

INDUSTRY NEWS

Product Design and Distribution Obligations Bill update

On 20 September 2018, the Treasury Laws Amendment (Design and Distribution Obligations and Product Intervention Powers) Bill 2018 was referred by the Senate to the Economics Legislation Committee for inquiry. On 9 November 2018, the Committee released its report recommending the Bill be passed, with no changes suggested.

The Bill amends the Corporations Act by inserting a new Part 7.8A, which imposes design and distribution obligations on the providers of financial products. The products covered by the regime are those for which a product disclosure statement (PDS) is required under the Corporations Act, although there are some exceptions.

The Committee noted that the reforms represented a shift away from the traditional reliance on disclosure as the chief protection for consumers, towards a more 'product safety' approach whereby issuers and distributors of products were required to take responsibility for marketing appropriate products. However, overall the Committee felt the draft Bill struck an appropriate balance between consumer protection and consumer benefit.

The Committee did appreciate that industry had limited information as to the requirements of target market determinations, but observed that ASIC could not publish guidance before the legislation was in place. It further considered that the implementation period of 2 years was adequate to enable guidance to be produced and given effect to by industry, noting the long time that had elapsed since the government first indicated that it would legislate along these lines.

On 23 October 2018, draft regulations were also released to support the Bill. These further defined the products and persons to which the regime would and would not apply.