

## EXPLANATORY STATEMENT

### **Issued by authority of the Minister for Revenue and Financial Services**

Subject - *ASIC Supervisory Cost Recovery Levy Act 2017*  
*Australian Prudential Regulation Authority Act 1998*  
*Corporations Act 2001*  
*National Consumer Credit Protection Act 2009*  
*Retirement Savings Accounts Act 1997*  
*Superannuation Industry (Supervision) Act 1993*  
*Superannuation (Resolution of Complaints) Act 1993*

*Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Regulations 2018*

The *ASIC Supervisory Cost Recovery Levy Act 2017* imposes a levy on persons regulated by the Australian Securities and Investments Commission (ASIC). The *Australian Prudential Regulation Authority Act 1998* establishes the Australian Prudential Regulation Authority (APRA). The *Corporations Act 2001* provides for the regulation of corporations, financial markets, products and services, including in relation to licensing, conduct, financial product advice and disclosure. The *National Consumer Credit Protection Act 2009* establishes a national consumer credit regime that requires persons who engage in credit activities to hold an Australian credit licence and comply with responsible lending obligations. The *Retirement Savings Accounts Act 1997* provides for retirement savings accounts to be offered by certain financial institutions, the approval of entities that can offer such accounts and the supervision of those entities. The *Superannuation Industry (Supervision) Act 1993* provides for the prudent management of certain superannuation funds, approved deposit funds and pooled superannuation trusts and for their supervision by APRA, ASIC and the Commissioner of Taxation. The *Superannuation (Resolution of Complaints) Act 1993* establishes the Superannuation Complaints Tribunal.

The following provisions provide that the Governor-General may make regulations prescribing matters which are required or permitted by the respective Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the respective Act:

- Section 13 of the *ASIC Supervisory Cost Recovery Levy Act 2017*;
- Section 60 of the *Australian Prudential Regulation Authority Act 1998*;
- Section 1364 of the *Corporations Act 2001*;
- Section 329 of the *National Consumer Credit Protection Act 2009*;
- Section 200 of the *Retirement Savings Accounts Act 1997*;
- Section 353 of the *Superannuation Industry (Supervision) Act 1993*; and
- Section 68 of the *Superannuation (Resolution of Complaints) Act 1993*.

The purpose of the *Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Regulations 2018* (the Regulations) is to make consequential amendments to seven other regulations as

an effect of the *Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Act 2018* (AFCA Act).

The AFCA Act implements the measure announced in the 2017–18 Budget as ‘A More Accountable and Competitive Banking System — improving external dispute resolution’. The AFCA Act received Royal Assent on 5 March 2018 and introduced a new external dispute resolution (EDR) framework and an enhanced internal dispute resolution (IDR) framework for the financial system.

The new EDR framework will ensure that consumers have easy access to a single EDR scheme, known as the Australian Financial Complaints Authority (AFCA), which will resolve disputes about products and services provided by financial firms. The AFCA scheme will replace the Superannuation Complaints Tribunal and the existing EDR schemes approved by ASIC.

The enhanced IDR framework will require financial firms to report their IDR activities in accordance with ASIC requirements and allow ASIC to publish information it receives under new reporting requirements. This will allow ASIC to improve transparency about the performance of financial firms in relation to their IDR activities.

The Regulations include amendments to ensure that requirements that apply to ASIC approved EDR schemes or the Superannuation Complaints Tribunal are replaced with requirements that apply in relation to the AFCA scheme and repeal provisions that have become redundant as a result of the transition to the new dispute resolution framework. This involves changes to the following seven regulations:

*Corporations Regulations 2001*

*National Consumer Credit Protection Regulations 2010*

*Superannuation Industry (Supervision) Regulations 1994*

*Superannuation (Resolution of Complaints) Regulations 1994*

*ASIC Supervisory Cost Recovery Levy Regulations 2017*

*Australian Prudential Regulation Authority Regulations 1998*

*Retirement Savings Accounts Regulations 1997*

The Regulations were released for public consultation over the period 18 May 2017 to 14 June 2017, alongside the draft AFCA Act. Following that consultation:

- certain amendments were removed from the Regulations, with the policy achieved instead through amendments included in the AFCA Act;
- a number of additional consequential amendments have been added to the Regulations; and
- the consequential amendments for the repeal of the *Superannuation (Resolution of Complaints) Act 1993* are mostly unchanged.

The additional consequential amendments added to the Regulations are minor and technical and did not require consultation.

Details of the Regulations are set out in the [Attachment](#).

The authorising Acts specify no conditions that need to be satisfied before the power to make the Regulations may be exercised.

The Regulations make machinery changes required to give effect to the Government's decisions in relation to the AFCA Act. As such, a Regulation Impact Statement separate to that which was included in the explanatory memorandum accompanying the AFCA Act is not required.

The proposed Regulations would be a legislative instrument for the purposes of the *Legislation Act 2003*.

The proposed Regulations commence the day after registration or immediately after that day. As the Regulations make a number of consequential amendments following changes made by the AFCA Act, some of the amendments commence on dates contingent on the commencement of various items in the AFCA Act.

Authority: Section 13 of the *ASIC Supervisory Cost Recovery Levy Act 2017*  
Section 60 of the *Australian Prudential Regulation Authority Act 1998*  
Section 1364 of the *Corporations Act 2001*  
Section 329 of the *National Consumer Credit Protection Act 2009*  
Section 200 of the *Retirement Savings Accounts Act 1997*  
Section 353 of the *Superannuation Industry (Supervision) Act 1993*  
Section 68 of the *Superannuation (Resolution of Complaints) Act 1993*

### **Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

#### ***Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Regulations 2018***

The Regulations are compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

### **Overview of the Regulations**

The purpose of the Regulations is to make consequential amendments as a result of the AFCA Act.

The AFCA Act implements the measure announced in the 2017–18 Budget as ‘A More Accountable and Competitive Banking System — improving external dispute resolution’. The AFCA Act received Royal Assent on 5 March 2018 and introduced a new EDR framework and an enhanced IDR framework for the financial system.

The new EDR framework will ensure that consumers have easy access to a single EDR scheme, known as the AFCA, which will resolve disputes about products and services provided by financial firms. The AFCA scheme will replace the SCT and the existing EDR schemes approved by ASIC.

The enhanced IDR framework will require financial firms to report their IDR activities in accordance with ASIC requirements and allow ASIC to publish

information it receives under new reporting requirements. This will allow ASIC to improve transparency about the performance of financial firms in relation to their IDR activities.

### **Human rights implications**

The Regulations do not engage any of the applicable rights or freedoms.

### **Conclusion**

The Regulations are compatible with human rights as it does not raise any human rights issues.

**Details of the *Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Regulations 2018***

**Section 1 - Name of Regulations**

This section provides that the title of the Regulations is the *Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Regulations 2018*.

**Section 2 - Commencement**

This section provides for the Regulations to commence the day after registration or immediately after that day. The commencement of some provisions is contingent on the commencement of various items in the AFCA Act.

**Section 3 - Authority**

This section provides that the Regulations are made under the following:

*ASIC Supervisory Cost Recovery Levy Act 2017*  
*Australian Prudential Regulation Authority Act 1998*  
*Corporations Act 2001*  
*National Consumer Credit Protection Act 2009*  
*Retirement Savings Accounts Act 1997*  
*Superannuation Industry (Supervision) Act 1993*  
*Superannuation (Resolution of Complaints) Act 1993*

**Section 4 - Schedule(s)**

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

**Schedule 1—External dispute resolution**

**Part 1—Amendments relating to requiring membership of the AFCA scheme**

**Item 1 — Subregulation 7.6.02(5) of the *Corporations Regulations 2001***

Item 1 ensures certain financial services licensees do not have to comply with requirements to be members of AFCA if complaints about their services may be made to the Ombudsman of a State or Territory.

**Item 2 — Paragraph 7.6.02AAA(1)(a) of the *Corporations Regulations 2001***

Section 912B of the *Corporations Act 2001* ensures that financial services licensees providing a financial service to persons as retail clients must have adequate arrangements for compensating persons for loss or damage suffered because of a

breach of the relevant obligations under Chapter 7 of the *Corporations Act 2001* by the licensee or its representatives.

Item 2 makes amendments to ensure that in order for arrangements to be adequate for the purposes of section 912B of the *Corporations Act 2001*, the licensee must hold professional indemnity insurance cover that is adequate, having regard to membership of the AFCA scheme and the potential for liability to arise in connection with claims against the licensee.

Item 3 — Regulation 10.27.01 of the *Corporations Regulations 2001*

Item 3 ensures that items 1 and 2 of Schedule 1 to the Regulations applies from the day the amendments made by Part 3 of Schedule 1 to the AFCA Act apply. Part 3 of Schedule 1 to the AFCA Act applies from a date that will be set by the Minister (currently expected to be the Minister for Revenue and Financial Services) by notifiable instrument. The date specified by the Minister will be the date financial firms, including trustees of regulated superannuation funds or approved deposit funds must be members of the AFCA scheme.

Item 4 — Subregulation 3(1) of the *National Consumer Credit Protection Regulations 2010*

Item 4 inserts a definition of ‘AFCA scheme’ in the *National Consumer Credit Protection Regulations 2010*.

Item 5 — Paragraph 12(1)(a) of the *National Consumer Credit Protection Regulations 2010*

Section 48 of the *National Consumer Credit Protection Act 2009* ensures that Australian credit licensees must have adequate arrangements for compensating persons for loss or damage suffered because of a contravention of the *National Consumer Credit Protection Act 2009* by the licensee or its representatives.

Item 5 makes amendments to ensure that in order for arrangements to be adequate for the purposes of section 48 of the *National Consumer Credit Protection Act 2009*, the licensee must hold professional indemnity insurance cover that is adequate, having regard to membership of the AFCA scheme and the potential for liability to arise in connection with claims against the licensee.

Item 6 — Regulation 16 of the *National Consumer Credit Protection Regulations 2010*

Item 6 ensures that the modifications to paragraph 65(6)(c) of the *National Consumer Credit Protection Act 2009* made by regulation 16 of the *National Consumer Credit Protection Regulations 2010* operate as intended following the amendments made by item 35 of the AFCA Act. Item 35 of the AFCA Act amends paragraph 65(6)(c) of the *National Consumer Credit Protection Act 2009*, to ensure that a credit representative that is a body corporate cannot sub-authorise natural persons as credit representatives if the natural persons are not members of the AFCA scheme.

Item 7 — Paragraph 23B(1)(c) of the *National Consumer Credit Protection Regulations 2010*

Item 7 amends paragraph 23B(1)(c) of the *National Consumer Credit Protection Regulations 2010* to ensure that a fund raising special purpose entity is exempted from specified provisions in the *National Consumer Credit Protection Act 2009*, where the fund is a member of the AFCA scheme.

Item 8 — Paragraph 23C(1)(ca) of the *National Consumer Credit Protection Regulations 2010*

Item 8 inserts paragraph 23C(1)(ca) of the *National Consumer Credit Protection Regulations 2010* to ensure that a securitisation entity is exempted from specified provisions in the *National Consumer Credit Protection Act 2009*, where the entity is a member of the AFCA scheme.

Items 9, 10, 11 and 12 — Paragraphs 29(1)(ga), 29(3)(ha), 29(4)(ga) and 30A(1)(g) of the *National Consumer Credit Protection Regulations 2010*

Items 9, 10, 11 and 12 make amendments to ensure that the credit register maintained by ASIC (under section 213 of the *National Consumer Credit Protection Act 2009*) includes details on whether a licensee, credit representative, registered person or lender is a member of the AFCA scheme.

Item 13 — Regulation 49C of the *National Consumer Credit Protection Regulations 2010*

Item 13 ensures that the amendments made by items 4 to 12 and item 14 of Schedule 1 of the Regulations apply from the day the amendments made by Part 3 of Schedule 1 to the AFCA Act apply. Part 3 of Schedule 1 to the AFCA Act applies from a date that will be set by the Minister (currently expected to be the Minister for Revenue and Financial Services) by notifiable instrument. The date specified by the Minister will be the date financial firms, including trustees of regulated superannuation funds or approved deposit funds must be members of the AFCA scheme.

Item 14 — Items 2.17, 2.23 and 2.27 of Schedule 2 of the *National Consumer Credit Protection Regulations 2010*

Item 14 makes amendments to ensure that certain requirements apply to an unlicensed carried over instrument lender if the lender is not a member of the AFCA scheme. Currently, such requirements apply to an unlicensed carried over instrument lender if the lender is not a member of an approved EDR scheme.

**Part 2—Amendments relating to closing off existing external dispute resolution schemes**

Items 15 to 22 — Paragraphs 28N(1)(a), 28P(2)(b), subregulation 28B(3), regulation 28, heading to regulation 28 and notes to subregulations 28B(3), 28N(3) and 28P(2) of the *National Consumer Credit Protection Regulations 2010*

Items 15 to 22 make amendments to ensure requirements and exemptions relating to updating credit guides and disclosure documents apply in relation to information about access to the AFCA scheme and ensure this is reflected in guidance material,

such as notes and headings. Currently, such requirements apply in relation to information about access to approved EDR schemes.

Item 23 — Regulation 49D of the *National Consumer Credit Protection Regulations 2010*

Item 23 ensures that the amendments made by items 15 to 22 and items 24 to 28 of Schedule 1 of the Regulations apply from the day the amendments made by Part 4 of Schedule 1 to the AFCA Act apply. Part 4 of Schedule 1 to the AFCA Act applies from a date that will be set by the Minister (currently expected to be the Minister for Revenue and Financial Services) by notifiable instrument. The date specified by the Minister will be the date when no new complaints can be made to the Superannuation Complaints Tribunal. This is expected to be the same day the AFCA scheme begins receiving complaints, including non-superannuation complaints.

Items 24 and 25 — Paragraphs 69C(1)(b) and (c) and heading to regulation 69C of the *National Consumer Credit Protection Regulations 2010*

Items 24 and 25 ensure that an exemption relating to disclosing information about dispute resolution schemes only applies where a person is not a member of the AFCA scheme. Prior to the amendments made by these items, such exemptions only applied where a person is not a member of an approved EDR scheme.

Items 26 and 27 — Subparagraphs 69C(1)(c)(i) and 69C(1)(c)(v) to (viii) of the *National Consumer Credit Protection Regulations 2010*

Items 26 and 27 update the references in these subparagraphs to provisions of the National Credit Code (that is, Schedule 1 of the *National Consumer Credit Protection Act 2009*) which require persons to disclose information about rights under, or access to, an approved EDR scheme and the AFCA scheme.

Item 28 — Forms 5, 9, 10, 11, 11A, 12, 12A, 14, 15, 16, 17, 18 and 18A in Schedule 1 of the *National Consumer Credit Protection Regulations 2010*

Item 28 updates various forms to reflect the new EDR framework. This involves omitting references in these forms to EDR schemes and substituting references to the AFCA scheme.

Item 29 — Subregulation 1.03(1) of the *Superannuation Industry (Supervision) Regulations 1994*

Item 29 inserts a definition of ‘AFCA scheme’ in the *Superannuation Industry (Supervision) Regulations 1994*.

Item 30 — Paragraph 2.36C(1)(h) of the *Superannuation Industry (Supervision) Regulations 1994*

Item 30 repeals paragraph 2.36C(1)(h) of the *Superannuation Industry (Supervision) Regulations 1994*, such that if an interest in a regulated superannuation fund or an approved deposit fund becomes subject to a payment split, the trustee of the fund is no longer required to give to the non-member spouse in relation to the interest a



written notice which includes details of the functions of the Superannuation Complaints Tribunal.

Item 30 ensures that instead, the trustee of the fund is required to give to the non-member spouse in relation to the interest a written notice which includes details of the AFCA scheme.

Item 31 — Regulation 14.15 of the *Superannuation Industry (Supervision) Regulations 1994*

Item 31 ensures that the amendments made by items 29 and 30 of Schedule 1 of the Regulations apply from the day the amendments made by Part 4 of Schedule 1 to the AFCA Act apply. Part 4 of Schedule 1 to the AFCA Act applies from a date that will be set by the Minister (currently expected to be the Minister for Revenue and Financial Services) by notifiable instrument. The date specified by the Minister will be the date when no new complaints can be made to the Superannuation Complaints Tribunal. This is expected to be the same day the AFCA scheme begins receiving complaints, including non-superannuation complaints.

Item 32 — Regulation 3 of the *Superannuation (Resolution of Complaints) Regulations 1994*

Item 32 inserts a definition of ‘AFCA scheme’ in the *Superannuation (Resolution of Complaints) Regulations 1994*.

Item 33 — Regulation 6 of the *Superannuation (Resolution of Complaints) Regulations 1994*

Item 33 ensures that for the purposes of subsection 22A(1) of the *Superannuation (Resolution of Complaints) Act 1993*, the operator of the AFCA scheme is a prescribed body. This will have the effect of allowing the Superannuation Complaints Tribunal to transfer a complaint to the AFCA scheme. This will facilitate the smooth transition to the new EDR framework.

Item 34 — Regulation 8 of the *Superannuation (Resolution of Complaints) Regulations 1994*

Item 34 ensures that the amendments made by items 32, 33 and 35 of Schedule 1 of the Regulations apply from the day the amendments made by Part 4 of Schedule 1 to the AFCA Act apply. Part 4 of Schedule 1 to the AFCA Act applies from a date that will be set by the Minister (currently expected to be the Minister for Revenue and Financial Services) by notifiable instrument. The date specified by the Minister will be the date when no new complaints can be made to the Superannuation Complaints Tribunal. This is expected to be the same day the AFCA scheme begins receiving complaints, including non-superannuation complaints.

Item 35 — Schedule 2 to the *Superannuation (Resolution of Complaints) Regulations 1994*

Item 35 repeals Schedule 2 to the *Superannuation (Resolution of Complaints) Regulations 1994*, which is an inoperative Schedule containing a list of complaint handling bodies.

### **Part 3—Amendments relating to no longer requiring membership of existing external dispute resolution schemes**

#### **Items 36 and 39 — Subregulations 7.6.02(3), 7.6.02(4), 7.9.77(3) and 7.9.77(4) of the Corporations Regulations 2001**

Items 36 and 39 repeal subregulations relating to ASIC approving an EDR scheme. These regulations are no longer necessary under the new EDR framework introduced by the AFCA Act.

#### **Item 37 — Subregulation 7.6.02(5) of the Corporations Regulations 2001**

Item 37 ensures certain financial services licensees do not have to comply with requirements to have membership of AFCA if complaints about their services may be made to the Ombudsman of a State or Territory.

#### **Item 38 — Paragraph 7.6.02AAA(1)(a) of the Corporations Regulations 2001**

Item 38 makes amendments such that in assessing whether a licensee holds professional indemnity insurance cover that is adequate, membership of an approved EDR scheme is no longer a factor to which the regard must be had.

#### **Items 40 and 41 — Regulations 10.2.47 and 10.2.87 of the Corporations Regulations 2001**

Items 40 and 41 repeal inoperative regulations 10.2.47 and 10.2.87 of the *Corporations Regulations 2001*, which were transitional provisions applying within 2 years of the commencement of item 1 of Schedule 1 to the *Financial Services Reform Act 2001*.

#### **Item 42 — Regulation 10.27.02 of the Corporations Regulations 2001**

Item 42 ensures that items 36 to 39 of Schedule 1 to the Regulations applies from the day the amendments made by Part 5 of Schedule 1 to the AFCA Act apply. The amendments in Part 5 of Schedule 1 to the AFCA Act remove the requirement for financial firms to be members of one or more EDR schemes approved by ASIC. Part 5 of Schedule 1 to the AFCA Act applies from the date that is 12 months after the date from which membership of the AFCA scheme is mandatory for financial firms (unless the Minister specifies an earlier date by notifiable instrument).

#### **Item 43 — Subregulations 10(3) and (4) of the National Consumer Credit Protection Regulations 2010**

Item 43 repeals subregulations 10(3) and (4) of the *National Consumer Credit Protection Regulations 2010*, which concern ASIC's approval of an EDR scheme. Under the new EDR framework introduced by the AFCA Act, ASIC approved EDR schemes will be replaced by the AFCA.

#### **Item 44 — Paragraph 12(1)(a) of the National Consumer Credit Protection Regulations 2010**

Item 44 makes amendments such that in assessing whether a licensee holds professional indemnity insurance cover that is adequate, membership of an approved EDR scheme is no longer a factor to which the regard must be had.

Item 45 — Paragraph 23B(1)(c) of the National Consumer Credit Protection Regulations 2010

Item 45 makes amendments such that for a fund raising special purpose entity to be exempted from specified provisions in the *National Consumer Credit Protection Act 2009*, it is no longer a condition that the fund be a member of an approved EDR scheme.

Item 46 — Paragraphs 23C(1)(c), 29(1)(g), 29(3)(h), 29(4)(g) and 30A(1)(f) of the National Consumer Credit Protection Regulations 2010

Item 46 repeals various paragraphs of the *National Consumer Credit Protection Regulations 2010*, which relate to membership of an approved EDR scheme. As a result of these amendments, the credit register maintained by ASIC (under section 213 of the *National Consumer Credit Protection Act 2009*) will not be required to include the name of any approved EDR schemes of which a licensee, credit representative, registered person or lender is a member.

Item 46 also makes amendments such that for a securitisation entity to be exempted from specified provisions in the *National Consumer Credit Protection Act 2009*, it is no longer a condition that the entity be a member of an approved EDR scheme.

Item 47 — Regulation 49E of the National Consumer Credit Protection Regulations 2010

Item 47 ensures that the amendments made by items 43 to 46 and item 48 of Schedule 3 of the Regulations apply from the day the amendments made by Part 5 of Schedule 1 to the AFCA Act apply. The amendments in Part 5 of Schedule 1 to the AFCA Act remove the requirement for financial firms to be members of one or more EDR schemes approved by ASIC. Part 5 of Schedule 1 to the AFCA Act applies from the date that is 12 months after the date from which membership of the AFCA scheme is mandatory for financial firms (unless the Minister specifies an earlier date by notifiable instrument).

Item 48 — Items 2.17, 2.23 and 2.27 of Schedule 2 of the National Consumer Credit Protection Regulations 2010

Item 48 makes amendments such that for certain requirements to apply to an unlicensed carried over instrument lender, it is no longer a condition that the entity be a member of an approved EDR scheme.

Items 49 to 51 — Regulations 6 and 8 of the Superannuation (Resolution of Complaints) Regulations 1994

Items 49 to 51 remove the ability of the Superannuation Complaints Tribunal to transfer a complaint to the existing EDR schemes approved by ASIC, starting from the time when membership of those schemes is no longer required.

## **Schedule 2—Internal dispute resolution**

### **Part 1—Amendments relating to internal dispute resolution**

#### **Items 1 and 2 — Regulations 10.27.03 and 10.27.04 and Subdivision 5.11 of Division 5 of Part 7.9 of Chapter 7 of the *Corporations Regulations 2001***

Item 1 repeals regulations 7.9.48 to 7.9.48D of the *Corporations Regulations 2001* (that is, Subdivision 5.11 of Division 5 of Part 7.9 of Chapter 7). Following the amendments made by the AFCA Act, these regulations are no longer required.

Regulations 7.9.48 and 7.9.48A of the *Corporations Regulations 2001* contain guidance material and definitions supporting the operation of regulations 7.9.48B to D of the *Corporations Regulations 2001*. Given regulations 7.9.48B to D of the *Corporations Regulations 2001* will be repealed, regulations 7.9.48 and 7.9.48A of the *Corporations Regulations 2001* are no longer required.

Regulation 7.9.48B of the *Corporations Regulations 2001* required a decision-maker in relation to an IDR complaint to inform complainants about the EDR system that is available to them and how to access it. ASIC will be able to require such decision-makers to inform complainants about how to access the AFCA scheme through IDR standards and requirements made in relation to financial services licensees under subsection 912A(2) of the *Corporations Act 2001*. Other financial firms that are not financial services licensees must also have IDR procedures that comply with these standards and requirements.

Regulation 10.27.04 of the *Corporations Regulations 2001* contains a transitional rule that ensures the effect of regulations 7.9.48, 7.9.48A and 7.9.48B of the *Corporations Regulations 2001* is retained until new IDR standards and requirements are made under subsection 912A(2) of the *Corporations Act 2001*.

Prior to the amendments made under the AFCA Act, section 101 of the *Superannuation Industry (supervision) Act 2003* (SIS Act) and section 47 of the *Retirement Savings Account Act 1997* (RSA Act) set out in detail the obligations of a decision-maker to provide written reasons for a decision or failure to make a decision, including where a complainant triggered these obligations by requesting written reasons. Regulations 7.9.48C and 7.9.48D of the *Corporations Regulations 2001* complemented these provisions by ensuring that eligible persons were notified of their ability to request reasons for decisions and the times by which those reasons must be given. Following amendments made under the AFCA Act to the operation of section 101 of the SIS Act and section 47 of the RSA Act, regulations 7.9.48C and 7.9.48D of the *Corporations Regulations 2001* are no longer necessary.

Regulation 10.27.03 of the *Corporations Regulations 2001* contains a transitional rule that ensures the effect of regulations 7.9.48, 7.9.48A, 7.9.48C and 7.9.48D of the *Corporations Regulations 2001* is retained until the new requirements relating to the giving of written reasons come into force.

#### **Item 3 — Paragraph 2.36C(1)(i) of the *Superannuation Industry (Supervision) Regulations 1994***

Item 3 removes the reference to ‘inquiries or complaints’ in paragraph 2.36C(1)(i) and instead inserts a reference to ‘internal dispute resolution procedures’. This language better aligns with section 101 of the *Superannuation Industry (Supervision) Act 1993* and section 47 of the *Retirement Savings Accounts Act 1997* (as amended by the AFCA Act).

This amendment ensures that trustees of a fund will be required to give details (in summary form) of the fund’s IDR procedures (including the arrangements around the giving of written reasons relating to a complaint).

## **Part 2—Other amendments**

Items 4 to 7 — Paragraphs 7.6.02(1)(a) and 7.9.77(1)(a) of the *Corporations Regulations 2001* and paragraph 10(1)(a) of the *National Consumer Credit Protection Regulations 2010* and item 2.20 of Schedule 2 of the *National Consumer Credit Protection Regulations 2010*

Items 4 to 7 amend provisions of the *Corporations Regulations 2001* and the *National Consumer Credit Protection Regulations 2010* to omit references to a superseded standard (the ‘Australian Standard AS ISO 10002–2006 Customer Satisfaction—Guidelines for complaints handling in organizations’) and substitute references to the new standard (the ‘Australian/New Zealand Standard AS/NZS 10002:2014 Guidelines for complaint management in organizations published jointly by, or on behalf of, Standards Australia and Standards New Zealand, as in force or existing on 29 October 2014’). The Standard provides guidance for the design and implementation of an effective and efficient complaint management system for all types of organizations and is available by visiting the Standards Web Shop at [www.saiglobal.com.au](http://www.saiglobal.com.au) or Standards New Zealand web site at [www.standards.co.nz](http://www.standards.co.nz) and looking up the Standard in the on-line catalogue. ASIC must take this standard into account when setting IDR regulatory requirements.

## **Schedule 3—Consequential amendments for the repeal of the *Superannuation (Resolution of Complaints) Act 1993***

Item 1— Paragraph 5(a) of the *ASIC Supervisory Cost Recovery Levy Regulations 2017*

Item 1 repeals paragraph 5(a) of the *ASIC Supervisory Cost Recovery Levy Regulations 2017*. Paragraph 5(a) provided that the cost of operating the Superannuation Complaints Tribunal must not be included in the amount of ASIC’s regulatory costs. Following the abolition of the Superannuation Complaints Tribunal, this regulation is no longer necessary.

Item 2 — Paragraph 5(1) of the *Australian Prudential Regulation Authority Regulations 1998*

Item 2 repeals paragraph 5(1) of the *Australian Prudential Regulation Authority Regulations 1998*, which allows APRA to provide information to the Superannuation Complaints Tribunal.

Item 3 and 4 — Paragraphs 7.6.02A(k) and 7.6.02A(j) of the *Corporations Regulations 2001*

Item 4 removes a redundant reference to the *Superannuation (Resolution of Complaints) Act 1993*.

Item 5 — Division 26 of Part 10.2 of the *Corporations Regulations 2001*

Item 5 repeals Division 26 of the *Corporations Regulations 2001*, which is about transitional matters under the *Superannuation (Resolution of Complaints) Act 1993*.

Item 6 — Regulation 6.14 of the *Retirement Savings Accounts Regulations 1997*

Item 6 repeals regulation 6.14 of the *Retirement Savings Accounts Regulations 1997*, which ensures that it is a standard applicable to the operation of retirement savings accounts (RSAs) that an RSA provider must not fail, without lawful excuse, to comply with an order, direction or determination of the Superannuation Complaints Tribunal.

Item 7 — Regulation 7.5 of the *Retirement Savings Accounts Regulations 1997*

Item 7 inserts a savings provision to ensure that the obligation on an RSA provider to comply with the existing orders, directions or determinations of the Superannuation Complaints Tribunal is not affected by the repeal of regulation 6.14 of the *Retirement Savings Accounts Regulations 1997*.

Item 8 — Regulation 13.17B of the *Superannuation Industry (Supervision) Regulations 1994*

Item 8 repeals regulation 13.17B of the *Superannuation Industry (Supervision) Regulations 1994*, which ensures that it is a standard applicable to the operation of regulated superannuation funds and approved deposit funds that the trustee of a fund must not fail, without lawful excuse, to comply with an order, direction or determination of the Superannuation Complaints Tribunal.

Item 9 — Regulation 14.16 of the *Superannuation Industry (Supervision) Regulations 1994*

Item 9 inserts a savings provision to ensure that the obligation on a trustee of a regulated superannuation fund or approved deposit fund to comply with the existing orders, directions or determinations of the Superannuation Complaints Tribunal is not affected by the repeal of regulation 13.17B of the *Superannuation Industry (Supervision) Regulations 1994*.