

**WELCOME**

# **FROM IDEAS TO ACTION: WHAT INTERIM REPORT C MEANS FOR YOU**

**THE WEBINAR WILL BEGIN SOON**

Submit your questions to [financial.services@alrc.gov.au](mailto:financial.services@alrc.gov.au)

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# ‘STRUCTURE’ AND ‘FRAMING’

- **Both are aspects of design:** How information is organised and presented
- **Structure:** Largely focussed on the order in which information is presented and grouped
- **Framing:** Broader than structure, includes any context that helps to shape a communication — such as headings



# WHY STRUCTURE AND FRAMING MATTER

## The *Milk Act*

### Section 20 Regulation of Milk Carriers

The Minister may, by legislative instrument, make rules (the Milk Carrier rules). The Milk Carrier rules may provide for: the times at which milk may be delivered; the permitted types of milk for delivery; the minimum age of Milk Carriers; the means by which Milk Carriers may make delivery; and any other matters that the provisions of this Act provide may be dealt with in the Milk Carrier rules. A Milk Carrier licensee must comply with the Milk Carrier rules. A person may sell milk without a Milk Carrier licence if they sell the milk in the course of carrying on a small business. A person must not sell milk unless they hold a Milk Carrier licence. A person may apply for a Milk Carrier licence by lodging an application with the Milk Operations Office (the MOO). A person must not hold out that they have a Milk Carrier licence if that is not the case. A person commits an offence, subject to a penalty of \$1,000,000 or 15 years imprisonment, or both, if they do not comply with this section.

Example 8.1, Interim Report C



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No useful headings, sub-sections, or white space

Example 8.1, Interim Report C



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Non-intuitive  
flow

Example 8.1, Interim Report C



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Failure to prioritise  
important information

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# THE *MILK* ACT RESTRUCTURED AND REFRAMED

## Part 2—Obligations on persons selling milk

### Section 20 Sellers of milk must be licensed

- (1) A person commits an offence if:
  - (a) the person sells milk; and
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Maximum criminal penalty: Imprisonment for 15 years or \$1,000,000, or both.

Note: The procedures for obtaining a Milk Carrier licence appear in section 43 of this Act. *Milk* is defined in section 8 of this Act.

#### *Exemption where milk seller is a small business*

- (2) Subsection (1) does not apply to a person selling milk in the course of carrying on a small business.

### Section 21 Prohibition on holding out that a person is licenced

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- (2) Failure to comply with subsection (1) is an offence.

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- (1) A Milk Carrier licensee must comply with the Milk Carrier rules.

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## Part 4 Obtaining a Milk Carrier licence and other licences

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Example 8.2, Interim Report C



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# THE *MILK* ACT RESTRUCTURED AND REFRAMED

Prioritising  
important  
information

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Grouping  
related  
information

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Example 8.2, Interim Report C



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# THE *MILK* ACT RESTRUCTURED AND REFRAMED

Intuitive flow

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## Informative headings

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Aids to  
navigability and  
interpretation

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# PRINCIPLES FOR STRUCTURING AND FRAMING LEGISLATION

Working principles	Objective of legislative design
<ul style="list-style-type: none"><li>• <b>Grouping</b></li><li>• <b>Coherence</b></li><li>• <b>Prioritisation</b></li><li>• <b>Intuitive flow</b></li><li>• <b>Consolidation</b></li><li>• <b>Succinctness</b></li><li>• <b>Mental models</b></li></ul>	<p><b>To make legislation as easy to navigate and understand as possible</b></p>



# WHY DOES NAVIGABILITY AND COMPHRENSIBILITY MATTER?

Principled reasons	Practical reasons
<ul style="list-style-type: none"><li>• Effectiveness</li><li>• Burdens and ease of compliance</li><li>• Rule of law</li></ul>	<ul style="list-style-type: none"><li>• Costs of compliance</li><li>• Costs arising from non-compliance</li><li>• Enforcing rights and protections</li></ul>





# WHY RESTRUCTURE AND REFRAME CHAPTER 7?

- **It simply does too much**
  - Chapter 7 of the *Corporations Act* is effectively an ‘Act within an Act’
- **It fails to prioritise key messages**
  - Identifying and understanding fundamental norms of behaviour is made more difficult
- **Finding relevant law is more difficult than it needs to be**
  - Existing structure and framing do little to help users navigate the legislation

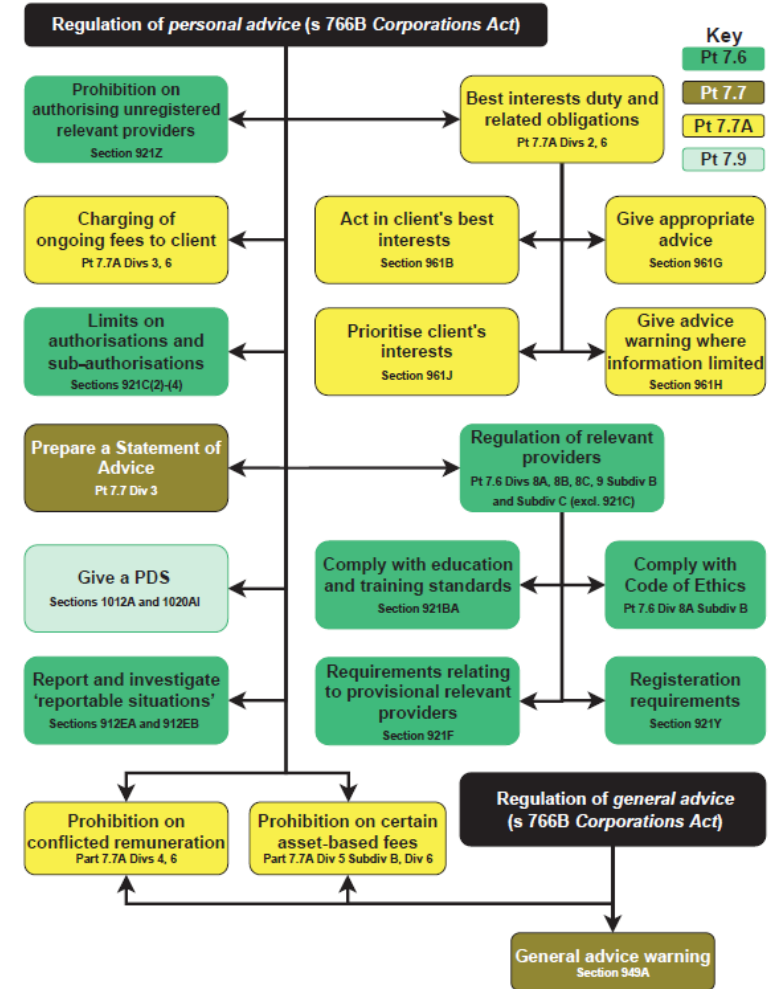


Figure 4.1, Interim Report C



# HOW COULD CHAPTER 7 BE RESTRUCTURED AND REFRAMED?

**Financial services aspects of  
Chapter 7 *Corporations Act***

**+**

**Part 2 Div 2 *ASIC Act***

**=**

**The Financial Services Law  
(Sch 1 to the *Corporations Act*)**

## **Schedule 1—The Financial Services Law**

**Chapter 1—Introduction and application**

**Chapter 2—Consumer protections and generally applicable offences**

**Chapter 3—Obligations of financial services providers**

**Chapter 4—Disclosure about financial products and financial services**

**Chapter 5—Financial advice**

**Chapter 6—Financial services licensees and representatives**

**Chapter 7—Ministerial and ASIC powers**

**Chapter 8—Dictionary**



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# CONSUMER PROTECTION

## Chapter 2—Consumer protections and generally applicable offences

### Part 2.1—Introduction

### Part 2.2—General consumer protections

#### Division 1—Core standards of commercial behaviour

s 11—General prohibition on misleading or deceptive conduct

s 12—General prohibition on unconscionable conduct

s 13—General prohibition on harassment and coercion

#### Division 2—Unfair contract terms

#### Division 3—Conditions and warranties in consumer transactions

### Part 2.3—Specific consumer protections

#### Division 1—Compliance with product intervention orders

#### Division 2—Other specific protections and prohibitions

#### Division 3—Deferred sales for add-on insurance products

### Part 2.4—Design and distribution obligations

### Part 2.5—Generally applicable offences

### Part 2.6—Enforcement, remedies and other powers

## Schedule 1—The Financial Services Law

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### Part 2.4—Design and distribution obligations

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### Part 2.6—Enforcement, remedies and other powers

- **Prioritising fundamental obligations**



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### Part 2.4—Design and distribution obligations

### Part 2.5—Generally applicable offences

### Part 2.6—Enforcement, remedies and other powers

- **Prioritising fundamental obligations**
- **Grouping by theme and scope**
  - These provisions have the broadest scope, applying to financial products and services as defined in the *ASIC Act*



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# CONSUMER PROTECTION

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- **Prioritising fundamental obligations**
- **Grouping by theme and scope**
  - These provisions have the broadest scope, applying to financial products and services as defined in the *ASIC Act*
- **Emphasising consumer protection as a policy that underpins the legislation**



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# DISCLOSURE

- **A single home for disclosure regulation**
  - Covering the existing Parts 7.7 and 7.9 of the *Corporations Act*
- **Provisions may also be consolidated to reduce overlap**

## Schedule 1—The Financial Services Law

Chapter 1—Introduction and application

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# FINANCIAL ADVICE

- **A single home for provisions that apply only to financial advice**
- **Better reflects the existence of a tailored regulatory regime for financial advice**

## Schedule 1—The Financial Services Law

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# GENERAL REGULATORY OBLIGATIONS

- **Grouping by theme and scope**
- **Prioritisation**
  - More important obligations may be prioritised (Chapter 3) over less significant provisions and administrative detail (Chapter 6)

## Schedule 1—The Financial Services Law

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# IMPLEMENTATION



## CORE PACKAGE OF PROPOSED REFORMS

- **Reformed legislative model** comprising ‘de-cluttered’ primary legislation, a Scoping Order, and ‘rulebooks’
- **Restructured and reframed provisions** for the financial services-related provisions of Chapter 7 of the *Corporations Act* and Part 2 Div 2 of the *ASIC Act*
- A **Financial Services Law** to provide a single home for provisions that are reframed and restructured in accordance with the proposed legislative model



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# THE BENEFITS OF IMPLEMENTATION

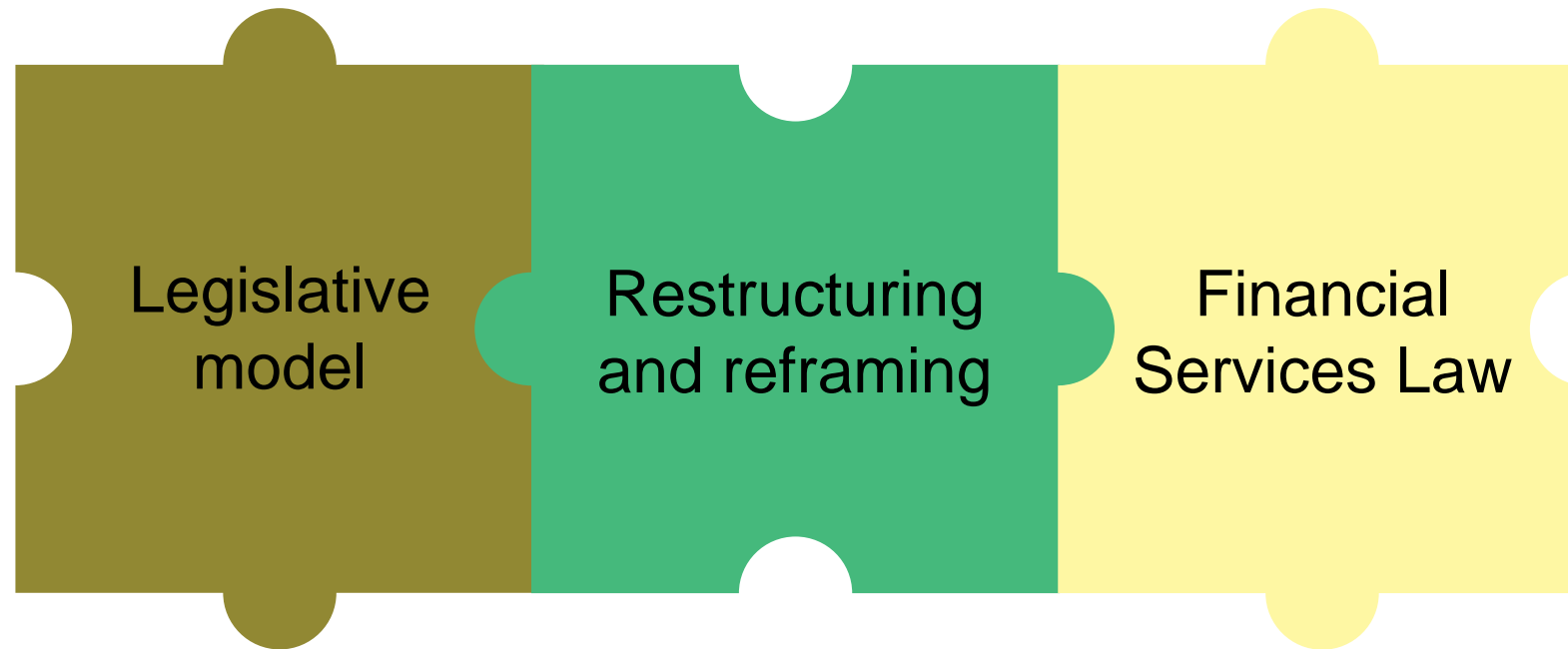
- **Reduced compliance costs**
- **Lower costs of enforcement and non-compliance**
- **Easier for consumers and investors to understand and exercise rights**



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## A REFORM PACKAGE



# A REFORM ROADMAP

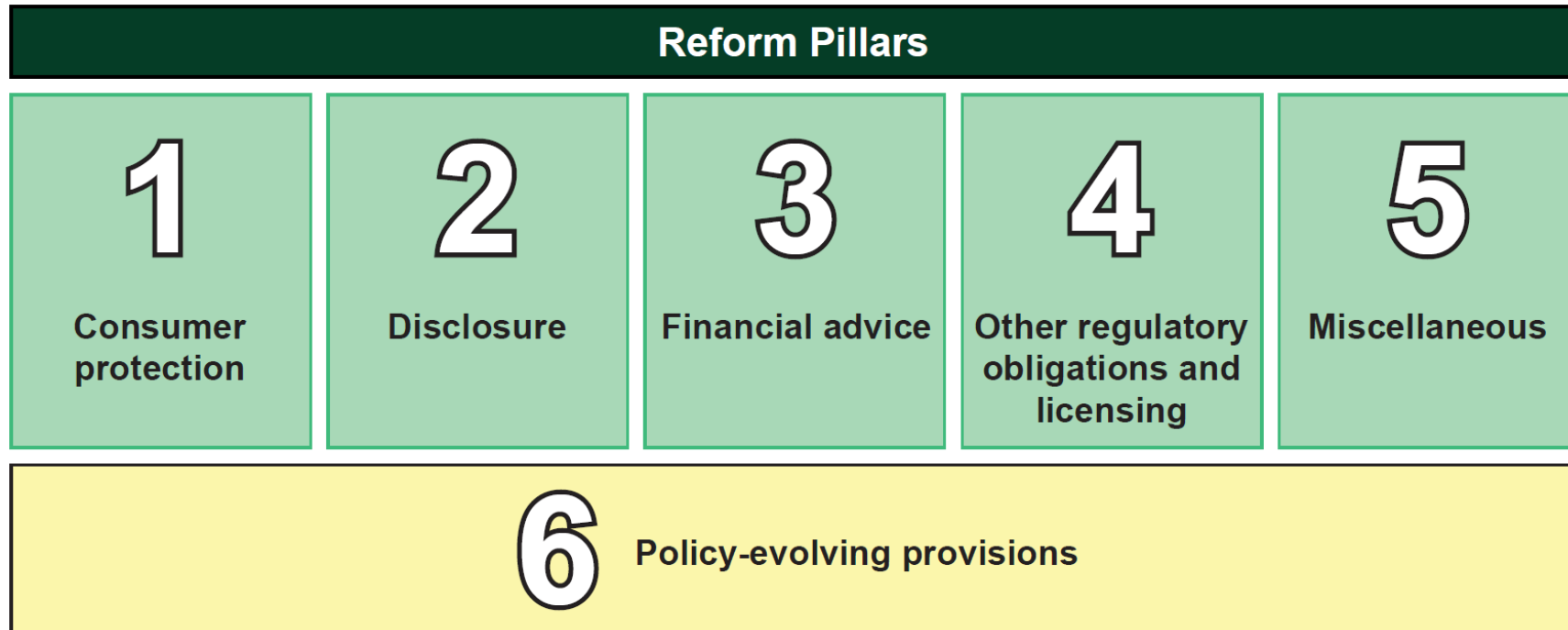


Figure 7.2, Interim Report C



# A FRAMEWORK FOR APPROACHING REFORM

- **Significant provisions:** Provisions of most general application and legislative significance
- **Complex provisions:** The most complex provisions that would benefit most from reform
- **Policy-evolving provisions:** Provisions subject to policy scrutiny and for which substantive reforms may be made
- **Minimal amendment provisions:** Provisions requiring minimal reform to fit within the FSL Schedule and proposed legislative model



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## LEARNING FROM PREVIOUS REFORMS

- **Manageable commitments:** Don't require a ten-year commitment
- **Separable reforms:** Making sure reforms pillars are self-contained and allow government's a role in shaping projects
- **Prioritised reforms:** Focus on the areas that would bring the biggest 'bang for your buck'





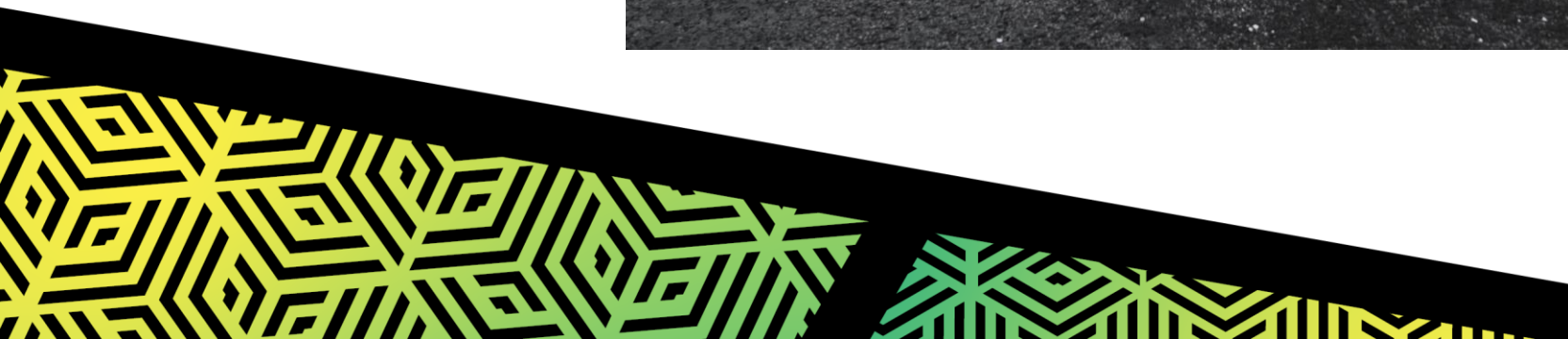
# REFORM TASKFORCES

- **Government should establish a specifically resourced taskforce (or taskforces) dedicated to implementing reforms to financial services legislation (Proposal C12)**
- **Oversee implementation in a way that manages transition costs**
- **A diverse membership composed of government and non-government members**



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FINANCIAL SERVICES LEGISLATION

**SUBMISSIONS**  
**IN RESPONSE TO INTERIM REPORT C**  
**CLOSE 26 JULY 2023**



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