



# Supplementary Explanatory Statement

## *Financial Accountability Regime (Consequential Amendments) Transitional Rules 2024*

Prepared by the Australian Securities and Investments Commission (*ASIC*) and the Australian Prudential Regulation Authority (*APRA*).

### **Purpose of the Supplementary Explanatory Statement**

1. This Supplementary Explanatory Statement amends and supplements the initial explanatory statement (***explanatory statement***) for the *Financial Accountability Regime (Consequential Amendments) Transitional Rules 2024 (Relevant Instrument)*, in accordance with paragraph 15J(1)(c) of the *Legislation Act 2003* (Cth).
2. The purpose of this Supplementary Explanatory Statement is to set out details of the matters relevant to the use, collection and disclosure of personal information under the Relevant Instrument.

### **Amendment to explanatory statement for the Relevant Instrument**

3. In the section of the explanatory statement titled ‘Operation of the Instrument’:
  - (i) after paragraph numbered 17, insert new a new subheading and new paragraphs 18 to 22 as follows:

*“Personal information*

18. *The Regulators are collecting personal information of an accountable person (including the date of birth, direct phone number and direct email address of an accountable person, as well as the date of any change to these details or to an accountable person’s name) for the purpose of their regulatory functions under the Act and the Financial Accountability Regime (Consequential Amendments) Act 2023. These functions include:*

- (a) *maintaining a register of accountable persons for all entities which are subject to the FAR;*

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- (b) *understanding the accountability obligations of an accountable person;*
- (c) *performing supervisory activities in connection with the administration of the FAR and any associated investigation or enforcement activity; and*
- (d) *handling and responding to queries and requests received in relation to the FAR.*
19. *The collection of personal information is necessary for the Regulators to undertake their regulatory functions and it is particularly important that they have sufficient information to properly and accurately identify accountable persons and their respective responsibilities and reporting lines, noting that the Regulators will need to ensure they are dealing with the correct person if undertaking enforcement action to disqualify an accountable person.*
20. *A range of safeguards apply to how the Regulators collect, use and disclose personal information about an accountable person for the purposes of the FAR, including:*
- (a) *the Regulator’s Privacy Policies and privacy collection notices, which are available on their websites, and constitute notice under Australian Privacy Principle 5 for collecting personal information in relation to the FAR;*
- (b) *data security and integrity measures as required to comply with Australian Privacy Principle 11 to secure personal information, and as required to comply with and the Commonwealth Protective Security Policy Framework; and*
- (c) *the secrecy provisions in section 56 of the Australian Prudential Regulation Authority Act 1998 and section 127 of the Australian Securities and Investments Commission Act 2001.*
21. *Information collected for the register will only be disclosed to the public by the Regulators where the Regulators disqualify an accountable person under the Act, or where the Regulators are required or permitted to disclose information by the operation of law. The information publicly disclosed by the Regulators in relation to disqualifications will only contain the name of each disqualified accountable person and the scope of their disqualification.*
22. *Making the limited disqualification information public is important for transparency purposes and supports regulated entities to discharge their obligations, noting it is an offence under the Act if an accountable entity or a significant related entity allows a person to be or act as an accountable person whilst disqualified.” and;*

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- (ii) renumber the paragraphs previously numbered '18', '19' and '20' in the explanatory statement to numbers '23', '24', and '25' respectively.