

7 After paragraph 127(2A)(b)

Insert:

(ba) the Financial Regulator Assessment Authority;

8 In the appropriate position

Insert:

Part 33—Application provisions relating to Schedule [6.14] of the Financial Sector Reform (Hayne Royal Commission Response—Stronger Regulators (2020 Measures)) Act 2020

331 Application—confidentiality

The amendment of section 127 made by Schedule [6.14] to the *Financial Sector Reform (Hayne Royal Commission Response—Stronger Regulators (2020 Measures)) Act 2020* applies in relation to any use or disclosure of information after the commencement of that Schedule, whether ASIC obtained the information before or after that commencement.

Insurance Act 1973

9 Paragraph 109E(1)(c)

After “(6),”, insert “(6AA), (6AB),”.

Life Insurance Act 1995

10 Paragraph 231E(1)(c)

After “(6),”, insert “(6AA), (6AB),”.

11 Application

The amendments of the *Australian Prudential Regulation Authority Act 1998*, the *Insurance Act 1973* and the *Life Insurance Act 1995* made by this Schedule apply in relation to:

(a) any disclosure of information after the commencement of this item, whether the information was disclosed or obtained under, or for the purposes of, a prudential regulation framework law before or after that commencement; and

(b) any production of a document after the commencement of this item, whether the document was given or produced under, or for the purposes of, a prudential regulation framework law before or after that commencement.