

EXPOSURE-DRAFT

EXPOSURE DRAFT

24 APRIL 2013

Corporations (Fees) Amendment Regulation 2013 (No. A)

Select Legislative Instrument No. , 2013

(Treasury)

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1 Name of regulation

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

2 Commencement

This regulation commences on 1 July 2013.

3 Authority

This regulation is made under the *Corporations (Fees) 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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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

Schedule 1—Amendments

Corporations (Fees) Regulations 2001

1 Paragraph 8(1)(a)

Omit “\$9 375”, substitute:“\$8 735”

2 Paragraph 8(5)(a)

Omit “\$386 000”, substitute:“\$344 670”

3 After subregulation 8(6)

Insert:

FEX Global

- (6A) For subsection 6A(1) of the Act, if ASIC performs its functions under Part 7.2A (Supervision of financial markets) of the Corporations Act in relation to the financial market operated by FEX Global Pty Ltd during a billing period:
- (a) the fee for the initial billing period is worked out by:
 - (i) multiplying \$49 930 by the number of days in the period starting on the day on which ASIC first performs its functions and ending at the end of the billing period; and
 - (ii) dividing the result by 92; and
 - (iii) rounding the result down to the nearest whole dollar; and
 - (b) the fee for a subsequent billing period is \$49 930; and
 - (c) the fee is not imposed again if ASIC performs its functions during the billing period in relation to another market operated under the same Australian market licence (within the meaning of section 761A of the Corporations Act).
- (6B) For subparagraph 7(1)(m)(ii) of the Act, the time at which the liability for the fee is incurred is the first day after the billing period in which ASIC performs its functions.

4 Paragraph 8(7)(a) (formula)

Repeal the formula, substitute:

$$\left(215\,000 \times \frac{\text{TR}}{\text{TTR}} \right) + \left(607\,000 \times \frac{\text{MR}}{\text{TMR}} \right)$$

5 Paragraph 8(7)(b) (formula)

Repeal the formula, substitute:

$$\left(215\,000 \times \frac{\text{TR}}{\text{TTR}} \right) + \left(607\,000 \times \frac{\text{MR}}{\text{TMR}} \right)$$

6 Subregulations 8(7) and 8(9)

Omit “Integrated” (wherever occurring).

7 Subregulation 8(9) (formula)

Repeal the formula, substitute:

$$\left(1\,789\,000 \times \frac{\text{TR}}{\text{TTR}} \right) + \left(1\,807\,000 \times \frac{\text{MR}}{\text{TMR}} \right) + 1\,835$$

8 Subregulation 8(11) (definition of *billing period*)

Repeal the definition, substitute:

billing period means any of the following periods:

- (a) the period starting when this regulation commences and ending on 30 September 2013;
- (b) a period of 3 months starting on 1 October 2013, 1 January 2014, 1 April 2014, 1 July 2014, 1 October 2014, 1 January 2015 or 1 April 2015.

9 Subregulation 8(11) (after the definition of *exempt market*)

Insert:

initial billing period, in relation to a financial market, means the billing period during which the market began operating.

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Schedule 1 Amendments

10 Subregulation 8(11) (subparagraphs (a)(iv) and (v) of the definition of *small financial market*)

Repeal the subparagraphs, substitute:

- (iv) the financial market operated by FEX Global Pty Ltd; or
- (v) an exempt market; or
- (vi) a wholesale financial market;

11 Regulation 9

Repeal the regulation, substitute:

9 Market integrity functions—late payment penalty

- (1) This regulation applies if:
 - (a) a fee prescribed in regulation 8 (the *new fee*) has not been paid by the end of the billing period in which it was incurred (the *overdue time*); and
 - (b) one or more fees for regulation 8 have passed the overdue time (the *old fees*) and are due at the start of a billing period for the same person.
- (2) For paragraph 6A(1)(b) of the Act:
 - (a) a fee for late payment of the new fee is prescribed in relation to the performance by ASIC of its functions under Part 7.2A (Supervision of financial markets) of the Corporations Act; and
 - (b) the fee for late payment is additional to the new fee.
- (3) The amount of the fee for late payment is worked out as follows:
 - (a) add:
 - (i) the new fee; and
 - (ii) the old fees, including any fee for late payment payable in relation to an old fee;
 - (b) use the following table to identify the item that relates to that total amount of the fees;
 - (c) use the item to identify the fee by reference to the number of billing periods for the fees (do not count a billing period for a new fee that has yet to be incurred under regulation 8).

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Amendments Schedule 1

Fee for late payment			
Item	Column 1	Column 2	Column 3
	Total amount of new and old fees	Fee for one billing period	Fee for 2 or more billing periods
1	\$0-\$10 000	\$150	\$250
2	\$10 000-\$50 000	\$300	\$500
3	\$50 000-\$100 000	\$1 200	\$2 000
4	above \$100 000	\$2 400	\$4 000

- (4) For subparagraphs 7(1)(m)(ii) and (n)(ii) of the Act, the time at which liability for the fee for late payment of the new fee is incurred is the overdue time.

Example: A fee prescribed in regulation 8 becomes due on the first day of the billing period after the fee was incurred (this is the new fee). Another fee prescribed and incurred for regulation 8 is still due, and has been due for 2 billing periods (this is the old fee, which may already have late payment fees attached to it).

Add up the new fee, the old fee, and any late payment fees attached to the old fee, and find the item in the table that matches the total. Since the old fee has been overdue for more than one billing period, use column 3 to work out the late payment fee that attaches to the total.