



Corporations Amendment Regulations 2008 (No. 3)

Select Legislative Instrument 2008 No. 130

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 24 June 2008

P. M. JEFFERY
Governor-General

By His Excellency's Command

CHRIS BOWEN
Assistant Treasurer

1 Name of Regulations

These Regulations are the *Corporations Amendment Regulations 2008 (No. 3)*.

2 Commencement

These Regulations commence on 1 July 2008.

3 Amendment of *Corporations Regulations 2001*

Schedule 1 amends the *Corporations Regulations 2001*.

Schedule 1 Amendments

(regulation 3)

[1] After regulation 7.7.20

insert

7.7.20A Extension of disclosure requirements to wholesale clients dealing with certain unauthorised insurers

- (1) For paragraph 949B (1) (e) of the Act, a person must give a wholesale client the information set out in subregulation (3) for a financial service provided by that person to the wholesale client if:
 - (a) the service relates to an insurance contract specified in regulation 4C or 4D of the *Insurance Regulations 2002* that may be offered or issued by an unauthorised foreign insurer (within the meaning of those Regulations) (the *insurer*); and
 - (b) either:
 - (i) the person would be required to give a Statement of Advice if the service were provided to a retail client; or

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- (ii) the contract is offered or issued to the wholesale client.

Note Failure to comply with this subregulation is an offence punishable by a fine of up to 50 penalty units or imprisonment for 1 year, or both — see section 1311 and item 272A of Schedule 3 to the *Corporations Act 2001*.

- (2) For paragraph 949B (1) (e) of the Act, a person must give a wholesale client the information set out in subregulation (3) for a financial service provided by that person to the wholesale client if:
 - (a) the service relates to the wholesale client dealing with an entity (the *insurer*) specified in regulation 12 of the *Insurance Regulations 2002*; and
 - (b) either:
 - (i) the person would be required to give a Statement of Advice if the service were provided to a retail client; or
 - (ii) the insurer offers or issues a financial product to the wholesale client.

Note Failure to comply with this subregulation is an offence punishable by a fine of up to 50 penalty units or imprisonment for 1 year, or both — see section 1311 and item 272A of Schedule 3 to the *Corporations Act 2001*.

- (3) The information is:
 - (a) a statement that the insurer is not authorised under the *Insurance Act 1973* to conduct insurance business in Australia; and
 - (b) a statement that the insurer is not subject to the provisions of the *Insurance Act 1973*, which establishes a system of financial supervision of general insurers in Australia; and
 - (c) a statement that the wholesale client should consider whether to obtain further information, including:
 - (i) the country in which the insurer is incorporated, and whether the country has a system of financial supervision of insurers; and
 - (ii) the paid up capital of the insurer; and
 - (iii) which country's laws will determine disputes in relation to the financial product.

[2] Part 7.9, after Division 2B

insert

**Division 2BA Product Disclosure Statement for
discretionary mutual funds**

**7.9.07CA Extension of Product Disclosure Statement
requirements to wholesale clients**

- (1) For paragraph 949B (1) (e) of the Act, a regulated person must give a wholesale client a Product Disclosure Statement or a Supplementary Product Disclosure Statement for a financial product if:
 - (a) the financial product is offered or issued by a discretionary mutual fund (within the meaning given by subsections 5 (5) and (6) of the *Financial Sector (Collection of Data) Act 2001*); and
 - (b) the regulated person would be required to give the Statement if the product were offered or issued to a retail client.
- (2) The Product Disclosure Statement or Supplementary Product Disclosure Statement required to be given under this regulation must be the same as that which would be given to a retail client.

Note Failure to comply with this regulation is an offence punishable by a fine of up to 50 penalty units or imprisonment for 1 year, or both — see section 1311 and item 272A of Schedule 3 to the *Corporations Act 2001*.