

*Department of the
Parliamentary Library*



INFORMATION AND RESEARCH SERVICES

Bills Digest

No. 29 2001–02

Corporations (Fees) Amendment Bill 2001

ISSN 1328-8091

© Copyright Commonwealth of Australia 2001

Except to the extent of the uses permitted under the *Copyright Act 1968*, no part of this publication may be reproduced or transmitted in any form or by any means including information storage and retrieval systems, without the prior written consent of the Department of the Parliamentary Library, other than by Senators and Members of the Australian Parliament in the course of their official duties.

This paper has been prepared for general distribution to Senators and Members of the Australian Parliament. While great care is taken to ensure that the paper is accurate and balanced, the paper is written using information publicly available at the time of production. The views expressed are those of the author and should not be attributed to the Information and Research Services (IRS). Advice on legislation or legal policy issues contained in this paper is provided for use in parliamentary debate and for related parliamentary purposes. This paper is not professional legal opinion. Readers are reminded that the paper is not an official parliamentary or Australian government document. IRS staff are available to discuss the paper's contents with Senators and Members and their staff but not with members of the public.

Inquiries

Members, Senators and Parliamentary staff can obtain further information from the Information and Research Services on (02) 6277 2646.

Information and Research Services publications are available on the ParlInfo database. On the Internet the Department of the Parliamentary Library can be found at:
<http://www.aph.gov.au/library/>

Published by the Department of the Parliamentary Library, 2001

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

Bills Digest
No. 29 2001-02

Corporations (Fees) Amendment Bill 2001

Ian Ireland
Law and Bills Digest Group
21 August 2001

Contents

Purpose	1
Background	1
The Financial Services Reform Bill 2001	1
Main Provisions	3

Corporations (Fees) Amendment Bill 2001

Date Introduced: 7 June 2001

House: House of Representatives

Portfolio: Treasury

Commencement: On the commencement of item 1 of Schedule 1 to the Financial Services Reform Bill 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 states its intention that the Financial Services Reform Bill 2001 will commence on 1 October 2001.

Purpose

To provide for the imposition of charges on market licensee holders relating to the Australian Securities and Investments Commission's:

- role in the supervision of self-listing of markets, and
- function in the rules and procedures that are to apply in the case of conflicts, or potential conflicts, between commercial interests of licensee's and the need for a licensee to ensure a market operates in a fair, orderly and transparent way.

Background

This Digest should be read in conjunction with the Digest for the Financial Services Reform Bill 2001.

The Financial Services Reform Bill 2001

The Financial Services Reform Bill 2001 requires that a person who operates a financial market must hold an Australian Financial Services Licence. Under the proposed licensing regime, licensees will have the primary responsibility for the operation of markets and facilities. Proposed section 798C of the Financial Services Reform Bill 2001, deals with self-listing of markets (eg. the ASX is listed on the ASX and shares in the ASX are

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

tradeable on the exchange). The proposed section requires that a market licensee may be included in a relevant market's official list. Where this occurs, the financial products of the licensee may be traded on the market, if the licensee has entered into such arrangements as the Australian Securities and Investments Commission (ASIC) requires for:

- dealing with possible conflicts of interest that might arise from the products being able to be traded on the market; and
- the purposes of ensuring the integrity of trading in the licensee's financial products (proposed subsection 798C(2) of the Financial Services Reform Bill 2001).

Proposed subsection 798C(4) of the Financial Services Bill 2001, provides that before, and at all times while, the licensee is included in the market's official list, the market's listing rules must provide for ASIC to make decisions and to take action in relation to those matters and matters relating to those matters, including:

- the admission of the licensee to the market's official list;
- the removal of the licensee from that list; and
- allowing, stopping or suspending the trading on the market of the licensee's financial products.

Proposed section 798E of the Financial Services Reform Bill 2001, provides for the making of regulations in relation to the rules and procedures that are to apply in the case of conflicts, or potential conflicts, between the commercial interests of the licensee and the need for the licensee to ensure that the market operates in a way that promotes the objectives of fairness, orderliness and transparency. In particular, the regulations may deal with:

- identifying when a conflict, or potential conflict, is taken to arise;
- empowering ASIC, instead of a licensee, to make decisions and to take action under the relevant market's operating rules in relation to a conflict or potential conflict (proposed paragraph 798E(2)(b) of the Financial Services Reform Bill 2001); and
- empowering ASIC to require a licensee to take action under the relevant market's operating rules in relation to a conflict or potential conflict.

The provisions contained in this Bill amend the *Corporations (Fees) Act 2001* to provide for fees which the ASIC may charge in relation to:

- the functions conferred on ASIC by the listing rules under proposed subsections 798C(2) and 798C(4) of the Financial Services Reform Bill 2001; and
- the performance by ASIC of functions provide for in regulations under proposed paragraph 798E(2)(b) of the Financial Services Reform Bill 2001.

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

Main Provisions

Item 1 of Schedule 1 amends the definition of chargeable matter in subsection 4(1) of the *Corporations (Fees) Act 2001*, adding two new matters to the list of matters for which ASIC may levy a charge, namely:

- the functions conferred on ASIC by the listing rules under proposed subsections 798C(2) and 798C(4) of the Financial Services Reform Bill 2001; and
- the performance by ASIC of functions provided for in regulations under proposed paragraph 798E(2)(b) of the Financial Services Reform Bill 2001.

Item 3 of Schedule 1 amends section 6 of the *Corporations (Fees) Act 2001* to provide that the fee, or total of the fees, charged with respect to the above matters must not exceed \$100 000 in respect of each 12 month period for each licensee. The person liable to pay the charge under the proposed amendments will be the affected market licensee (**item 4** of Schedule 1).

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.