Submission to Australian Law Reform Commission

Interim Report C: Financial Services Legislation

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Introduction

This submission addresses the proposals and recommendations put forward by the Australian Law Reform Commission (ALRC) regarding the simplification of financial services legislation through a reframing of Ch 7 of the *Corporations Act 2001* (Cth) (*Corporations Act*). This submission initially focuses on providing feedback regarding the four recommendations made, and then on the proposals discussed in the interim report C.

If any of the responses require further explanation, please contact Associate Professor Marina Nehme at the University of New South Wales, Sydney, Faculty of Law and Justice [redacted]

General Observation

The observations made in this submission can be summarised in the following manner:

- The recommendations put forward by the report are sound and may lead to greater general deterrence from financial services misconduct as they raise the awareness of the industry regarding civil and criminal consequences attached to non-compliance with the statutory provisions under the *Corporations Act*;
- The agenda of reform is bold and should not be undermined by short term solutions to potential problems. Chapter 7 should not be hidden in a schedule in the *Corporations Act* as this may lead to a perception that financial services regulation is not deserving of a prominent place in our Australian laws. As this Interim report is setting an ambitious agenda to reform our financial services laws, a patch up/add on solution to put the legislation in a schedule of the *Corporations Act* is problematic and counterintuitive. It is time to face any constitutional issues identified in the report and remedy them instead of trying to avoid such issues.
- The submission supports all the proposals that promote the reimagining, restructuring and consolidation of the provisions in Chapter 7 of the *Corporations Act*. Consolidating legislative provisions in the Chapter for instance may lead to a simpler and more effective piece of legislation. To achieve this, the principles put forward by Proposal C14 should be followed when completing such a reframing. The task proposed by the ALRC is a mammoth task and needs to be implemented with care to ensure that there are no unintended consequences that may arise from the changes;
- The former Corporations and Markets Advisory Committee (CAMAC) should be reinstated to implement the proposals put forward by the report.

Recommendations

This section considers the merit of the recommendations put forward by the Interim Report C.

Recommendation 20- Offence provisions in corporations and financial services legislation should include the following at the foot of each provision:

a. the words 'maximum criminal penalty';

b. any applicable monetary or imprisonment penalty, expressed as one or more amounts in penalty units or terms of imprisonment; and

c. a note referring readers to any additional rules for calculating the applicable penalty

Recommendation 20 is a sound suggestion. General deterrence is more likely to be achieved when there is awareness of the illegal action, the perception of the seriousness of the offence, the risk of detection and the awareness of the severity of the consequences that arise from the breach.[1] By putting the penalties at the foot of each provision, the legislator emphasises deterrence as a goal by raising the awareness of industry and market participants of the serious consequences that may arise for contravening a provision. This strong emphasis on penalties may lower the rate of non-compliance with the law especially if there is a perception that enforcement action will be taken in instances of a contravention of the legislative provisions.

Recommendation 21- The definition of 'civil penalty' in the Corporations Act 2001 (Cth) and the Australian Securities and Investments Commission Act 2001 (Cth) should be amended to be based on s 79(2) of the Regulatory Powers (Standard Provisions) Act 2014 (Cth).

Recommendation 21 is sound for a number of reasons including:

- Adopting a provision based on s 79(2) of the *Regulatory Powers Standard Provisions) Act 2014* (Cth) may lead to more uniform practices across that legislation and both the *Corporations Act* and the *Australian Securities and Investments Commission Act 2001* (Cth) (*ASIC Act*);
- Currently, industry participants may find it challenging to discover which provisions are characterised as civil penalty and which one are not. They need to be aware of the relevant provision setting the civil penalty provisions in both the *Corporations Act* and the *ASIC Act*, a matter that is not intuitive in any way. This lack of awareness may negatively impact on goal of general deterrence.[2] Consequently, adopting a change that allows industry participants to readily detect which provisions may attract civil penalty provisions may lead to a greater understanding of the consequences attached to breaching a particular provision. This awareness may further aid with promoting general deterrence.

[1] Kelli D Tomlinson, 'An Examination of Deterrence Theory: Where Do We Stand?' (2016) 80(3) *Federal Probation* 33, 33-38; Anthony A Braga and David L Weisburd, 'The Effects of Focused Deterrence Strategies on Crime: A Systematic Review and Meta-Analysis of the Empirical Analysis' (2012) 49(3) *Journal of Research in Crime and Delinquency* 323; Daniel S Nagin, 'Deterrence: A Review of the Evidence by a Criminologist for Economists' (2013) 5 *Annual Review of Economics* 83, 84; Aaron Chalfin and Justin McCrary, 'Criminal Deterrence: A Review of the Literature' (2017) 55(1) *Journal of Economic Literature* 5, 6.

[2] Ibid.

Recommendation 22- Civil penalty provisions in the Corporations Act 2001 (Cth) and the Australian Securities and Investments Commission Act 2001 (Cth) should include the following at the foot of each provision: a. the words 'maximum civil penalty'; b. any applicable penalty, expressed as one or more amounts in penalty units; and c. a note referring readers to any additional rules for calculating the applicable penalty.

Recommendation 22 is sound as once again it will raise awareness of the seriousness of the conduct and the consequences that may result from a breach. This in turn may have a positive effect on general deterrence.

Recommendation 23- Offence provisions in corporations and financial services legislation should specify any applicable fault element, unless the provision creates an offence of strict or absolute liability.

This submission does not offer any feedback regarding this recommendation.

Proposals and Questions

This section of the submission considers the proposals put forward by Interim Report C.

Proposal C1- The Corporations Act 2001 (Cth) should be amended to restructure and reframe provisions of general application relating to consumer protection, including by grouping and (where relevant) consolidating: a. Part 2 Div 2 of the Australian Securities and Investments Commission Act 2001 (Cth); b. Part 7.6 Div 11 of the Corporations Act 2001 (Cth); c. sections 991A, 1041E, 1041F, and 1041H of the Corporations Act 2001 (Cth); d. Part 7.8A of the Corporations Act 2001 (Cth); and e. sections 1023P and 1023Q of the Corporations Act 2001 (Cth).

Amending the *Corporations Act* to consolidate and group similar provisions is an important step as it will lead to a simpler and more readily comprehensible piece of legislation. For instance, having one comprehensive provision for misleading or deceptive conduct rather than having competing provisions under the *Corporations Act* and the *ASIC Act* is a step toward the right direction as it will remove duplication and lessen legislative complexity. It may further highlight greater enforcement by the regulator of a particular breach. Accordingly, integrating Part 2 Division 2 of the *ASIC Act* into the *Corporations Act* is to be welcomed as it will remove duplication that currently exist between the two legislations.

Furthermore, grouping consumer protection provisions in a single chapter is a logical step as it will highlight the importance the legislator is putting on ensuring that consumers are protected when dealing with financial services. It will also send a message to industry and to industry participants that this is an important part of the Australian Securities and Investments Commission's (ASIC) mandate.

However, this move has its challenges. The key one relates to determining which provisions go in the chapter as several sections in Chapter 7 are focused on ensure consumer protection. Looking at these provisions, they can be classified into two categories:

- Consumer protection provisions that are preventive. These provisions are designed to protect consumers and prevent harm to them. For instance, provisions relating to disclosure regime

attached to financial products are consumer protection provisions that aim 'to ensure that consumers of financial products and services receive adequate information about those products and services.'[3] As such the disclosure provisions are designed to ensure consumers make an informed choice regarding the product or service they are receiving. Similarly, Design and Distribution Obligations provisions are 'designed to assist consumers to obtain appropriate financial products by requiring issuers and distributors to have a customer-centric approach to designing, marketing and distributing financial products.'[4]

- Consumer protection provisions that are reactive. These provisions are designed to rectify the harm caused to consumers as well as deter and sanction certain conduct. Provisions dealing with misleading or deceptive and unconscionable conduct, for example, may fall under this category.

Therefore, the question that needs to be asked is what type of protection do we need to include in the new proposed consumer protection Chapter. Is it reactive provisions or proactive provisions? Putting a mishmash of reactive and proactive provisions may lead to confusion by users of the legislation as it will remove the clarity of the purpose of the provisions. This submission would recommend having a Chapter focused on Consumer Protection Remedies and Penalties. This will allow the inclusion of all reactive provisions in the Chapter and would provide a one stop shop for consumers to determine the remedies they may have at their disposal. Furthermore, they will also see the remedies and penalties that the contravention may attract. It would further give them an understanding of what ASIC's options are in pursuing malefactors, raising transparency of the system.

Finally, including ss 1023P and 1023Q makes sense. However, separating these provisions from the other related provisions regarding product intervention orders does not result in an intuitive flow of information as it will divide related provisions in two. Furthermore, if we follow the macrostructure that appears in Table 6.1 (p.138 of the report), this will mean that ss 1023P and 1023Q will appear in Chapter 2, preceding the introduction of product intervention orders which may appear in the proposed Chapter 7 (Ministerial and ASIC powers). One may further reflect on what would go under ASIC powers? Would that not include actions relating to misleading or deceptive conduct for example? Comments on the proposed structure can be found under Proposal C 11.

Proposal C2- Section 991A of the Corporations Act 2001 (Cth) and s 12CA of the Australian Securities and Investments Commission Act 2001 (Cth) should be repealed, and s 12CB of the Australian Securities and Investments Commission Act 2001 (Cth) should be amended to expressly provide that it encompasses unconscionability within the meaning of the unwritten law

Consolidating unconscionable conduct provisions under one piece of legislation would be highly recommended. These provisions may fall under the proposed consumer protection remedies and penalties under the *Corporations Act*. Accordingly, s 12CB should appear under the *Corporations Act* and disappear from the *ASIC Act*.

However, repealing s 991A of the *Corporations Act* and s 12CA of the *ASIC Act* and noting that s 12CB of the *ASIC Act* encompass unconscionability within the meaning of the unwritten law (as suggested

[3] Financial Services Reform Bill 2001 (Cth), Explanatory Memorandum, [12.1].
[4] Treasury Laws Amendment (Design and Distribution Obligations and Product Intervention Powers) Bill 20019, Explanatory Memorandum, [1.5].

by Proposal C2) is problematic as the two are not equivalent and there are subtle differences between them. For instance, as noted in the FSL9, s 12CB of the *ASIC Act*:[5]

- 'prohibits 'unconscionable conduct' in the broadest sense of all of the provisions (not being limited to the meaning of that concept in equity);
- […] applies to the broadest class of persons and in the broadest set of circumstances; and
- […] provides access to the broadest range of statutory remedies. Most importantly, it enables regulator action to secure a civil penalty.'

Accordingly, s 12CB is designed to be broader in scope than the unconscionable conduct under the general law. Consequently, one may say that having a provision like s 12CB is enough and will not require a statement noting 'it encompasses unconscionability within the meaning of the unwritten law' as this may create confusion and may alter the way the provision may be interpreted. Amalgamating them may lead to unforeseen consequences with the interpretation of the provision such as narrowing the scope of s 12CB. Instead, a simple provision may solve the problem by noting that this provision (s 12CB) has effect in addition to, and not in derogation of, any rule of law relating to unconscionable conduct under the general law.

Proposal C3- Proscriptions concerning false or misleading representations and misleading or deceptive conduct in the Corporations Act 2001 (Cth) and the Australian Securities and Investments Commission Act 2001 (Cth) should be replaced by a consolidated single proscription.

Consolidating the misleading or deceptive conduct in the *Corporations Act* and the *ASIC Act* will lead to a more intuitive flow of the legislation' that reflects the needs of potential users'[6] and would promote succinctness. Furthermore, simplifying the provisions and streamlining them into one provision equivalent to s 12DA of the *ASIC Act* is desirable. Additionally making that provision a civil penalty provision would also help to ensure that the current legislative objectives are met.

Proposal C4- The Corporations Act 2001 (Cth) should be amended to restructure and reframe provisions relating to disclosure for financial products and financial services, including by grouping and (where relevant) consolidating:

a. Part 7.7 Divs 1, 2, 3A, 6, and 7;

b. section 949B; and

c. Part 7.9 Divs 1, 2, 3 (excluding ss 1017E, 1017F, and 1017G), 5A, 5B, and 5C.

In its current form, Chapter 7 is a complex piece of legislation. The disclosure regime associated with financial products and financial services is complicated due to the different disclosure regime present under the law. Understanding which disclosure regime applies can be a challenge to a lay person as noted in the report.[7] Consequently, reframing and consolidating the disclosure regime as noted is recommended.

[5] ALRC, Background Paper FSL9: Legislative Framework for Corporations and Financial Services Regulation' (December 2022), 71.
[6] As recommended by the Proposal C14 (2) in the Interim Report C.
[7] ALRC, Financial Services Legislation- Interim Report C (June 2023) 64.

Having a Chapter on disclosure will also highlight the important role disclosure plays in protecting consumers. Furthermore, having one regime for defective products which attracts both civil and criminal penalties will simplify the system and may lead to more rigorous enforcement. As the rules regarding this will be set up in a clearer manner, ASIC will have a one stop shop to take action against alleged offenders and there will be more certainty regarding how the regulator enforces the provision. As noted earlier, if this is associated with greater perception of enforcement by industry participants, it may lead to higher general deterrence within the industry. Accordingly, this submission endorses the consolidation of the disclosure regime.

Lastly, this submission would recommend that an independent body such the former Corporations and Markets Advisory Committee (CAMAC) is established to consider the best regime to consolidate the disclosure regime to ensure that no unintended consequences appear from the proposal. As Professor Baxt noted:[8]

> "The dissolution of the Corporations and Markets Advisory Committee (CAMAC) has of course deprived the government of a very important policy organisation that could have provided significant leadership in dealing with the preparation of discussion papers and proposals for reform."

The abolition of CAMAC was especially striking as CAMAC had made key contributions to our laws for over 25 years (from 1989 to 2018 the date of its abolition). It provided a source of independent advice to the responsible Minister on the administration of the corporations and financial services laws or changes to them.[9] CAMAC has helped better shape a number of our laws[10] while at the same time bringing the voices of the public to law reform in this area and adding a layer of transparency to the way legislative change occurs. It is time to revive CAMAC as it still has an important role to play in our legislative framework, especially in achieving proposals C12 and C13.[11]

Proposal C5- Disclosure regimes in Chapter 7 of the Corporations Act 2001 (Cth) that require disclosure documents to 'be worded and presented in a clear, concise and effective manner' should be amended to require that disclosure documents also be worded and presented 'in a way that promotes understanding of the information'.

Adding the words 'in a way that promotes understanding of the information' are unnecessary as this is currently implied from the requirement that the disclosure documents should be 'worded and presented in a clear, concise and effective manner.' In fact, as noted in the report,[12] one of ASIC's five

[8] Robert Baxt, "Editorial" (2015) 33 Company and Securities Law Journal 141 at 141.
[9] The Treasury, 'Corporations and Markets Advisory Committee' <https://treasury.gov.au/policy-topics/business-and-industry/CAMAC>.
[10] Senate Economics Legislation Committee, Report on the Australian Securities and Investments Commission Amendment (Corporations and Markets Advisory Committee Abolition) Bill 2014, March 2015, paras 2.17 and 2.48
[11] For a history of the debate regarding CAMAC, see Ian Ramsay, 'A History of the Corporations and Markets Advisory Committee and its Predecessors.' Pamela Hanrahan and Ashley Black (eds), *Contemporary Issues in Corporate and Competition Law: Essays in Honour of Professor Robert* Baxt (LexisNexis Butterworths, Australia, 2019) 56-72
[12] ALRC, Financial Services Legislation- Interim Report C (June 2023), 88.

good disclosure principles that it promotes is: 'disclosure should promote product understanding'.[13] The other good disclosure principles are equally oriented toward protecting consumers including:[14]

- disclosure should highlight important information;
- disclosure should promote product comparison;
- disclosure should have regard to consumers' need.

In view of ASIC's guidance on this, one may wonder whether the proposed addition will really improve disclosure. However, such clarification cannot be harmful. It is just stating the obvious.

When considering the international experience referred to in the report,[15] one may also need to assess whether those countries' disclosure rules are simpler than the one in Australia when considering the fact that, in those countries, the disclosure documents meet the required legislative standards of consumers' understanding of the information. To enhance the Australian regime, the proposed review of the reframing and consolidation of the disclosure regime may aid in understanding the disclosure document.

Proposal C6- The Corporations Act 2001 (Cth) should be amended to restructure and reframe provisions relating to financial advice, including by grouping and (where relevant) consolidating:

a. sections 912EA and 912EB;

b. Part 7.6 Divs 8A, 8B, and 8C;

c. Part 7.6 Div 9 Subdivs B and C;

d. Part 7.7 Div 3; e. section 949A;

f. Part 7.7A Divs 2, 3, 4 (excluding s 963K), Div 5 Subdiv B, and Div 6; and

g. sections 1012A and 1020AI.

Amending the current financial advice provisions is to be commended. As proposed, this can be achieved through a reframing and consolidation of the proposed provisions in Proposal C6.

Proposal C7- The Corporations Act 2001 (Cth) should be amended to restructure and reframe provisions of general application relating to financial services providers, including by grouping and (where relevant) consolidating:

a. Part 7.6 Divs 2, 3, and 10;

b. section 963K;

c. Part 7.7A Div 5 Subdiv A, and Div 6;

d. Part 7.8 Divs 2, 3, 4, 4A, 5, 6, and 9; and

[13] ASIC, Regulatory Guide 168 – Disclosure: Product Disclosure Statements (and Other Disclosure Documents) (July 2022), [RG 168.76-RG168.93].
[14] Ibid, Part C.
[15] ALRC, Financial Services Legislation- Interim Report C (June 2023) 90-91.

e. sections 991B, 991E, 991F, 992A, and 992AA.

This submission wholeheartedly supports this proposal as, through the consolidation of provisions, it will lead to a simplification and clarification of the obligations imposed on financial services providers.

Proposal C8- The Corporations Act 2001 (Cth) should be amended to restructure and reframe provisions of general application relating to administrative or procedural matters concerning financial services licensees, including by grouping and (where relevant) consolidating Part 7.6 Divs 5, 6, and 8.

This submission endorses this proposal as it will lead to a simplification and clarification of the regime.

Proposal C9- The Corporations Act 2001 (Cth) should include a Financial Services Law comprising restructured and reframed provisions relating to the regulation of financial products and financial services, including:

a. Part 7.1 Divs 1, 2, 3, 4, 5, and 7 of the Corporations Act 2001 (Cth);

b. Parts 7.6, 7.7, 7.7A, 7.8, 7.8A, 7.9, and 7.9A of the Corporations Act 2001 (Cth);

c. Part 7.10 of the Corporations Act 2001 (Cth), excluding provisions that relate more closely to the regulation of financial markets;

d. Part 7.10A of the Corporations Act 2001 (Cth);

e. Part 7.12 of the Corporations Act 2001 (Cth), excluding provisions that relate more closely to the regulation of financial markets;

f. Part 2 Div 2 of the Australian Securities and Investments Commission Act 2001 (Cth); and

g. a list of terms defined for the purposes of the Financial Services Law.

This submission endorses this proposal as it will lead to a simplification and clarification of the regime.

Proposal C10- The Financial Services Law should be enacted as Sch 1 to the Corporations Act 2001 (Cth).

The Financial Services Law should not be enacted as a Schedule in the *Corporations Act* for a range of reasons including the following:

- the message this may send: Financial services regulation plays a key part in ensuring Australia has a system that protects consumers of financial services products. This has led countries around the world to have standalone legislation regarding this area of the law to ensure it is regulated properly. Putting the financial services laws in a schedule provide a perception to the industry and market participants that such laws are secondary as they are hidden at the back of the *Corporations Act*.
- putting the financial services law in a schedule will not be the equivalent of dividing the *Corporations Act* 'into separate statutes' with the aim of promoting a 'more obvious and conceptually sound, characterisation of principles and issues.'[16]

[16] ALRC, Financial Services Legislation- Interim Report C (June 2023), 133.

- Keeping financial services laws in the *Corporations Act* under its own Chapter will not hinder the integration of Part 2 Div 2 of the ASIC Act in it. Furthermore, a restructure of Chapter 7 would help manage that legislative part.

The review is an opportunity to improve the flow of Chapter 7 and make the laws regarding financial services more comprehensive. Now is not the time to be reticent, conservative and bury the change in a schedule because of potential constitutional issues identified by the Interim Report. This is an opportunity to be bold and make fundamental changes to the law and this 'patch up' solution is not the optimal way of addressing issues in the regulation of Australia's financial services industry. Any constitutional issue that may arise should be faced directly (through a referral of power if needed for example) and dealt with to ensure our laws serve their purpose. It is time to be bold and suggest major changes that will enhance the regulation of financial services. Such a bold approach may take one of two forms:

- Having a new piece of financial services legislation and dealing with any constitutional issues that may arise. Financial services regulation is an important area of the law and demands great consideration and action;
- Restructuring the *Corporations Act* to make sure that the part relating to financial services is a well written piece of legislation that deals with all the past criticism directed toward Chapter 7.

In the end of the day, it is important to keep in mind that all Australians with superannuation are impacted by the financial services industry. That is why regulation is vital and deserving of greater prominence that being placed in a Schedule of the *Corporations Act.*

Proposal C11- Would restructuring and reframing existing financial services legislation in the manner outlined in the illustrative Financial Services Law Schedule included in this Interim Report help to do any or all of the following:

a. provide an effective framework for conveying how the law applies to consumers and regulated entities and sectors;

b. make the law clearer, and more coherent and effective;

c. give effect to the fundamental norms of behaviour being pursued by financial services regulation; and

d. ensure that the intent of the law is met?

Restructuring the legislation is needed but, as noted above, it should not be in a schedule. If done in a stand-alone legislation or in the *Corporations Act* as an independent Chapter, it would lead to the desired effect the ALRC is proposing.

In the end, having an intuitive flow of information that reflects the needs of potential users is desired but the current proposed structure by the report does not really achieve that at this stage. I would suggest the following division (either in standalone legislation or as a chapter of the *Corporations Act)* instead:

- Chapter 1 Introduction- This will include introduction, purpose of this Part and definition section introducing concepts such as financial services, financial production, financial services

licensee, retail clients, product disclosure statements and so on. It is best to have the definitions set earlier (than in the currently proposed Chapter 8) as those terms are complex and will be used through all the remaining parts of the financial services law. Spelling them out in the beginning makes comprehension of the remainder of the Chapter easier.

- Chapter 2- Financial services licence and representatives- This will include the requirement that persons and entities dealing with financial services products and are licenced.
- Chapter 3- licensee obligations- all the obligations can be consolidated here. This can also include the disclosure obligations that licensees have to comply with, financial advice obligations and so on. All these provisions fall under licensee obligations as they have to comply with them when providing their services and issuing or selling their financial products.
- Chapter 4- Consumer protections remedies and penalties- This would be better placed here rather than earlier in the legislation as the obligations of licensees including any rules attached to disclosure have already been set out and this section will focus on consequences of any or breach of obligations.
- Chapter 5- Ministerial and other ASIC powers. This will include any other matters that may not have been dealt with earlier in the legislation. Most of ASIC's power if not all should have already been dealt with in Chapter 4 of the *Corporations Act*. Accordingly, this part may be a short provision.

Proposal C12- The Australian Government should establish a specifically resourced taskforce (or taskforces) dedicated to implementing reforms to financial services legislation.

This is an important proposal that will ensure that the great work and momentum built by the ALRC regarding possible reform of Chapter 7 continues. The best way to deal with this is the revival of CAMAC as this as a body was well respected and had the expertise to conduct informed reform in this area (see discussion on CAMAC in Proposal C4.

Proposal C13- As part of implementing Proposals C9 and C10, the Corporations Act 2001 (Cth) should be amended to require that the Financial Services Law and delegated legislation made under it be periodically reviewed by an independent reviewer.

This is a good proposal to ensure that the Financial services laws remains fit for purpose. Such a proposal should extend to the whole *Corporations Act*. Once again CAMAC would be the most appropriate body to achieve this.

Proposal C14- The following working principles should be applied when structuring and framing corporations and financial services legislation:

a. Provisions should be designed in a way that minimises duplication and overlap (Consolidation).

b. Related provisions should be proximate to one another (Grouping).

c. Provisions should have thematic and conceptual coherence (Coherence).

d. The most significant provisions should precede less important provisions or more technical detail (Prioritisation).

e. Legislation should be structured to ensure an intuitive flow that reflects the needs of potential users (Intuitive flow).

f. The structure and framing of legislation should help users develop and maintain mental models that enhance navigability and comprehensibility (Mental models).

g. Legislation should be as succinct as possible (Succinctness).

The proposed principles are sound and would promote an improved laws for financial services which are currently extremely complex and their understanding requires mental gymnastics.

Proposal C15- Infringement notice provisions in corporations and financial services legislation should be identifiable on the face of the provision.

While an assessment should be conducted to assess whether the use of infringement notice provisions in the financial services law serves any particular purpose, identifying that a provision attracts an infringement notice adds to the transparency of the law and is to be recommended.

Conclusion

This review of the financial services regime is welcomed. The principles behind the recommendations and proposals are sound and they promote the clarification, consolidation and simplification of the financial services law regime. A mammoth task remains to be completed to ensure that the provisions in the legislation achieve the objectives promoted by the Interim Report C. This can be achieved through the revival of CAMAC. However, Chapter 7 should not be moved into a Schedule but it's significance should recognised either by inclusion as a prominent part in the *Corporations Act* or a separate statute.

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25/07/2023