



Corporations Amendment Regulations 2003 (No. 9)¹

Statutory Rules 2003 No. 367²

I, PHILIP MICHAEL JEFFERY, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Corporations Act 2001*.

Dated 18 December 2003

P. M. JEFFERY
Governor-General

By His Excellency's Command

ROSS CAMERON
Parliamentary Secretary to the Treasurer

1 Name of Regulations

These Regulations are the *Corporations Amendment Regulations 2003 (No. 9)*.

2 Commencement

These Regulations commence on gazettal.

3 Amendment of *Corporations Regulations 2001*

Schedule 1 amends the *Corporations Regulations 2001*.

Schedule 1 Amendment

(regulation 3)

[1] After regulation 9.12.02

insert

9.12.03 Partial exemption of foreign-based market licensees from certain notification obligations

- (1) This regulation sets out the extent to which, for section 1368 of the Act, specified provisions of the Act have effect in relation to a market licensee whose licence was granted under subsection 795B (2) of the Act.
- (2) Paragraph 792B (2) (b) of the Act has effect only to the extent that:
 - (a) the participant in the market against whom disciplinary action is taken is in this jurisdiction; or
 - (b) the activity giving rise to the disciplinary action may significantly affect:
 - (i) another participant in the market who is in this jurisdiction; or

- (ii) a client, of a participant in the market, whom the market licensee believes to be in this jurisdiction.
- (3) Paragraph 792B (2) (c) of the Act has effect only to the extent that:
 - (a) the person suspected of the contravention or impending contravention of the market's operating rules or the Act is a participant in the market who is in this jurisdiction; or
 - (b) the contravention or impending contravention may significantly affect:
 - (i) a participant in the market who is in this jurisdiction; or
 - (ii) a client, of a participant in the market, whom the market licensee believes to be in this jurisdiction.
- (4) In spite of subregulation (3), paragraph 792B (2) (c) of the Act has effect only to the extent of requiring inclusion in the notice to ASIC of information that, under the regulatory regime applying to financial markets in the foreign country in which the market licensee's principal place of business is located, it is permissible for the market licensee to include in the notice.
- (5) Subregulation (4) is subject to the conditions that:
 - (a) the market licensee gives notice of the contravention or impending contravention to a body responsible for the regulation of financial markets in the foreign country in which the market licensee's principal place of business is located as soon as practicable after suspecting the commission of the contravention, or the likelihood of the impending contravention; and
 - (b) the notice to that body includes the information mentioned in subparagraphs 792B (2) (c) (i), (ii) and (iii) of the Act; and
 - (c) the market licensee informs ASIC of the following:
 - (i) the giving of the notice mentioned in paragraph (a);
 - (ii) the name and address of the regulatory body to whom it was given;
 - (iii) when the notice was given; and

- (d) arrangements exist for that body to give notice to ASIC about the contravention or impending contravention that includes the information that it is not permissible for the market licensee to include in the notice it gives to ASIC under subregulation (4).

Notes

- 1. These Regulations amend Statutory Rules 2001 No. 193, as amended by 2001 Nos. 208, 318 and 319 (rr 7.9.10 and 7.9.11 were disallowed by the Senate on 16 September 2002); 2002 Nos. 15, 16 (rr 7.9.10, 7.9.11 (1), 7.9.11 (1) (a), 7.9.11 (1) (b) and 7.9.11 (2) were disallowed by the Senate on 16 September 2002), 41, 53, 126, 145, 182, 265 and 282; 2003 Nos. 31, 48, 85, 126, 127, 194, 202 and 282.
- 2. Notified in the *Commonwealth of Australia Gazette* on 23 December 2003.