



Corporations Amendment (Revising Future of Financial Advice) Regulation 2014

Select Legislative Instrument No. 208, 2014

I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd),
Governor-General of the Commonwealth of Australia, acting with the
advice of the Federal Executive Council, make the following regulation.

Dated 11 December 2014

Peter Cosgrove
Governor-General

By His Excellency's Command

Mathias Cormann
Minister for Finance
for the Treasurer

OPC60946 - A

1 Name

This is the *Corporations Amendment (Revising Future of Financial Advice) Regulation 2014*.

2 Commencement

This instrument commences on the day after it is registered.

3 Authority

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

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Corporations Regulations 2001

1 Regulation 7.6.02AF (after table item 2)

Insert:

2A section 1368

Part 7.7A

2 Regulation 7.7A.12B

Repeal the regulation, substitute:

7.7A.12B Stamping fees

- (1) A monetary benefit is not conflicted remuneration if it is a stamping fee given to facilitate an approved capital raising.
- (2) In this regulation:

approved capital raising means:

- (a) an offer to issue an approved financial product; or
- (b) an offer to sell an approved financial product;

where the purpose of the offer is to raise funds for the person issuing or selling the approved financial product.

approved financial product means:

- (a) debentures, stocks or bonds that are, or are proposed to be, issued by a government; or
- (b) shares in, or debentures of, a body that are, or are proposed to be, quoted on a prescribed financial market; or
- (c) interests in a managed investment scheme that are, or are proposed to be, quoted on a prescribed financial market; or
- (d) a right to acquire, by way of issue, shares, debentures or interests mentioned in paragraph (b) or (c).

stamping fee means a fee, or a part of a fee:

- (a) that a person, including an issuer of a financial product, or a person acting on behalf of the issuer, pays either directly or indirectly to a provider in connection with:

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- (i) an offer by the issuer to issue the financial product; or
 - (ii) an invitation by the issuer for an application to issue the financial product; or
 - (b) that a person, including a holder of a financial product, or person acting on behalf of the holder, pays either directly or indirectly to a provider in connection with:
 - (i) an offer by the holder to sell the financial product; or
 - (ii) an invitation by the holder for an application to sell the financial product.

3 Paragraph 7.7A.12D(1)(a)

After “financial market”, insert “or the market known as the ASX24”.

4 Subregulation 7.7A.12D(1) (note)

Repeal the note, substitute:

Note 1: For *prescribed financial market*, see regulation 1.0.02A.

Note 2: The ASX24 is the financial market operated by Australian Securities Exchange Limited that was formerly known as the Sydney Futures Exchange.

5 Subregulation 7.7A.12D(2) (after paragraph (a) of the definition of *brokerage fee*)

Insert:

(aa) the market known as the ASX24; or

6 Subregulation 7.7A.12D(2) (note at the end of the definition of *brokerage fee*)

Repeal the note, substitute:

Note 1: Regulations 7.7A.17 and 7.7A.18 relate to exemptions in relation to the charging of asset-based fees on borrowed amounts.

Note 2: The ASX24 is the financial market operated by Australian Securities Exchange Limited that was formerly known as the Sydney Futures Exchange.

7 Subregulation 7.7A.12D(2) (definition of *trading participant*)

After “financial market”, insert “or the market known as the ASX24”.

8 Subregulation 7.7A.12D(2) (at the end of the definition of trading participant)

Add:

Note: The ASX24 is the financial market operated by Australian Securities Exchange Limited that was formerly known as the Sydney Futures Exchange.

9 After regulation 7.7A.15

Insert:

7.7A.15A Non-monetary benefit given in certain circumstances not conflicted remuneration—education and training in conducting a financial services business

- (1) This regulation:
- (a) is made for paragraph 963C(f) of the Act; and
 - (b) prescribes the circumstances in which a non-monetary benefit given to a financial services licensee, or representative of a financial services licensee, who provides financial product advice to persons as retail clients is not conflicted remuneration.

Note: For *financial product advice*, see subsection 766B(1) of the Act.

- (2) The benefit is not conflicted remuneration if the benefit:
- (a) has a genuine education or training purpose; and
 - (b) is relevant to the carrying on of a financial services business; and
 - (c) complies with regulations made for the purposes of subparagraph 963C(c)(iii) of the Act.

10 Before regulation 7.7A.16

Insert:

7.7A.15B Application of ban on conflicted remuneration—non-platform operator (Division 4 of Part 7.7A of Chapter 7 of the Act does not apply)

- (1) This regulation:
- (a) is made for subsection 1528(2) of the Act; and

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- (b) prescribes a circumstance in which Division 4 of Part 7.7A of Chapter 7 of the Act does not apply to a benefit.

Note: Subsection 1528(1) of the Act sets out a rule about when Division 4 of Part 7.7A of Chapter 7 of the Act does not apply to a benefit given to a financial services licensee, or a representative of a financial services licensee. Subsection 1528(2) of the Act permits regulations to prescribe circumstances in which that Division applies, or does not apply, to a benefit.

- (2) The circumstance is that the benefit would have been given as mentioned in subsection 1528(1) of the Act had it not been redirected under one or more later arrangements.
- (3) For subregulation (2), if a party to an arrangement changes, the arrangement is taken to have continued in effect, after the change, as the same arrangement.

11 Subregulation 7.7A.16(2)

Repeal the subregulation, substitute:

- (2) The circumstance is that:
- (a) the benefit is given by a platform operator; and
 - (b) either:
 - (i) the benefit is given under an arrangement that was entered into before the application day, within the meaning of subsection 1528(4) of the Act; or
 - (ii) the benefit would have been given as mentioned in subparagraph (i) had it not been redirected under one or more later arrangements.

12 After regulation 7.7A.16B

Insert:

7.7A.16BA Sale of business

The application of regulation 7.7A.16, 7.7A.16A or 7.7A.16B in relation to a benefit is not affected only because the benefit, or the right to the benefit, is transferred as part of the sale of a business, or a part of a business.

Note: This means that the buyer of a business will have the same protection for benefits that the seller of the business had.

13 Subregulation 7.7A.16C(3)

Omit “6 months”, substitute “18 months”.

14 Subregulation 7.7A.16C(4)

Omit “2014”, substitute “2015”.

15 Paragraph 7.7A.16C(5)(c)

Omit “2014”, substitute “2015”.

16 Paragraph 7.7A.16F(b)

Repeal the paragraph, substitute:

- (b) the benefit, as passed through, was given under an arrangement:
 - (i) that was entered into before the application day, within the meaning of subsection 1528(4) of the Act; or
 - (ii) by which an authorised representative of a financial services licensee became an authorised representative of another financial services licensee; or
 - (iii) by which a representative of a financial services licensee, or an employee of an authorised representative of a financial services licensee, became an authorised representative of the licensee or a related body corporate of the licensee; and