



## Delegated Legislation Monitor Tabling Statement

Wednesday 30 November 2022

I rise to speak to the tabling of the Senate Standing Committee for the Scrutiny of Delegated Legislation's *Delegated Legislation Monitor 9 of 2022*.

This monitor reports on the committee's consideration of 50 legislative instruments registered between 8 and 21 October 2022. It also details the committee's ongoing consideration of instruments registered in previous periods, and the instruments of which it has decided to conclude its examination.

I would first like to highlight the committee's scrutiny of the Financial Sector Reform (Hayne Royal Commission Response) (Hawking of Financial Products) Regulations 2021. This instrument amends the Corporations Regulations to create exemptions to the prohibition on hawking financial products set out in the Corporations Act.

The committee engaged extensively with the former Treasurer regarding its concerns about parliamentary oversight in this instrument. The committee raised concerns that this instrument, made by the executive, creates exemptions to the primary law on an ongoing basis, as it is also exempt from the sunseting regime.

It is the committee's view that modifications to or exemptions from primary law should be set out in the primary law itself. When these measures are in delegated legislation, the committee expects they will be time limited to ensure frequent

parliamentary oversight. This would also provide the executive with the ability to assess whether the measures remain appropriate and necessary.

The committee raised its concerns about parliamentary oversight with the former Treasurer on four occasions, without resolution. The committee continued to raise the matter with the new Assistant Treasurer.

I am pleased to report that yesterday, the committee received an undertaking from the Assistant Treasurer that the instrument will be amended so that it ceases to operate within three years. This will facilitate greater parliamentary oversight of these measures.

I thank the Assistant Treasurer and officials from the department for their constructive engagement with the committee. The committee has now concluded its consideration of this long-standing matter.

The second matter I would like to draw the Chamber's attention to is the Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2021 (No. 2). This instrument also contains measures which insert an ongoing exemption from primary legislation.

The committee first raised its concerns with the former Minister for Home Affairs on two occasions, but unfortunately the issue was not resolved.

The committee raised the matter with the Attorney-General, requesting that the measures either be moved into the primary legislation, or at a minimum, be time-limited to five-years, to facilitate greater parliamentary scrutiny.

I am pleased to advise that on 18 November, the Attorney-General undertook to amend the instrument so that the exemptions it inserts cease within five years of commencement. He also indicated that the exemptions may be revisited to determine if they are still necessary. On this basis, the committee was able to conclude its consideration of this instrument, and I thank the Attorney-General for his continued engagement with the committee.

The committee will continue to carefully scrutinise delegated legislation which contains ongoing measures that modify or create exemptions to primary legislation, noting that parliamentary oversight is a key consideration for the committee under the standing orders.

With these comments, I commend the committee's *Delegated Legislation Monitor 9 of 2022* to the Senate.