



Financial Sector (Collection of Data— Consequential and Transitional Provisions) Act 2001

No. 121, 2001



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An Act to repeal and amend various Acts, and to deal with transitional matters, in connection with the enactment of the *Financial Sector (Collection of Data) Act 2001*, and for related purposes

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Financial Sector (Collection of Data— Consequential and Transitional Provisions) Act 2001

No. 121, 2001

**An Act to repeal and amend various Acts, and to
deal with transitional matters, in connection with
the enactment of the *Financial Sector (Collection of
Data) Act 2001*, and for related purposes**

[Assented to 24 September 2001]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Financial Sector (Collection of
Data—Consequential and Transitional Provisions) Act 2001*.

2 Commencement

- (1) Sections 1, 2 and 3 commence on the day on which this Act receives the Royal Assent.
- (2) Schedules 1 to 3 commence on the same day as Parts 2 to 4 of the *Financial Sector (Collection of Data) Act 2001*.

3 Schedule(s)

Subject to section 2, each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Repeal

Financial Corporations Act 1974

1 The whole of the Act.

Repeal the Act.

Schedule 2—Amendments

Part 1—Australian Prudential Regulation Authority Act 1998

1 Subsection 56(1)

Insert:

financial sector entity has the same meaning as in the *Financial Sector (Collection of Data) Act 2001*.

2 Subsection 56(1) (after paragraph (b) of the definition of *Act covered by this section*)

Insert:

(ba) the *Financial Sector (Collection of Data) Act 2001*;

3 Subsection 56(1) (at the end of paragraph (c) of the definition of *protected document*)

Add “or”.

4 Subsection 56(1) (after paragraph (c) of the definition of *protected document*)

Insert:

- (ca) a registered entity; or
- (cb) a body corporate (including a body corporate that has ceased to exist) that has at any time been, or is, related (within the meaning of the Corporations Law) to a registered entity; or
- (cc) a person who has been, is, or proposes to be, a customer of a registered entity;

5 Subsection 56(1) (at the end of paragraph (c) of the definition of *protected information*)

Add “or”.

6 Subsection 56(1) (after paragraph (c) of the definition of *protected information*)

Insert:

- (ca) a registered entity; or
-

- (cb) a body corporate (including a body corporate that has ceased to exist) that has at any time been, or is, related (within the meaning of the Corporations Law) to a registered entity; or
- (cc) a person who has been, is, or proposes to be, a customer of a registered entity;

7 Subsection 56(1)

Insert:

registered entity means a corporation that is, or has at any time been, a registered entity within the meaning of the *Financial Sector (Collection of Data) Act 2001*.

8 Paragraph 56(2)(c)

After “(5),”, insert “(5A), (5B), (5C),”.

9 After subsection 56(5)

Insert:

- (5A) It is not an offence if the production by a person of a document that was given to APRA under section 9 or 13 of the *Financial Sector (Collection of Data) Act 2001* is to the Australian Statistician for the purposes of the *Census and Statistics Act 1905*.

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

- (5B) It is not an offence if the production by a person of a document that was given to APRA under section 9 or 13 of the *Financial Sector (Collection of Data) Act 2001* is to:
 - (a) the Reserve Bank of Australia; or
 - (b) another prescribed authority.

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

- (5C) If a document relating to a financial sector entity (other than an entity that is, or is included in a class of entities that are, excluded by the regulations from the operation of this subsection) is a reporting document that:
 - (a) was given by the entity to APRA under section 13 of the *Financial Sector (Collection of Data) Act 2001*; and

(b) is determined by APRA under section 57 to be a document that does not contain confidential information;

it is not an offence to disclose the document, or any information contained in the document, to any person (including to disclose the document by making it available for inspection by the public or to disclose the information by making a document containing the information so available).

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

10 At the end of Part 6

Add:

57 Determination as to confidentiality

- (1) APRA may determine whether a document that was given to APRA by a registered entity, or by a body regulated by APRA, under section 13 of the *Financial Sector (Collection of Data) Act 2001* contains confidential information, but must not make such a determination unless APRA has:
 - (a) given to the entity or body, or to an association or other body representing the class of entities or bodies within which the entity or body is included, a reasonable opportunity to make representations as to whether information of the kind contained in the document is confidential; and
 - (b) taken any such representations into account.
- (2) A determination made under subsection (1) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

Part 2—Banking Act 1959

11 Subparagraph 9A(2)(a)(i)

After “regulations”, insert “or the *Financial Sector (Collection of Data) Act 2001*”.

12 Subparagraph 11AB(2)(a)(i)

After “regulations”, insert “or the *Financial Sector (Collection of Data) Act 2001*”.

13 After paragraph 11CA(1)(d)

Insert:

; or (e) the body corporate has contravened a requirement under the *Financial Sector (Collection of Data) Act 2001*.

14 Subparagraphs 16B(2)(a)(ii), (3)(a)(ii) and (4)(a)(ii)

After “regulations”, insert “or the *Financial Sector (Collection of Data) Act 2001*”.

15 At the end of section 16C

Add “or the *Financial Sector (Collection of Data) Act 2001*”.

16 Part VI

Repeal the Part.

17 Subsection 62(5)

Repeal the subsection.

18 Application

- (1) The amendments made by this Part apply to a financial sector entity (within the meaning of the *Financial Sector (Collection of Data) Act 2001*) that is a body referred to in subitem (2) only on and after the day on which the reporting standards determined under section 13 of that Act begin to apply under section 15 of that Act to a class or kind of financial sector entities in which that body is included.
- (2) The bodies are:

Schedule 2 Amendments
Part 2 Banking Act 1959

- (a) ADIs; and
 - (b) authorised NOHCs; and
 - (c) subsidiaries of ADIs; and
 - (d) subsidiaries of authorised NOHCs.
- (3) Expressions used in subitem (2) have the same meanings as in the *Banking Act 1959*.

Part 3—Insurance Act 1973

19 Subsection 3(1) (definition of *accounts*)

Omit “subsections 44(1) and (3) and 49J(1) and (3)”.

20 Subsection 3(1) (definition of *quarterly statutory accounts*)

Repeal the definition.

21 Subsection 3(1) (definition of *statutory accounts*)

Repeal the definition, substitute:

statutory accounts, in relation to a body corporate, means the reporting documents that the body corporate is required under section 13 of the *Financial Sector (Collection of Data) Act 2001* to lodge with APRA.

22 Subsection 3(1) (definition of *yearly statutory accounts*)

Repeal the definition, substitute:

yearly statutory accounts, in relation to a body corporate, means the reporting documents that the body corporate is required under section 13 of the *Financial Sector (Collection of Data) Act 2001* to lodge with APRA in respect of a financial year.

23 Paragraph 23(f)

After “Act”, insert “and the *Financial Sector (Collection of Data) Act 2001*”.

24 Paragraph 24(f)

After “Act”, insert “and the *Financial Sector (Collection of Data) Act 2001*”.

25 Sections 44 and 45

Repeal the sections.

26 Section 49

Repeal the section.

27 Sections 49J and 49K

Repeal the sections.

28 Section 49P

Repeal the section.

29 Paragraph 52(1)(b)

After “Act” (wherever occurring), insert “or the *Financial Sector (Collection of Data) Act 2001*”.

30 Subsection 52(1B)

After “Act” (second and third occurring), insert “or the *Financial Sector (Collection of Data) Act 2001*”.

31 Subsection 62(1)

After “Act” (second and third occurring), insert “or the *Financial Sector (Collection of Data) Act 2001*”.

32 Subparagraph 62(1A)(b)(ii)

After “Act” (wherever occurring), insert “or the *Financial Sector (Collection of Data) Act 2001*”.

33 Subsection 115(1)

After “Act” (second occurring), insert “or the *Financial Sector (Collection of Data) Act 2001*”.

34 Subsection 115A(1)

After “Act” (last occurring), insert “or the *Financial Sector (Collection of Data) Act 2001*”.

35 Paragraph 115A(2)(a)

After “Act” (last occurring), insert “or the *Financial Sector (Collection of Data) Act 2001*”.

36 Subparagraph 115A(3)(a)(i)

After “Act”, insert “or the *Financial Sector (Collection of Data) Act 2001*”.

37 Subparagraph 117A(1)(a)

After “Act”, insert “or the *Financial Sector (Collection of Data) Act 2001*”.

38 Subsection 123(2)

Repeal the subsection.

Note: The heading to section 123 is altered by omitting “, **accounts**”.

39 Subsection 123(4)

Omit “or (2)”.

40 Subsection 128(1)

Omit “, 44”.

41 Subsection 128(1)

Omit “, 49J”.

42 Paragraph 128(1)(b)

Omit “44,”.

43 Paragraph 128(1)(b)

Omit “, 49J”.

44 Paragraph 132(c)

Repeal the paragraph.

45 Application

The amendments made by this Part apply only on and after the day on which the reporting standards determined under section 13 of the *Financial Sector (Collection of Data) Act 2001* begin to apply under section 15 of that Act to financial sector entities (within the meaning of that Act) whose sole or principal business in Australia is insurance business (within the meaning of the *Insurance Act 1973*).

Part 4—Life Insurance Act 1995

46 Paragraph 21(3)(e)

After “Act”, insert “or the *Financial Sector (Collection of Data) Act 2001*”.

47 Section 57

Omit “section 82”, substitute “the *Financial Sector (Collection of Data) Act 2001*”.

48 Section 82

Repeal the section.

49 Subsection 83(2)

Repeal the subsection, substitute:

- (2) The audit must be carried out before reporting documents as at the end of that financial year are given to APRA under the *Financial Sector (Collection of Data) Act 2001*.

50 Subsection 83(3)

Omit “prepared under subsection 82(1) are not effective for the purposes of this Act”, substitute “referred to in subsection (2) are not effective for the purposes of this Act or the *Financial Sector (Collection of Data) Act 2001*”.

51 Paragraph 88(1)(a)

After “Act”, insert “or the *Financial Sector (Collection of Data) Act 2001*”.

52 Subparagraph 88(3)(a)(i)

After “Act”, insert “or the *Financial Sector (Collection of Data) Act 2001*”.

53 Paragraph 89(2)(a)

After “Act”, insert “or the *Financial Sector (Collection of Data) Act 2001*”.

54 Paragraph 92(1)(a)

Omit “section 82”, substitute “the *Financial Sector (Collection of Data) Act 2001*”.

55 Paragraph 98(1)(a)

After “Act”, insert “or the *Financial Sector (Collection of Data) Act 2001*”.

56 Subparagraph 98(3)(a)(i)

After “Act”, insert “or the *Financial Sector (Collection of Data) Act 2001*”.

57 Sections 117 and 118

Repeal the sections.

58 Section 121

Repeal the section.

59 Section 122

Omit “referred to in subsection 82(1)”, substitute “under the *Financial Sector (Collection of Data) Act 2001*”.

60 Subsection 124(1)

Omit “section 118”, substitute “the *Financial Sector (Collection of Data) Act 2001*”.

61 Subsection 125A(1) (paragraph (b) of the definition of *provision to which this section applies*)

Repeal the paragraph.

62 Subsection 125B(1) (paragraph (b) of the definition of *provision to which this section applies*)

Repeal the paragraph.

63 Subparagraph 136(b)(i)

After “*Life Insurance Act 1945*”, insert “or the *Financial Sector (Collection of Data) Act 2001*”.

64 Subparagraph 136(b)(ii)

After “Act”, insert “or the *Financial Sector (Collection of Data) Act 2001*”.

65 Paragraphs 150(1)(b) and (c)

After “Act”, insert “or the *Financial Sector (Collection of Data) Act 2001*”.

66 Section 166

After “Act” (first occurring), insert “or the operation of the *Financial Sector (Collection of Data) Act 2001*”.

67 At the end of section 166

Add “or the provisions of the *Financial Sector (Collection of Data) Act 2001*”.

68 At the end of subsection 230A(3)

Add “or the *Financial Sector (Collection of Data) Act 2001*”.

69 Paragraph 230B(1)(a)

After “Act”, insert “or the *Financial Sector (Collection of Data) Act 2001*”.

70 Subsection 236(1) (paragraph (zb) of the definition of *reviewable decision*)

Repeal the paragraph.

71 Subsection 236(1) (paragraphs (zd), (ze) and (zf) of the definition of *reviewable decision*)

Repeal the paragraphs.

72 Sections 243 and 244

Repeal the sections.

73 Subsection 248(2)

After “Act”, insert “or the *Financial Sector (Collection of Data) Act 2001*”.

74 Schedule

Insert:

reporting document has the same meaning as in the *Financial Sector (Collection of Data) Act 2001*.

75 Application

The amendments made by this Part apply only on and after the day on which the reporting standards determined under section 13 of the *Financial Sector (Collection of Data) Act 2001* begin to apply under section 15 of that Act to financial sector entities (within the meaning of that Act) that are registered under the *Life Insurance Act 1995*.

Part 5—Retirement Savings Accounts Act 1997

76 Subparagraph 3(1)(a)(iv)

Repeal the subparagraph, substitute:
(iv) section 183; and

77 Paragraph 3(2)(d)

Omit “, 184, 193 and 194”, substitute “and 184”.

78 Section 16 (definition of *lodge*)

Repeal the definition.

79 Section 16 (paragraph (o) of the definition of *reviewable decision*)

Omit “182; or”, substitute “182.”.

80 Section 16 (paragraph (p) of the definition of *reviewable decision*)

Repeal the paragraph.

81 Section 37

Omit “and to require RSA providers to provide an annual return to APRA”.

82 Paragraphs 44(1)(a) and (b)

Repeal the paragraphs.

Note: The heading to section 44 is replaced by the heading “**RSA provider to give copy of audit report to APRA**”.

83 At the end of subsection 44(1)

Add:

Note: The *Financial Sector (Collection of Data) Act 2001* makes provision for annual returns and other financial documents to be given by RSA providers to APRA.

84 Subsections 44(3) and (4)

Repeal the subsections, substitute:

Endorsement of report on return

- (4) If the return given under the *Financial Sector (Collection of Data) Act 2001* is not given on a data processing device, or by way of electronic transmission, the report referred to in subsection (1) may be endorsed on the return.

85 Subsection 64(2)

Omit “returns in accordance with section 44”, substitute “reporting documents referred to in section 13 of the *Financial Sector (Collection of Data) Act 2001*”.

86 Subsections 65(1) and (3)

After “regulations”, insert “and the *Financial Sector (Collection of Data) Act 2001*”.

87 Paragraph 66(1)(a)

After “regulations”, insert “or the *Financial Sector (Collection of Data) Act 2001*”.

88 Subparagraphs 67(1)(a)(iii) and 68(1)(a)(iii)

After “regulations”, insert “or the *Financial Sector (Collection of Data) Act 2001*”.

89 Subsection 95(1)

After “regulations”, insert “or the *Financial Sector (Collection of Data) Act 2001*”.

90 Subsection 144(2)

Repeal the subsection, substitute:

Financial returns

- (2) The form of a financial return a copy of which is required to be given by an RSA provider to APRA under section 13 of the *Financial Sector (Collection of Data) Act 2001* may require the return to contain the provider’s tax file number.

91 Subparagraph 161(1)(a)(ii)

After “Act”, insert “or the *Financial Sector (Collection of Data) Act 2001*”.

92 Paragraph 182(2)(a)

After “regulations”, insert “or the *Financial Sector (Collection of Data) Act 2001*”.

92A Subsection 182(4)

After “regulations”, insert “, and of the *Financial Sector (Collection of Data) Act 2001*,”.

93 Sections 193 and 194

Repeal the sections.

94 Application

The amendments made by this Part apply only on and after the day on which the reporting standards determined under section 13 of the *Financial Sector (Collection of Data) Act 2001* begin to apply under section 15 of that Act to financial sector entities (within the meaning of that Act) that are RSA providers (within the meaning of the *Retirement Savings Accounts Act 1997*).

Part 6—Superannuation Industry (Supervision) Act 1993

97 Paragraphs 36(1)(a) and (b)

Repeal the paragraphs.

Note: The heading to section 36 is replaced by the heading “**Trustee to give copy of audit report to APRA**”.

98 After subsection 36(1)

Insert:

Note: The *Financial Sector (Collection of Data) Act 2001* makes provision for annual returns and other financial documents to be given by trustees to APRA.

99 Subsections 36(3) and (4)

Repeal the subsections, substitute:

Endorsement of report on return

(4) If the return given under the *Financial Sector (Collection of Data) Act 2001* is not given on a data processing device, or by way of electronic transmission, the report referred to in subsection (1) may be endorsed on the return.

100 Subsection 36(5)

Omit “under this section”, substitute “under the *Financial Sector (Collection of Data) Act 2001*”.

101 Section 39

After “regulations”, insert “or the *Financial Sector (Collection of Data) Act 2001*”.

102 Subparagraph 42(1)(b)(i)

After “regulations”, insert “or the *Financial Sector (Collection of Data) Act 2001*”.

103 Sub-subparagraph 42(1)(b)(ii)(A)

After “regulations”, insert “or the *Financial Sector (Collection of Data) Act 2001*”.

104 Subparagraph 42(1AA)(c)(i)

After “regulations”, insert “or the *Financial Sector (Collection of Data) Act 2001*”.

105 Subparagraph 42(1AA)(c)(ii)

After “regulations” (first occurring), insert “or the *Financial Sector (Collection of Data) Act 2001*”.

106 Subparagraph 42(1AA)(c)(ii)

After “regulations” (last occurring), insert “and the *Financial Sector (Collection of Data) Act 2001*”.

107 Subsection 42(1AB)

Omit “were”, substitute “or the *Financial Sector (Collection of Data) Act 2001* was”.

108 Subsection 42(1AB)

After “regulations” (last occurring), insert “and the *Financial Sector (Collection of Data) Act 2001*”.

109 Subparagraph 42(1AC)(d)(i)

After “regulations”, insert “or the *Financial Sector (Collection of Data) Act 2001*”.

110 Subparagraph 42(1AC)(d)(ii)

After “regulations” (first occurring), insert “or the *Financial Sector (Collection of Data) Act 2001*”.

111 Subparagraph 42(1AC)(d)(ii)

After “regulations” (last occurring), insert “and the *Financial Sector (Collection of Data) Act 2001*”.

112 Subsection 42(1AD)

Omit “were”, substitute “or the *Financial Sector (Collection of Data) Act 2001* was”.

113 Subsection 42(1AD)

After “regulations” (last occurring), insert “and the *Financial Sector (Collection of Data) Act 2001*”.

114 Subsection 42(1A)

After “regulations”, insert “or the *Financial Sector (Collection of Data) Act 2001*”.

115 Subparagraphs 42A(2)(b)(ii) and (3)(d)(i)

After “regulations”, insert “or the *Financial Sector (Collection of Data) Act 2001*”.

116 Subparagraph 42A(3)(d)(ii)

After “regulations” (first occurring), insert “or the *Financial Sector (Collection of Data) Act 2001*”.

117 Subparagraph 42A(3)(d)(ii)

After “regulations” (last occurring), insert “and the *Financial Sector (Collection of Data) Act 2001*”.

118 Paragraph 42A(3)(g)

After “regulations”, insert “or the *Financial Sector (Collection of Data) Act 2001*”.

119 Subparagraph 42A(4)(c)(i)

After “regulations”, insert “or the *Financial Sector (Collection of Data) Act 2001*”.

120 Subparagraph 42A(4)(c)(ii)

After “regulations” (first occurring), insert “or the *Financial Sector (Collection of Data) Act 2001*”.

121 Subparagraph 42A(4)(c)(ii)

After “regulations” (last occurring), insert “and the *Financial Sector (Collection of Data) Act 2001*”.

122 Subparagraph 42A(4)(f)(ii)

After “regulations”, insert “or the *Financial Sector (Collection of Data) Act 2001*”.

124 Subsection 42A(6)

Omit “were”, insert “or the *Financial Sector (Collection of Data) Act 2001* was”.

125 Subsection 42A(6)

After “regulations” (last occurring), insert “and the *Financial Sector (Collection of Data) Act 2001*”.

126 Subparagraph 43(b)(i)

After “regulations”, insert “or the *Financial Sector (Collection of Data) Act 2001*”.

127 Sub-subparagraphs 43(b)(ii)(A) and 43(b)(iii)(A)

After “regulations”, insert “or the *Financial Sector (Collection of Data) Act 2001*”.

128 Subparagraph 44(b)(i)

After “regulations”, insert “or the *Financial Sector (Collection of Data) Act 2001*”.

129 Sub-subparagraphs 44(b)(ii)(A) and 44(b)(iii)(A)

After “regulations”, insert “or the *Financial Sector (Collection of Data) Act 2001*”.

130 Paragraph 63(3)(a)

After “regulations”, insert “or the *Financial Sector (Collection of Data) Act 2001*”.

130AA Subsection 63(5)

After “regulations”, insert “, and of the *Financial Sector (Collection of Data) Act 2001*,”.

130A After paragraph 111(1)(a)

Insert:

- (aa) if the entity is not a self managed superannuation fund—so keep its accounts as to enable the preparation of reporting documents referred to in section 13 of the *Financial Sector (Collection of Data) Act 2001*; and

131 At the beginning of paragraph 111(1)(b)

Insert “if the entity is a self managed superannuation fund—”.

131A Subparagraph 111(1)(b)(ii)

Omit “36”, substitute “36A”.

132 Subsection 112(1)

After “superannuation entity”, insert “that is a self managed superannuation fund”.

132A Before paragraph 113(3)(a)

Insert:

- (aa) must, if it is approved for a superannuation entity that is not a self managed superannuation fund, either:
 - (i) relate solely to the audit of financial statements given to APRA under the *Financial Sector (Collection of Data) Act 2001* and prepared in respect of a year of income; or
 - (ii) relate not only to the audit of those statements, but also to the audit of such other accounts and statements, prepared in respect of a year of income, as are identified in the form; and

133 Paragraph 113(3)(a)

After “must”, insert “, if it is approved for a superannuation entity that is a self managed superannuation fund—”.

134 Paragraph 113(3)(b)

After “regulations”, insert “and the *Financial Sector (Collection of Data) Act 2001*”.

135 Paragraphs 120A(1)(a) and (2)(a)

After “Act”, insert “or the *Financial Sector (Collection of Data) Act 2001*”.

136 Paragraphs 129(1)(a) and (b)

After “regulations”, insert “or the *Financial Sector (Collection of Data) Act 2001*”.

137 Paragraph 130(1)(b)

After “regulations”, insert “or the *Financial Sector (Collection of Data) Act 2001*”.

138 Subparagraph 131(1)(a)(iii)

After “regulations”, insert “or the *Financial Sector (Collection of Data) Act 2001*”.

139 Subparagraph 131A(1)(a)(iii)

After “regulations”, insert “or the *Financial Sector (Collection of Data) Act 2001*”.

141 Paragraph 252G(1)(b)

After “Act”, insert “or the *Financial Sector (Collection of Data) Act 2001*”.

142 Subsection 252G(1) (note)

Omit “section 36”, substitute “the *Financial Sector (Collection of Data) Act 2001*”.

142A Subsection 252G(2) (note)

Omit “section 36”, substitute “the *Financial Sector (Collection of Data) Act 2001*”.

143 Paragraph 263(1)(a)

After “regulations”, insert “or the *Financial Sector (Collection of Data) Act 2001*”.

144 Subsection 299U(2)

Repeal the subsection, substitute:

Financial return

- (2) The form of a financial return a copy of which is required to be given by a superannuation entity to APRA under section 13 of the *Financial Sector (Collection of Data) Act 2001* may require the return to contain the entity’s tax file number.

145 Subparagraph 313(1)(a)(ii)

After “Act”, insert “or under the *Financial Sector (Collection of Data) Act 2001* in connection with a superannuation entity”.

146 At the end of section 347A

Add:

(13) In this section:

Regulator means the Commissioner of Taxation.

146A At the end of section 348

Add:

(4) In this section:

Regulator means the Commissioner of Taxation.

147 Application

The amendments made by this Part apply only on and after the day on which the reporting standards determined under section 13 of the *Financial Sector (Collection of Data) Act 2001* begin to apply under section 15 of that Act to financial sector entities (within the meaning of that Act) that are trustees of superannuation entities (within the meaning of the *Superannuation Industry (Supervision) Act 1993*).

Part 7—Other Acts

Broadcasting Services Act 1992

148 Subclause 4(4) of Schedule 1 (subparagraph (c)(i) of the definition of *authorised lender*)

Repeal the subparagraph, substitute:

- (i) that is a registered entity under the *Financial Sector (Collection of Data) Act 2001*; or

Cheques Act 1986

149 Subsection 3(1) (definition of *FCA institution*)

Omit “registered corporation under the *Financial Corporations Act 1974*”, substitute “registered entity under the *Financial Sector (Collection of Data) Act 2001*”.

Financial Corporations (Transfer of Assets and Liabilities) Act 1993

150 Section 3 (paragraph (b) of the definition of *eligible subsidiary*)

Repeal the paragraph, substitute:

- (b) is a financial corporation that is a registered entity under the *Financial Sector (Collection of Data) Act 2001*; and

151 Paragraph 4(b)

Repeal the paragraph, substitute:

- (b) is, under the *Financial Sector (Collection of Data) Act 2001*, a registered entity included in the category for money market corporations.

Financial Institutions Supervisory Levies Collection Act 1998

152 Paragraph 9(2)(a)

Omit “lodgement of a return under section 36 of the *Superannuation Industry (Supervision) Act 1993*”, substitute “giving of a copy of a financial statement to APRA under the *Financial Sector (Collection of Data) Act 2001*”.

153 Transitional

The amendment made by item 152 applies to the payment of levy (within the meaning of the *Financial Institutions Supervisory Levies Collection Act 1998*) for the financial year beginning on 1 July 2002 and for all subsequent financial years.

Income Tax Assessment Act 1936

154 Subparagraph 128AE(2)(e)(i)

Repeal the subparagraph, substitute:

- (i) that is, under the *Financial Sector (Collection of Data) Act 2001*, a registered entity included in the category for money market corporations; or

155 Section 159GZA (definition of *financial institution*)

Repeal the definition, substitute:

financial institution has the meaning given by section 159GZAA.

156 After section 159GZA

Insert:

159GZAA Financial institution

- (1) In this Division, unless the contrary intention applies:

financial institution means:

- (a) a body corporate that is an ADI (authorised deposit-taking institution) for the purposes of the *Banking Act 1959*; or
 - (b) a corporation to which subsection (2) applies.
- (2) This subsection applies to a corporation that is a registrable corporation for the purposes of the *Financial Sector (Collection of Data) Act 2001* because of paragraph 6(1)(a) or (b) of that Act or would be such a registrable corporation because of that paragraph

if paragraphs 6(2)(h), (i) and (j) of that Act were omitted and the following paragraph substituted:

- (h) the sole or principal purpose for which the corporation borrows money is to lend money to an associate, within the meaning of Division 16F of Part III of the *Income Tax Assessment Act 1936*, of the corporation or of a foreign controller, within the meaning of that Division, of the corporation.

157 Section 317 (paragraph (c) of the definition of *AFI* or *Australian Financial Institution*)

Repeal the paragraph, substitute:

- (c) a registered entity under the *Financial Sector (Collection of Data) Act 2001*;

Insurance Acquisitions and Takeovers Act 1991

158 Section 4 (definition of *value*)

Repeal the definition, substitute:

value of an asset of a company at a particular time means the amount that, if:

- (a) an accounting period of the company had ended at that time; and
- (b) the company had, under the *Financial Sector (Collection of Data) Act 2001*, given to APRA copies of financial statements for, or as at the end of, that accounting period; and
- (c) the financial statements had been prepared in accordance with applicable accounting principles;

would have been shown in those statements as the value of the asset at that time.

159 Sections 77, 78 and 79

Repeal the sections, substitute:

77 Company's financial statements to be prima facie evidence of value of its assets

- (1) This section applies if:
-

- (a) a company authorised under the *Insurance Act 1973* to carry on insurance business, or a company registered under the *Life Insurance Act 1995*, had, under the *Financial Sector (Collection of Data) Act 2001*, given to APRA copies of financial statements for, or as at the end of, a particular accounting period; and
 - (b) an amount is shown in those statements as the value of an asset of the company as at the end of the accounting period.
- (2) For the purposes of this Act, the financial statements are prima facie evidence of the value of the asset as at the end of the accounting period.
 - (3) APRA may certify that a document is a copy of the financial statements.
 - (4) This section applies to the certified copy as if it were the original.

78 Company's financial statements to be prima facie evidence of total net liabilities in respect of its contracts of life insurance

- (1) This section applies if:
 - (a) a company registered under the *Life Insurance Act 1995* had, under the *Financial Sector (Collection of Data) Act 2001*, given to APRA copies of financial statements for, or as at the end of, a particular accounting period; and
 - (b) an amount is shown in those statements as the total net liabilities in respect of all of the company's contracts of life insurance as at the end of the accounting period.
- (2) For the purposes of this Act, the financial statements are prima facie evidence of the total net liabilities in respect of all of the company's contracts of life insurance as at the end of the accounting period.
- (3) APRA may certify that a document is a copy of the financial statements.
- (4) This section applies to the certified copy as if it were the original.

79 Company's financial statements to be prima facie evidence of its unearned premiums provision and its outstanding claims provision

- (1) This section applies if:
 - (a) a company authorised under the *Insurance Act 1973* to carry on insurance business had, under the *Financial Sector (Collection of Data) Act 2001*, given to APRA copies of financial statements for, or as at the end of, a particular accounting period; and
 - (b) either:
 - (i) an amount is shown in those statements as the company's unearned premiums provision as at the end of the accounting period; or
 - (ii) an amount is shown in those statements as the company's outstanding claims provision as at the end of the accounting period.
- (2) For the purposes of this Act, the financial statements are prima facie evidence of:
 - (a) if subparagraph (1)(b)(i) applies—the company's unearned premiums provision as at the end of the accounting period; or
 - (b) if subparagraph (1)(b)(ii) applies—the company's outstanding claims provision as at the end of the accounting period.
- (3) APRA may certify that a document is a copy of the financial statements.
- (4) This section applies to the certified copy as if it were the original.

160 Application

The amendments made by items 158 and 159 apply to financial sector entities (within the meaning of the *Financial Sector (Collection of Data) Act 2001*) that are companies authorised under the *Insurance Act 1973* to carry on insurance business, or companies registered under the *Life Insurance Act 1995*, only on and after the day on which the reporting standards determined under section 13 of the *Financial Sector (Collection of Data) Act 2001* begin to apply under section 15 of that Act to the financial sector entities concerned.

National Crime Authority Act 1984

161 Schedule 1

Omit “*Financial Corporations Act 1974*, section 27”.

Reserve Bank Act 1959

162 Subsection 79A(1) (definition of *protected document*)

Omit “, the repealed *Banks (Shareholdings) Act 1972* or the *Financial Corporations Act 1974*”, substitute “or the repealed *Banks (Shareholdings) Act 1972*”.

163 Subsection 79A(1) (definition of *protected information*)

Omit “, the repealed *Banks (Shareholdings) Act 1972* or the *Financial Corporations Act 1974*”, substitute “or the repealed *Banks (Shareholdings) Act 1972*”.

164 Subsection 79A(2)

Omit “, the repealed *Banks (Shareholdings) Act 1972* or the *Financial Corporations Act 1974*”, substitute “or the repealed *Banks (Shareholdings) Act 1972*”.

165 Subsection 79A(8)

Omit “, the repealed *Banks (Shareholdings) Act 1972* or the *Financial Corporations Act 1974*”, substitute “or the repealed *Banks (Shareholdings) Act 1972*”.

Taxation Administration Act 1953

166 Section 13L (paragraph (c) of the definition of *financial institution*)

Repeal the paragraph, substitute:

- (c) a registered entity under the *Financial Sector (Collection of Data) Act 2001*.

Telecommunications (Consumer Protection and Service Standards) Act 1999

167 Paragraph 90(3)(d)

Omit “registered corporation within the meaning of the *Financial Corporations Act 1974*”, substitute “registered entity under the *Financial Sector (Collection of Data) Act 2001*”.

Schedule 3—Transitional provisions

1 Treatment of certain exemptions and determinations in connection with obligations of corporations to register

An exemption or determination by the Reserve Bank that was in force immediately before the commencement of this Schedule under paragraph 8(2)(1) of the *Financial Corporations Act 1974* continues to have effect as if it were an exemption or determination by APRA under paragraph 7(2)(j) of the *Financial Sector (Collection of Data) Act 2001*.

2 Former Register of Corporations

On the commencement of this Schedule, the Register of Corporations that, immediately before that commencement, was kept by the Reserve Bank under subsection 9(9) of the *Financial Corporations Act 1974* continues in existence as the Register of Entities kept by APRA under section 8 of the *Financial Sector (Collection of Data) Act 2001*.

3 Former list of registered corporations and categories

- (1) On the commencement of this Schedule:
 - (a) the list (the *former list*) of registered corporations, divided into categories, that, immediately before that commencement, was prepared by the Reserve Bank under section 10 of the *Financial Corporations Act 1974* continues in existence as a list (the *new list*) of the names of registered entities, divided into categories, kept by APRA under subsection 11(1) of the *Financial Sector (Collection of Data) Act 2001*; and
 - (b) a reference in any instrument having effect under an Act to a corporation included in a particular category in the former list is taken to be a reference to that corporation in its capacity as a registered entity included in the corresponding category in the new list.
- (2) An obligation on the Reserve Bank to publish notice, or to notify a person, of a matter under section 10 of the *Financial Corporations Act 1974*, being an obligation that is undischarged as at the commencement of this Schedule, becomes, on that commencement, an obligation that APRA is to discharge in respect of the corresponding matter under section 11 of the *Financial Sector (Collection of Data) Act 2001*.

- (3) A determination by the Reserve Bank that was in force under a provision of section 10 of the *Financial Corporations Act 1974* immediately before the commencement of this Schedule continues to have effect, after that commencement, as if it were a determination by APRA under the corresponding provision of section 11 of the *Financial Sector (Collection of Data) Act 2001*.
- (4) A request to the Reserve Bank under subsection 10(7) of the *Financial Corporations Act 1974* that has not been dealt with by the commencement of this Schedule is, after that commencement, to be dealt with by APRA as if it were a request under subsection 11(7) of the *Financial Sector (Collection of Data) Act 2001*.

4 Definitions

In this Schedule:

APRA means the Australian Prudential Regulation Authority.

Reserve Bank means the Reserve Bank of Australia.

[*Minister's second reading speech made in—
House of Representatives on 5 April 2001
Senate on 20 August 2001*]

(56/01)