



# Corporations Amendment Regulation 2013 (No. 1)

## Select Legislative Instrument No. 59, 2013

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I, Professor Marie Bashir AC CVO, Administrator of the Government of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulation under the *Corporations Act 2001*.

Dated 24 April 2013

Marie Bashir  
Administrator

By Her Excellency's Command

William Richard Shorten  
Minister for Financial Services and Superannuation

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## **1 Name of regulation**

This regulation is the *Corporations Amendment Regulation 2013 (No. 1)*.

## **2 Commencement**

This regulation commences on the day after it is registered.

## **3 Authority**

This regulation is made under the *Corporations Act 2001*.

## **4 Schedule(s)**

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

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## Schedule 1—Amendments

### *Corporations Regulations 2001*

#### **1 At the end of Part 7.1**

Add:

### **Division 6—Operating a financial market**

#### **7.1.50 Operating a financial market**

For paragraph 767A(2)(a) of the Act, the following circumstances are specified as circumstances in which the conduct of a person making or accepting offers or invitations to acquire or dispose of financial products, on the person's own behalf or on behalf of one party to the transaction only, constitutes the operating of a financial market for the purposes of Chapter 7 of the Act:

- (a) the Clean Energy Regulator making or accepting offers or invitations to acquire or dispose of carbon units on its own behalf, or on behalf of the Commonwealth only, in the course of conducting an auction of carbon units under the *Clean Energy Act 2011*;
- (b) a person making or accepting offers or invitations to acquire or dispose of carbon units on behalf of the Clean Energy Regulator only, in the course of assisting the Clean Energy Regulator to conduct an auction of carbon units under the *Clean Energy Act 2011*.

#### **2 After paragraph 7.6.01(1)(ma)**

Insert:

- (mb) a financial service that a person is engaged by the Clean Energy Regulator to provide to the Clean Energy Regulator, or on behalf of the Clean Energy Regulator, that relates to the conduct of an auction of carbon units under the *Clean Energy Act 2011*, other than a financial service that arises in the course of the following activities:
  - (i) the management of any deposit lodged to participate in an auction under the *Clean Energy Act 2011*;

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- (ii) direct participation in an auction under the *Clean Energy Act 2011*, whether on the person's own behalf or on behalf of a person other than the Clean Energy Regulator;

### **3 Regulation 7.6.02AG (modified subsection 911A(2E) of the Corporations Act 2001)**

Omit "units.", substitute "units."

### **4 At the end of regulation 7.6.02AG**

Add:

- (2F) Also, a person is exempt from the requirement to hold an Australian financial services licence for a financial service that the person provides by bidding at an auction conducted in accordance with a legislative instrument made for subsection 113(1) of the *Clean Energy Act 2011*, if the bidding is:
  - (a) on the person's own behalf; or
  - (b) for a related body corporate of the person; or
  - (c) for an associated entity of the person."

### **5 Regulation 7.6.02AH**

Omit "or (2E)", substitute ", (2E) or (2F)".

### **6 At the end of Part 9.12**

Add:

#### **9.12.04 Exemption from provisions of Chapter 7—carbon unit auctions**

- (1) For paragraph 1368(a) of the Act, section 791A of the Act does not have effect in relation to a person if:
  - (a) the person is engaged, by the Clean Energy Regulator, to assist in the conduct of the auction of carbon units under the *Clean Energy Act 2011*; and
  - (b) in conducting or assisting in the conduct of the auction, the person engages in conduct that constitutes operating a financial market.

**Schedule 1** Amendments

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- (2) For paragraph 1368(a) of the Act, section 820A of the Act does not have effect in relation to a person if:
- (a) the person is engaged, by the Clean Energy Regulator, to assist in the conduct of the auction of carbon units; and
  - (b) in conducting or assisting in the conduct of the auction, the person engages in conduct that constitutes operating a clearing and settlement facility.