



# Corporations Amendment Regulation 2012 (No. )<sup>1</sup>

**Select Legislative Instrument 2012 No.**

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I, QUENTIN BRYCE, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulation under the *Corporations Act 2001*.

Dated 2012

Governor-General

By Her Excellency's Command

**[DRAFT ONLY — NOT FOR SIGNATURE]**  
Minister for Financial Services and Superannuation

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**CONSULTATION DRAFT ONLY**

**1 Name of regulation**

This regulation is the *Corporations Amendment Regulation 2012 (No. )*.

**2 Commencement**

This regulation commences on the commencement of sections 3 to 307 of the *Carbon Credits (Carbon Farming Initiative) Act 2011*.

**3 Amendment of *Corporations Regulations 2001***

Schedule 1 amends the *Corporations Regulations 2001*.

**Schedule 1 Amendments**

(section 3)

**[1] Subregulation 1.0.02 (1), definition of *investment based financial product*, after paragraph (g)**

*insert*

- (ga) a carbon unit;
- (gb) an Australian carbon credit unit;
- (gc) an eligible international emissions unit.

**[2] After regulation 7.1.07H**

*insert*

**7.1.07I Specific things that are not financial products: carbon units and emissions units**

- (1) For paragraph 765A (1) (y) of the Act:
  - (a) a carbon unit is not a financial product; and

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- (b) an Australian carbon credit unit is not a financial product; and
  - (c) an eligible international emissions unit is not a financial product.
- (2) On 1 July 2012:
- (a) subregulation (1) ceases to apply; and
  - (b) carbon units, Australian carbon credit units and eligible international emissions units become financial products.
- (3) Subregulations (1) and (2):
- (a) do not prevent a person from applying for an Australian financial services licence in relation to carbon units, Australian carbon credit units or eligible international emissions units before 1 July 2012; and
  - (b) do not prevent ASIC from considering the application before 1 July 2012; and
  - (c) do not prevent ASIC from issuing an Australian financial services licence before 1 July 2012, relating to the application, that is expressed to commence on or after 1 July 2012.

**[3] After paragraph 7.1.09 (1) (f)**

*insert*

- (fa) each obligation arising from a contract to transfer a carbon unit, an Australian carbon credit unit or an eligible international emissions unit;

*Note* See paragraphs 764A (1) (ka) and (kb) of the Act.

**[4] After regulation 7.1.35A**

*insert*

**7.1.35B Conduct that does not constitute dealing in a financial product — issuing carbon or emissions units**

For subsection 766C (7) of the Act, a financial service provided by a person is taken not to be dealing in a financial product if:

- (a) the financial product is a carbon unit, an Australian carbon credit unit or an eligible international emissions unit; and
- (b) the person is:
  - (i) the Clean Energy Regulator; or
  - (ii) the Clean Development Mechanism Executive Board; or
  - (iii) the government of a country other than Australia; and
- (c) the financial service consists of issuing the carbon unit, Australian carbon credit unit or eligible international emissions unit.

**7.1.35C Conduct that does not constitute dealing in a financial product — issuing carbon or emissions units**

For subsection 766C (7) of the Act, a financial service provided by a person is taken not to be dealing in a financial product if:

- (a) the financial product is a carbon unit; and
- (b) the financial service consists of dealing in the carbon unit on behalf of:
  - (i) a related body corporate of the person; or
  - (ii) an associated entity of the person; and

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- (c) the related body corporate or associated entity is an entity that is a liable entity entered in the information database under section 183 of the *Clean Energy Act 2011*.

**[5] Paragraph 7.2.09 (a)**

*substitute*

- (a) the Clean Energy Regulator;  
(aa) the Australian Competition and Consumer Commission;

**[6] Paragraph 7.3.07 (a)**

*substitute*

- (a) the Clean Energy Regulator;  
(aa) the Australian Competition and Consumer Commission;

**[7] Paragraph 7.3.08 (a)**

*substitute*

- (a) the Clean Energy Regulator;  
(aa) the Australian Competition and Consumer Commission;

**[8] After paragraph 7.6.01 (1) (m), including the examples**

*insert*

- (ma) a financial service provided by a person in the following circumstances:
- (i) the service consists only of 1 or more of the following:
    - (A) dealing in derivatives over carbon units, Australian carbon credit units or eligible international emissions units;
    - (B) dealing in a carbon unit, an Australian carbon credit unit or an eligible international emissions unit;
    - (C) dealing in foreign exchange contracts;

- (ii) the service does not involve the making of a market for those derivatives, units or foreign exchange contracts;
- (iii) the dealing is entered into for the purpose of managing financial risk in relation to the surrender, cancellation or relinquishment of carbon units, Australian carbon credit units or eligible international emissions units by:
  - (A) the person; or
  - (B) a related body corporate of the person; or
  - (C) an associated entity of the person;
- (iv) the person does not deal in those derivatives, units or foreign exchange contracts as the principal purpose of the person's business;
- (v) the dealing is entered into:
  - (A) on the person's own behalf; or
  - (B) on behalf of a related body corporate of the person; or
  - (C) on behalf of an associated entity of the person;

**[9] Regulation 7.6.02AG, inserted paragraph 911A (2E) (c) of the Act**

*substitute*

- (c) the service consists of any or all of the following:
  - (i) dealing in derivatives, foreign exchange contracts, carbon units, Australian carbon credit units or eligible international emissions units;
  - (ii) providing advice on derivatives, foreign exchange contracts, carbon units, Australian carbon credit units or eligible international emissions units;
  - (iii) making a market in derivatives, foreign exchange contracts, carbon units, Australian carbon credit units or eligible international emissions units.”

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**[10] Paragraph 7.6.02A (a)**

*substitute*

- (a) *Australian National Registry of Emissions Units Act 2011*;
- (aa) *Banking Act 1959*;
- (ab) *Carbon Credits (Carbon Farming Initiative) Act 2011*;
- (ac) *Clean Energy Act 2011*;

**[11] After regulation 7.7.10AH**

*insert*

**7.7.10AI Obligation to warn client that advice does not take account of client's objectives, financial situation or needs — carbon and emissions units**

For paragraph 951C (1) (c) of the Act, Part 7.7 of the Act applies in relation to a carbon unit, an Australian carbon credit unit or an eligible international emissions unit as if paragraph 949A (2) (c) read as follows:

- “(c) if the advice relates to the acquisition, or possible acquisition, of a carbon unit, the providing entity must:
- (i) provide the client with the address of the website of the Clean Energy Regulator mentioned in section 202 of the *Clean Energy Act 2011*; and
  - (ii) inform the client that the client should consider each statement mentioned in section 202 of the *Clean Energy Act 2011* before making any decision about whether to acquire the financial product; and
- (d) if the advice relates to the acquisition, or possible acquisition, of an Australian carbon credit unit, the providing entity must:
- (i) provide the client with the address of the website of the Clean Energy Regulator mentioned in section 162 of the *Carbon Credits (Carbon Farming Initiative) Act 2011*; and
  - (ii) inform the client that the client should consider each statement mentioned in section 162 of that Act before making any decision about whether to acquire the financial product; and

- (e) if the advice relates to the acquisition, or possible acquisition, of an eligible international emissions unit, the providing entity must:
  - (i) provide the client with the address of the website of the Clean Energy Regulator mentioned in section 61 of the *Australian National Registry of Emissions Units Act 2011*; and
  - (ii) inform the client that the client should consider each statement mentioned in section 61 of the *Australian National Registry of Emissions Units Act 2011* before making any decision about whether to acquire the financial product.”.

**[12] After regulation 7.8.21A**

*insert*

**7.8.21B Anti-hawking provisions if no Product Disclosure Statement is required — carbon and emissions units**

For paragraph 992C (1) (c) of the Act, Part 7.8 of the Act applies in relation to a carbon unit, an Australian carbon credit unit or an eligible international emissions unit as if paragraphs 992A (3) (c), (d) and (e) (including the note) read as follows:

“(c) informed that:

- “(i) for a carbon unit, the person should consider all information about the financial product that is published on the website of the Clean Energy Regulator as mentioned in section 202 of the *Clean Energy Act 2011* before becoming bound to acquire a financial product; and
- (ii) for an Australian carbon credit unit, the person should consider all information about the financial product that is published on the website of the Clean Energy Regulator as mentioned in section 162 of the *Carbon Credits (Carbon Farming Initiative) Act 2011* before becoming bound to acquire a financial product; and
- (iii) for an eligible international emissions unit, the person should consider all information about the financial product that is published on the website of the Clean



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Energy Regulator as mentioned in section 61 of the *Australian National Registry of Emissions Units Act 2011* before becoming bound to acquire a financial product; and

- (d) clearly informed of the importance of using that information when making a decision to acquire a financial product; and
- (e) given the option of having the information on that website read out to that person.

Note: Failure to comply with this subsection is an offence (see subsection 1311(1)).

**[13] Part 7.9, Division 4, after Subdivision 4.1**

*insert*

**Subdivision 4.1A No Product Disclosure Statement for carbon and emissions units**

**7.9.09A Application of Subdivision**

This Subdivision applies:

- (a) to a person who, apart from this Subdivision, would be required to give a Product Disclosure Statement for a carbon unit, an Australian carbon credit unit or an eligible international emissions unit; and
- (b) in relation to a carbon unit, an Australian carbon credit unit or an eligible international emissions unit.

**7.9.09B Provisions of Part 7.9 of Act that do not apply in relation to carbon and emissions units**

For paragraph 1020G (1)(b) of the Act, the following provisions of Part 7.9 of the Act do not apply in relation to a carbon unit, an Australian carbon credit unit or an eligible international emissions unit:

- (a) subparagraph 1012A (3) (b) (i);
- (b) subparagraph 1012A (3) (b) (ii);
- (c) subparagraph 1012B (3) (a) (ii);
- (d) paragraph 1012C (3) (b);

- (e) paragraph 1012C (4) (c);
- (f) subsection 1012C (6);
- (g) section 1013A;
- (h) section 1013B;
- (i) section 1013C;
- (j) section 1013D;
- (k) section 1013E;
- (l) section 1013F;
- (m) section 1013G.

#### **7.9.09C Modification of Act**

For paragraph 1020G (1) (c) of the Act, Part 7.9 of the Act is modified in its application to a carbon unit, an Australian carbon credit unit or an eligible international emissions unit as set out in Part 19 of Schedule 10A.

#### **[14] Schedule 10A, heading**

*substitute*

### **Schedule 10A Modifications of Part 7.9 of the Act**

(regulations 7.9.02, 7.9.04, 7.9.05, 7.9.06, 7.9.09C, 7.9.10B, 7.9.11C, 7.9.11N, 7.9.11V, 7.9.12, 7.9.24, 7.9.27, 7.9.30, 7.9.43, 7.9.47, 7.9.51, 7.9.56, 7.9.60, 7.9.61, 7.9.63, 7.9.73 and 8.4.02)

#### **[15] Schedule 10A, after Part 18**

*insert*

### **Part 19 Modifications for carbon units, Australian carbon credit units and eligible international emissions units**

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## 19.1 Subsections 1012D (1) to (3), including the subheadings

*substitute*

*Recommendation, issue or sale situation for carbon unit — statements on Clean Energy Regulator’s website*

- (1) Subject to subsections (2) and (3), in a recommendation situation, issue situation or sale situation for a carbon unit, the regulated person:
  - (a) does not have to give the client a Product Disclosure Statement; and
  - (b) must inform the client that the client should consider each statement about the carbon unit that is mentioned in section 202 of the *Clean Energy Act 2011*.

*Recommendation, issue or sale situation for carbon unit — client has considered statements on Clean Energy Regulator’s website*

- (2) In a recommendation situation, issue situation or sale situation for a carbon unit, the regulated person does not have to inform the client as described in paragraph (1)(b) if the regulated person believes, on reasonable grounds, that the client has already considered each statement about the carbon unit that is published on the website of the Clean Energy Regulator as mentioned in section 202 of the *Clean Energy Act 2011*.

*Recommendation, issue or sale situation for Australian carbon credit unit — specified issuers*

- (3) In a recommendation situation, issue situation or sale situation for a carbon unit, the regulated person does not have to inform the client as described in paragraph (1)(b) if the person is:
  - (a) the Clean Energy Regulator; or
  - (b) the Clean Development Mechanism Executive Board; or
  - (c) the government of a country other than Australia.

*Recommendation, issue or sale situation for Australian carbon credit unit—statements on Clean Energy Regulator’s website*

- (3A) Subject to subsections (3B) and (3C), in a recommendation situation, issue situation or sale situation for an Australian carbon credit unit, the regulated person:
- (a) does not have to give the client a Product Disclosure Statement; and
  - (b) must inform the client that the client should consider each statement about the Australian carbon credit unit that is mentioned in section 162 of that Act.

*Recommendation, issue or sale situation for Australian carbon credit unit — client has considered statements on Clean Energy Regulator’s website*

- (3B) In a recommendation situation, issue situation or sale situation for an Australian carbon credit unit, the regulated person does not have to inform the client as described in paragraph (3A)(b) if the regulated person believes, on reasonable grounds, that the client has already considered each statement about the Australian carbon credit unit that is published on the website of the Clean Energy Regulator as mentioned in section 162 of the *Carbon Credits (Carbon Farming Initiative) Act 2011*.

*Recommendation, issue or sale situation for Australian carbon credit unit — specified issuers*

- (3C) In a recommendation situation, issue situation or sale situation for an Australian carbon credit unit, the regulated person does not have to inform the client as described in paragraph (3A)(b) if the person is:
- (a) the Clean Energy Regulator; or
  - (b) the Clean Development Mechanism Executive Board; or
  - (c) the government of a country other than Australia.

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*Recommendation, issue or sale situation for eligible international emissions unit — statements on Clean Energy Regulator’s website*

- (3D) Subject to subsections (3E) and (3F), in a recommendation situation, issue situation or sale situation for an eligible international emissions unit, the regulated person:
- (a) does not have to give the client a Product Disclosure Statement; and
  - (b) must inform the client that the client should consider each statement about the eligible international emissions unit that is mentioned in section 61 of the *Australian National Registry of Emissions Units Act 2011*.

*Recommendation, issue or sale situation for eligible international emissions unit — client has considered statements on Clean Energy Regulator’s website*

- (3E) In a recommendation situation, issue situation or sale situation for an eligible international emissions unit, the regulated person does not have to inform the client as described in paragraph (3D)(b) if the regulated person believes, on reasonable grounds, that the client has already considered each statement about the eligible international emissions unit that is published on the website of the Clean Energy Regulator as mentioned in section 61 of the *Australian National Registry of Emissions Units Act 2011*.

*Recommendation, issue or sale situation for eligible international emissions unit — specified issuers*

- (3F) In a recommendation situation, issue situation or sale situation for an eligible international emissions unit, the regulated person does not have to inform the client as described in paragraph (3D)(b) if the person is:
- (a) the Clean Energy Regulator; or
  - (b) the Clean Development Mechanism Executive Board; or
  - (c) the government of a country other than Australia.

**19.2 Subsection 1012D (5)**

*omit*

give the client a Product Disclosure Statement

*insert*

inform the client as described in paragraph (1)(b), (3A)(b) or (3D)(b)

**19.3 Subsection 1012D (6)**

*omit*

give the client a Product Disclosure Statement

*insert*

inform the client as described in paragraph (1)(b), (3A)(b) or (3D)(b)

**19.4 Subsections 1012D (7) to (10)**

*omit*

**19.5 Subsection 1012IA (1), definition of *regulated acquisition***

*substitute*

***regulated acquisition*** means an acquisition of a financial product pursuant to an instruction by the client under a custodial arrangement, being an acquisition:

- (a) by way of issue by the issuer (the ***regulated person***); or
- (b) pursuant to a sale by a person (the ***regulated person***) in circumstances:
  - (i) described in subsection 1012C(5) or (8); or
  - (ii) to which subsection 1012C(6), 1012B(3) or 1012C(3) would apply if those subsections were applicable in relation to a carbon unit, an Australian carbon credit unit or an eligible international emissions unit.

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**19.6 Subsection 1012IA (2), subheading**

*substitute*

*Obligation on provider to inform client about statements on Clean Energy Regulator's website*

**19.7 Subsection 1012IA (2)**

*omit*

must give the client a Product Disclosure Statement for the product if a Product Disclosure Statement for the product would

*insert*

must inform the client that the client should consider each statement about the carbon unit that is published on the website of the Clean Energy Regulator as mentioned in section 202 of the *Clean Energy Act 2011*, or each statement about the Australian carbon credit unit that is published on the website of the Clean Energy Regulator as mentioned in section 162 of the *Carbon Credits (Carbon Farming Initiative) Act 2011*, or each statement about the eligible international emissions unit that is published on the website of the Clean Energy Regulator as mentioned in section 61 of the *Australian National Registry of Emissions Units Act 2011*, if the statement would

**19.8 Subsection 1012IA (3), subheading**

*substitute*

*Determining whether client should be informed about statements on Clean Energy Regulator's website for an equivalent direct acquisition*

**19.9 Subsection 1012IA (3)**

*omit*

give the client a Product Disclosure Statement for the financial product

*insert*

inform the client that the client should consider each statement about the carbon unit that is published on the website of the Clean Energy Regulator as mentioned in section 202 of the *Clean Energy Act 2011*, or each statement about the Australian carbon credit unit that is published on the website of the Clean Energy Regulator as mentioned in section 162 of the *Carbon Credits (Carbon Farming Initiative) Act 2011*, or each statement about the eligible international emissions unit that is published on the website of the Clean Energy Regulator as mentioned in section 61 of the *Australian National Registry of Emissions Units Act 2011*

**19.10 Paragraph 1017E (1) (b)**

*substitute*

- (b) a seller (the ***product provider***) of a carbon unit in relation to which the seller has informed the client that the client should consider each statement about the Australian carbon credit unit that is published on the website of the Clean Energy Regulator as mentioned in section 202 of the *Clean Energy Act 2011*; or
- (ba) a seller (the ***product provider***) of an Australian carbon credit unit in relation to which the seller has informed the client that the client should consider each statement about the Australian carbon credit unit that is published on the website of the Clean Energy Regulator as mentioned in section 162 of the *Carbon Credits (Carbon Farming Initiative) Act 2011*; or
- (bb) a seller (the ***product provider***) of an eligible international emissions unit in relation to which the seller has informed the client that the client should consider each statement about the eligible international emissions unit that is published on the website of the Clean Energy Regulator as mentioned in section 61 of the *Australian National Registry of Emissions Units Act 2011*;



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**19.11 Subsection 1017G (1)**

*substitute*

(1) If:

- (a) carbon units are, or have been, available for acquisition (whether by issue or sale) by a person or persons as retail clients; and
- (b) the issue or sale of the carbon units is not covered by an Australian financial services licence;

both the issuer, and any regulated person who is required, under subsection 1012D(1), to inform a client that the client should consider each statement about the carbon unit that is published on the website of the Clean Energy Regulator as mentioned in section 162 of the *Carbon Credits (Carbon Farming Initiative) Act 2011*, must each have a dispute resolution system complying with subsection (2).

Note 1: If the issue of the carbon units is covered by an Australian financial services licence, the requirement to have a dispute resolution system relating to the issue of the units is imposed by paragraph 912A(1)(g).

Note 2: Failure to comply with this subsection is an offence (see subsection 1311(1)).

(1A) If:

- (a) Australian carbon credit units are, or have been, available for acquisition (whether by issue or sale) by a person or persons as retail clients; and
- (b) the issue or sale of the Australian carbon credit units is not covered by an Australian financial services licence;

both the issuer, and any regulated person who is required, under subsection 1012D(3A), to inform a client that the client should consider each statement about the Australian carbon credit unit that is published on the website of the Clean Energy Regulator as mentioned in section 162 of the *Carbon Credits (Carbon Farming Initiative) Act 2011*, must each have a dispute resolution system complying with subsection (2).

Note 1: If the issue of the Australian carbon credit units is covered by an Australian financial services licence, the requirement to have a dispute resolution system relating to the issue of the units is imposed by paragraph 912A(1)(g).

Note 2: Failure to comply with this subsection is an offence (see subsection 1311(1)).

(1B) If:

- (a) eligible international emissions units are, or have been, available for acquisition (whether by issue or sale) by a person or persons as retail clients; and
- (b) the issue or sale of the eligible international emissions units is not covered by an Australian financial services licence; both the issuer, and any regulated person who is required, under subsection 1012D(3D), to inform a client that the client should consider each statement about the eligible international emissions unit that is published on the website of the Clean Energy Regulator as mentioned in section 61 of the *Australian National Registry of Emissions Units Act 2011*, must each have a dispute resolution system complying with subsection (2).

Note 1: If the issue of the eligible international emissions units is covered by an Australian financial services licence, the requirement to have a dispute resolution system relating to the issue of the units is imposed by paragraph 912A(1)(g).

Note 2: Failure to comply with this subsection is an offence (see subsection 1311 (1)).

## **19.12 Section 1018A, heading**

*substitute*

### **1018A Advertising or other promotional material for financial product must refer to statements on Clean Energy Regulator's website**

## **19.13 Subsection 1018A (1), subheading**

*substitute*

*Advertisements and promotional material must identify issuer (or issuer and seller) and refer to statements on Clean Energy Regulator's website*

## **19.14 Subsection 1018A (1)**

*omit*

if a particular financial product is available for acquisition by persons as retail clients (whether or not it is also available for acquisition by persons as wholesale clients) by

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way of issue, or pursuant to sale offers to which section 1012C applies or will apply,

*insert*

in an issue situation or sale situation for a carbon unit, an Australian carbon credit unit or an eligible international emissions unit that is available for acquisition by persons as retail clients (whether or not it is also available for acquisition by persons as wholesale clients),

**19.15 Subparagraph 1018A (1) (c) (ii)**

*omit*

to which section 1012C applies or will apply

*insert*

to which paragraphs 1012C(3)(b) and (4)(c), and subsection 1012C(6), would apply if that section were applicable in relation to a carbon unit, an Australian carbon credit unit or an eligible international emissions unit

**19.16 Paragraphs 1018A (1) (d) and (e)**

*substitute*

(d) informs the person that the person should consider:

- (i) each statement about the carbon unit that is published on the website of the Clean Energy Regulator as mentioned in section 202 of the *Clean Energy Act 2011* in deciding whether to acquire, or to continue to hold, the carbon unit; or
- (ii) each statement about the Australian carbon credit unit that is published on the website of the Clean Energy Regulator as mentioned in section 162 of the *Carbon Credits (Carbon Farming Initiative) Act 2011* in deciding whether to acquire, or to continue to hold, the Australian carbon credit unit; or
- (iii) each statement about the eligible international emissions unit that is published on the website of the Clean Energy Regulator as mentioned in section 61 of the *Australian National Registry of Emissions Units Act 2011* in deciding whether to acquire, or to continue to hold, the eligible international emissions unit.

**19.17 Subsection 1018A (2)**

*omit*

if a particular financial product, or proposed financial product, is not available for acquisition by persons as retail clients but it is reasonably likely that the product will become so available (whether or not it is, or will also become, available for acquisition by persons as wholesale clients) by way of issue, or pursuant to sale offers to which section 1012C will apply,

*insert*

in an issue situation or sale situation for a financial product that is a carbon unit, an Australian carbon credit unit or an eligible international emissions unit and is not available for acquisition by persons as retail clients, but is reasonably likely to become so available (whether or not it is, or will also become, available for acquisition by persons as wholesale clients),

**19.18 Subparagraph 1018A (2) (c) (ii)**

*omit*

to which section 1012C applies or will apply

*insert*

to which paragraphs 1012C(3)(b) and (4)(c), and subsection 1012C(6), would apply if that section were applicable in relation to a carbon unit, an Australian carbon credit unit or an eligible international emissions unit

**19.19 Paragraphs 1018A (2) (d) to (f)**

*substitute*

(d) informs the person that:

- (i) a statement about the carbon unit is published on the website of the Clean Energy Regulator as mentioned in section 202 of the *Clean Energy Act 2011*; or
- (ii) a statement about the Australian carbon credit unit is published on the website of the Clean Energy Regulator as mentioned in section 162 of the *Carbon Credits (Carbon Farming Initiative) Act 2011*; or

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- (iii) a statement about the eligible international emissions unit is published on the website of the Clean Energy Regulator as mentioned in section 61 of the *Australian National Registry of Emissions Units Act 2011*; and
  - (e) informs the person that the person should consider each statement about the carbon unit, Australian carbon credit unit or eligible international emissions unit that is published on that website in deciding whether to acquire, or to continue to hold, the carbon unit, Australian carbon credit unit or eligible international emissions unit.

**19.20 Subsection 1018A (3)**

*omit*

distribute a Product Disclosure Statement

*insert*

inform a person that the person should consider each statement about the Australian carbon credit unit or eligible international emissions unit that is published on the website of the Clean Energy Regulator as mentioned in section 202 of the *Clean Energy Act 2011*, section 162 of the *Carbon Credits (Carbon Farming Initiative) Act 2011* or section 61 of the *Australian National Registry of Emissions Units Act 2011*

**19.21 Subparagraph 1018A (4) (c) (i)**

*substitute*

- (i) does not contain information that materially affects affairs of the issuer, other than information about the carbon unit, Australian carbon credit unit or eligible international emissions unit that is published:
  - (A) on the website of the Clean Energy Regulator as mentioned in section 202 of the *Clean Energy Act 2011*, section 162 of the *Carbon Credits (Carbon Farming Initiative) Act 2011* or section 61 of the *Australian National Registry of Emissions Units Act 2011*; or
  - (B) in a disclosure document that has been lodged with ASIC; or

- (C) in an annual report or in a notice or report referred to in paragraph (a) or (b); and

**19.22 Subparagraphs 1018A (4) (d) (i) and (ii)**

*substitute*

- (i) information about the carbon unit, Australian carbon credit unit or eligible international emissions unit that is published:
- (A) on the website of the Clean Energy Regulator as mentioned in section 202 of the *Clean Energy Act 2011*, section 162 of the *Carbon Credits (Carbon Farming Initiative) Act 2011* or section 61 of the *Australian National Registry of Emissions Units Act 2011*; or
- (B) in a disclosure document that has been lodged with ASIC; or

**19.23 Paragraph 1020D (b)**

*substitute*

- (b) if the acquisition occurs in circumstances in which the party is required by a provision of this Part to have been informed that the party should consider each statement about the carbon unit, Australian carbon credit unit or eligible international emissions unit that is published on the website of the Clean Energy Regulator as mentioned in section 202 of the *Clean Energy Act 2011*, section 162 of the *Carbon Credits (Carbon Farming Initiative) Act 2011* or section 61 of the *Australian National Registry of Emissions Units Act 2011*—taken to have notice of any contract, document or matter not specifically referred to in those statements.

**19.24 Paragraph 1020E (7) (b)**

*omit*

the document, advertisement or statement

*insert*

the statement or advertisement

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**19.25 Section 1021C, heading**

*substitute*

**1021C Offence of failing to refer to statements on Clean Energy Regulator's website****19.26 Subparagraph 1021C (1) (a) (i)**

*substitute*

- (i) is required by a provision of this Part to inform a person that the person should consider each statement about a carbon unit, an Australian carbon credit unit or an eligible international emissions unit that is published on the website of the Clean Energy Regulator as mentioned in section 202 of the *Clean Energy Act 2011*, section 162 of the *Carbon Credits (Carbon Farming Initiative) Act 2011* or section 61 of the *Australian National Registry of Emissions Units Act 2011* (the *required statement*); or

**19.27 Subparagraph 1021C (1) (b) (i)**

*substitute*

- (i) if subparagraph (a)(i) applies—inform the person that the person should consider each required statement; or

**19.28 Subparagraph 1021C (3) (a) (i)**

*substitute*

- (i) is required by a provision of this Part to inform a person that the person should consider each statement about a carbon unit, an Australian carbon credit unit or an eligible international emissions unit that is published on the website of the Clean Energy Regulator as mentioned in section 202 of the *Clean Energy Act 2011*, section 162 of the *Carbon Credits (Carbon Farming Initiative) Act 2011* or section 61 of the *Australian National Registry of Emissions Units Act 2011* (the *required statement*); or

**19.29 Subparagraph 1021C (3) (b) (i)**

*substitute*

- (i) if subparagraph (a)(i) applies—inform the person that the person should consider each required statement; or

**19.30 Paragraph 1021C (4) (b)**

*substitute*

- (b) the representative's failure to inform the person that the person should consider each required statement occurred because the representative was acting in reliance on that information or those instructions; and

**19.31 Section 1021G**

*omit*

to give or communicate disclosure documents or statements as and when required by this Part.

*insert*

to inform a person that the person should consider each statement about a carbon unit, an Australian carbon credit unit or an eligible international emissions unit that is published on the website of the Clean Energy Regulator as mentioned in section 202 of the *Clean Energy Act 2011*, section 162 of the *Carbon Credits (Carbon Farming Initiative) Act 2011* or section 61 of the *Australian National Registry of Emissions Units Act 2011* as and when required by this Part.

**19.32 After paragraph 1022B (1) (ac)**

*insert*

(ad) a person:

- (i) is required to inform another person (the *client*) that the client should consider each statement about a carbon unit that is published on the website of the Clean Energy Regulator as mentioned in section 202 of the *Clean Energy Act 2011*; and
- (ii) does not inform the client by the time the person is required to do so; or



(ae) a person:

- (i) is required to inform another person (the *client*) that the client should consider each statement about an Australian carbon credit unit that is published on the website of the Clean Energy Regulator as mentioned in section 162 of the *Carbon Credits (Carbon Farming Initiative) Act 2011*; and
- (ii) does not inform the client by the time the person is required to do so; or

(af) a person:

- (i) is required to inform another person (the *client*) that the client should consider each statement about an eligible international emissions unit that is published on the website of the Clean Energy Regulator as mentioned in section 61 of the *Australian National Registry of Emissions Units Act 2011*; and
- (ii) does not inform the client by the time the person is required to do so; or

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### Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See [www.comlaw.gov.au](http://www.comlaw.gov.au).