# EXPLANATORY STATEMENT

## Issued by authority of the Assistant Treasurer and Minister for Financial Services

*Corporations Act 2001*

*Corporations Amendment (Design and Distribution Obligations—Income Management Regimes) Regulations 2023*

The *Corporations Act 2001* (the Act) makes provisions relating to corporations, financial services and financial products.

Section 1364 of the Act provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The *Corporations Regulations 2001* gives effect to the purpose of the Act by regulating the activities of corporations, financial services and financial products.

The purpose of the *Corporations Amendment (Design and Distribution Obligations—Income Management Regimes) Regulations 2023* (the Regulations) is to exempt issuers of income management accounts from the obligation to make a target market determination under Part 7.8A of the Act. Income management accounts include their associated debit cards, store value cards or vouchers. These accounts manage certain welfare payments to eligible people established under the *Social Security (Administration) Act 1999*.

In addition, the Regulations make a minor consequential amendment to correct a cross reference in relation to credit licensees who are prescribed regulated persons for the purposes of Part 7.8A of the Act.

The design and distribution obligations set out in Part 7.8A of the Act are intended to promote the provision of suitable financial products (for example credit cards, debit cards and term-deposit accounts) to consumers. The obligations require the issuer of a financial product to determine an appropriate target market for their financial product by making a target market determination. Target market determinations relevantly describe the class of consumers who are the target market and sets out arrangements for the distribution of the product.

The Regulations exempt issuers of the welfare payment income management accounts from the obligation to make a target market determination identifying the target market for whom the income management accounts are made.

The exemptions are consistent with existing exemptions provided to related welfare management payment accounts under subclause 7(4) of *ASIC Corporations (Design and Distribution Obligations Interim Measures) Instrument 2021/784*.

The exemptions are appropriate as the design and distribution features of the income management accounts are not determined by the issuer of the product but are set out in the *Social Security (Administration) Act 1999*. This is consistent with other financial products such as MySuper products which are subject to specific legislation and are exempted from requirements to make a target market determination.

The Regulations also make a consequential correction to a cross-reference provision located in the definition of a regulated person in regulation 7.8A.02 as a result of [*Treasury Laws Amendment (2018 Measures No. 2) Act 2020*](https://www.legislation.gov.au/Details/C2020A00008)*.*

The Act specifies no conditions that need to be met before the power to make the Regulations may be exercised.

Public consultation on the Regulations was not undertaken as the amendments are minor or machinery in nature. Consultation was undertaken with the Department of Social Services and the Australian Securities and Investments Commission in the development and text of the Regulations and are supportive of the Regulations.

The Office of Best Practice Regulation has confirmed that no Regulation Impact Statement was required as the measure is likely to only have a minor regulatory impact (Ref: 23-04194).

Details of the Regulations are set out in Attachment A.

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

The Regulations commence on the day after it is registered.

A statement of Compatibility with Human Rights is at Attachment B.

**ATTACHMENT A**

**Details of the *Corporations Amendments (Design and Distribution Obligations—Income Management Regimes) Regulations 2023***

Section 1 – Name of the Regulations

This section provides that the name of the Regulations is the *Corporations Amendments (Design and Distribution Obligations—Income Management Regimes) Regulations 2023* (the Regulations).

Section 2 – Commencement

Schedule 1 to the Regulations commence on the day after the instrument is registered on the Federal Register of Legislation.

Section 3 – Authority

The Regulations are made under the *Corporations Act 2001* (the Act).

Section 4 – Schedule

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

Schedule 1 – Amendments

***Corporations Regulations 2001***

***Part 1 – Income management regimes***

**Item [1] At the end of regulation 7.8A.20**

This item has the effect of providing an exemption for issuers of the prescribed financial products from the obligation to make a target market determination for the purposes of Part 7.8A of the Act. The exemption applies to issuers of an income management account and a BasicsCard bank account established under the *Social Security (Administration) Act 1999* from the obligation to make a target market determination that sets out the target consumer market of the product is designed for and how the product will be distributed to consumers.

Eligibility for an income management account is based on location, welfare payment and personal circumstances to meet priority needs established under Part 3B of the *Social Security (Administration) Act 1999*. An exemption further applies to a store value card or voucher that is related to the income management account.

A BasicCard bank account is a feature of the new enhanced income management regime introduced in Part 3AA of the *Social Security (Administration) Act 1999*. An exemption further applies to the BasicsCard bank accounts associated debit card.

***Part 2 - Consequential amendments relating to the Treasury Laws Amendment (2018 Measures No.2) Act 2020***

**Item [2] Subparagraph 7.8A.02(4)(c)(iii)**

This item makes a technical amendment. The [*Treasury Laws Amendment (2018 Measures No. 2) Act 2020*](https://www.legislation.gov.au/Details/C2020A00008) resulted in regulation 7.8A.02 having an incorrect cross-reference at subparagraph 7.8A.02(4)(c)(iii) that refers to paragraph 110(a).

This item updates the cross-reference to paragraph 110(1)(a) located in the *National Consumer Credit Protection Act 2009*.

**ATTACHMENT B**

### Statement of Compatibility with Human Rights

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

### *Corporations Amendment (Design and Distribution Obligations—Income Management Regimes) Regulations 2023*

This Legislative Instrument is 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 Legislative Instrument

The purpose of the *Corporations Amendment (Design and Distribution Obligations—Income Management Regimes) Regulations 2023* (the Regulations) is to exempt issuers of income management accounts from the obligation to make a target market determination under Part 7.8A of the Act. Income management accounts include their associated debit cards, store value cards or vouchers. These accounts manage certain welfare payments to eligible people established under the *Social Security (Administration) Act 1999*.

In addition, the Regulations make a minor consequential amendment to correct a cross reference in relation to credit licensees who are prescribed regulated persons for the purposes of Part 7.8A of the Act.

### Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

### Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.