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Australia: financial sector - new reforms to strengthen accountability and transparency within the industry

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Keywords

Accountability; Australia; Financial regulation; Transparency

Australia's financial sector is on the precipice of significant regulatory transformation. The government's proposed Financial Accountability Regime Bill 2023 and the accompanying Financial Accountability Regime (Consequential Amendments) Bill 2023 signal a profound shift towards strengthening accountability and transparency within the industry.

From Banking Executive Accountability Regime to Financial Accountability Regime—expanding accountability boundaries

At the heart of this legislative endeavour is the government's intention to replace and broaden the existing Banking Executive Accountability Regime. The proposed Financial Accountability Regime Bill 2023 aims to extend strengthened accountability requirements to other Australian Prudential Regulation Authority-regulated entities and their senior executives, effectively amplifying individual and entity-level accountability across the financial services sector. This ambitious move directly responds to several Hayne Commission recommendations and signifies the government's commitment to addressing financial and non-financial conduct risks.

A journey of legislative iterations: the evolution of the Financial Accountability Regime Bill 2023

The journey of the Financial Accountability Regime Bill 2023 has been anything but linear. The government initially introduced two key bills in September 2022, only to remove consequential amendments related to the Financial Accountability Regime and the Compensation Scheme of Last Resort from the Financial Sector Reform Bill 2022. This move allowed for more consultation on the implementation of both schemes. However, in March 2023, the government reinstated its commitment to enhanced financial accountability by reintroducing the Financial Accountability Regime Bill 2023 and the Financial Accountability Regime Consequential Amendments Bill 2023, offering what was deemed “the neatest, lawful path to the agreed objective”.¹

Fine-tuning accountability: amendments and omissions in the Financial Accountability Regime Bill 2023

Despite being substantially similar to its 2022 iteration, the Financial Accountability Regime Bill 2023 incorporates a few critical amendments. A notable change, proposed by Senator David Pocock, is the clearer delineation **J.I.B.L.R. N-56* of the minister's exemption power and the inclusion of parliamentary oversight of its exercise. Yet, one glaring omission in the Bill is the lack of individual civil penalties for breaches of accountability obligations, a measure recommended by the Greens but ultimately dismissed by the government.

Transitioning to a new era: the implications of the Financial Accountability Regime Consequential Amendments Bill 2023

Alongside the Financial Accountability Regime Bill 2023, the Financial Accountability Regime Consequential Amendments Bill 2023 outlines the transitional arrangements from the Banking Executive Accountability Regime to the Financial Accountability Regime. Once implemented, the Financial Accountability Regime will see authorised deposit-taking institutions and their authorised non-operating holding companies become accountable entities, effectively repealing the Banking Executive Accountability Regime. It also maps out the transitioning of accountable persons, new registration rules, and deferred remuneration obligations. The Financial Accountability Regime will apply in full, including deferred remuneration obligations for the insurance and superannuation industries.

The road ahead: timing and implementation

The expected timeline for these reforms remains unchanged. If legislated in its current form, the Financial Accountability

Regime Bill 2023 will commence the day after it receives assent, with a phased application across the banking, insurance, and superannuation industries over the subsequent 18 months.

Conclusion

The Financial Accountability Regime Bill 2023 and the accompanying Financial Accountability Regime (Consequential Amendments) Bill 2023 mark an essential milestone in the evolution of Australia's financial sector. While the full implications of these bills are yet to be realised, their focus on strengthening accountability and transparency promises to reshape the financial landscape in Australia.

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Footnotes

- 1 Parliament of Australia, "House of Representatives Proof Bills—Financial Accountability Regime Bill 2023—Second Reading Speech" (House of Representatives, 2023), <https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22chamber%2Fhansard%2F26427%2F0009%22> [Accessed 03 July 2023].