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Corporations (National Guarantee Fund Levies)
Amendment Bill 2001

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I N F O R M A T I O N A N D R E S E A R C H S E R V I C E S

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No. 27 2001-02

Corporations (National Guarantee Fund Levies)
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Law and Bills Digest Group
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Contents

Purpose	1
Background	1
What is the National Guarantee Fund?	1
The Financial Services Reform Bill 2001	2
Main Provisions	2

Corporations (National Guarantee Fund Levies) Amendment Bill 2001

Date Introduced: 7 June 2001

House: House of Representatives

Portfolio: Treasury

Commencement: On the commencement of item 1 of Schedule 1 of the proposed Financial Services Reform Act 2001. Subject to certain exceptions, the Financial Services Reform Bill will commence on a day to be fixed by Proclamation on or after the commencement of the *Corporations Act 2001*. The Government has stated its intention that the Financial Services Reform Bill 2001 will commence on 1 October 2001.

Purpose

The amendments proposed by the Bill are consequential on amendments proposed by the Financial Services Reform Bill 2001. The major amendments amend cross-references to relevant National Guarantee Fund provisions in the *Corporations Act 2001*, and insert a new section 5 providing for the amount of the levy. The later amendment takes account of changes in the levy provisions included in the Financial Services Reform Bill 2001.

Background

The principal Background to the issues giving rise to this Bill can be found in the Bills Digest for the Financial Services Reform Bill 2001.

What is the National Guarantee Fund?

The *Corporations (National Guarantee Fund Levies) Act 2001* provides for the imposition of levies for the National Guarantee Fund.

The National Guarantee Fund (NGF) is a compensation fund that is available to meet claims arising from dealings with stockbrokers including where: a stockbroker transfers securities without authority; or where the stockbroker becomes insolvent and fails to meet its obligations to a person who had previously entrusted property to it. The Fund is

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administered by the Securities Exchange Guarantee Corporation (SEGC). The NGF may be funded by levies on securities transactions, the ASX and ASX members.

Section 4 of the *Corporations (National Guarantee Fund Levies) Act 2001* imposes levies in relation to transactions involving securities by a person or partnership; participating securities exchanges; and members of an exchange.

The Financial Services Reform Bill 2001

The Financial Services Reform Bill 2001 will repeal Chapter 7 of the Corporations Act 2001, which includes provisions governing the NGF (Part 7.1), and replace Part 7.10 with Division 4 of Part 7.5.

Consequently, the amendments proposed by this Bill amend cross-references to relevant NGF provisions in the *Corporations Act 2001*, as amended by the Financial Services Reform Bill 2001, and insert a new section 5 providing for the amount of the levy. The later amendment takes account of changes in the levy provisions included in the Financial Services Reform Bill 2001.

Readers may note that the amendments proposed by this Bill are contained in a Bill separate to the Financial Services Reform Bill 2001. The need for this is the requirements of section 55 of the Constitution.

Section 55 of the Constitution provides in part that:

Laws imposing taxation shall deal only with the imposition of taxation, and any provision therein dealing with any other matter shall be of no effect.

Main Provisions

Items 1-3 of Schedule 1 of the Bill amend cross-references to relevant NGF provisions in the *Corporations Act 2001*, as amended by the Financial Services Reform Bill 2001.

Item 4 of Schedule 1 of the Bill substitutes a **new section 5** in the *Corporations (National Guarantee Fund Levies) Act 2001*. The text of the existing section 5 is:

- (1) The levy imposed by paragraph 4(a) is payable at such rate or rates as are determined by SEGC in writing. SEGC may determine different rates of levy in respect of:
 - (a) transactions in different kinds of securities; or
 - (b) transactions by dealers included in different classes of dealers.
- (2) The amount of levy imposed by paragraph 4(b) is such amount as is determined in writing by SEGC in relation to the participating exchange concerned.

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- (3) The levy imposed by paragraph 4(c) is payable at such rate or rates as are determined in writing by the participating exchange concerned. The participating exchange may determine different rates of levy in respect of different classes of members, or different classes of member organisations, of the participating exchange.

Proposed section 5 is a reflection of changes in terminology and the levy provisions included in the Financial Services Reform Bill 2001. The reader is referred in particular to proposed subsections 889J(1) and 889K(1) of the *Corporations Act 2001*, as amended by the Financial Services Reform Bill 2001.

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