



ALRC recommends confronting complexity in corporations and financial services legislation

The Australian Law Reform Commission Final Report, *Confronting Complexity: Reforming Corporations and Financial Services Legislation* (Report 141, 2023), was tabled in Parliament today by the Attorney-General, the Hon Mark Dreyfus KC MP.

The report found that the legislation governing Australia’s financial services industry is a tangled mess — difficult to navigate, costly to comply with, and unnecessarily difficult to enforce.

Judges have described the current laws as being like ‘porridge’, ‘tortuous’, ‘treacherous’, and ‘labyrinthine’. Others have described the legislation as ‘[broken](#)’. Complexity in the existing legislation is not an isolated problem — it costs businesses, consumers, investors, and the economy at large. The ALRC has made 58 recommendations to simplify the law, including a revamped legislative framework for the financial services sector. These reforms aim to reduce costs for service providers and consumers, improve productivity by reducing complexity, and provide clarity around compliance requirements and enforcement. Thirteen recommendations made during the Inquiry have already been implemented, in full or in part, by legislation passed during 2023.

Recommendations in the Final Report include:

- Redesigning financial services legislation to give it a clear home and identity as the ‘Financial Services Law,’ making it easier and less costly to find, navigate, and understand.
- Ending the use of almost invisible notional amendments that make the law deeply inaccessible, and instead using thematic, consolidated rulebooks to provide flexibility for regulating particular products, persons, services, or circumstances.
- Making it easier to tell when something is a ‘financial product’ or ‘financial service’ by introducing a single, simplified definition of both terms.
- Making offence and penalty provisions less complex and more obvious by consolidating them into a smaller number of provisions that cover the same conduct, making them easier to identify, and making the consequences of breach clear on the face of the law.

The report follows on from the findings of the Royal Commission into Misconduct in the Banking, Superannuation, and Financial Services Industry in 2019 that exposed the deficiencies of the current legal infrastructure.



Complexity costs consumers not only in the expenses that are passed on by financial services providers, but by failing to protect them from misconduct. The Royal Commission clearly demonstrated the economic and human costs of non-compliance with the law. The ALRC's reforms would strengthen consumer protection substantially and reduce costs for business by making the law simpler to comply with and easier to enforce.

QUOTES — Justice Mordy Bromberg, President of the ALRC

‘Australia’s laws governing financial services are a confusing maze and need to be overhauled. The reforms outlined in this report will make these laws easier to understand and navigate, drive down the costs associated with complying with the law, and make it easier for consumers to understand and enforce their rights.’

‘These laws provide the legal and economic infrastructure of the financial services industry. The reforms we’re proposing are broadly supported by stakeholders and if implemented will see substantial improvements for both consumers and business.’

ENDS

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About the Australian Law Reform Commission

The Australian Law Reform Commission (ALRC) is an independent Australian Government agency that provides recommendations for law reform to Government on issues referred to it by the Attorney-General of Australia.

Further information on the work of the ALRC: <https://www.alrc.gov.au/>

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