



Corporations Amendment Regulation 2013 (No.)¹

Select Legislative Instrument 2013 No.

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 2013

Governor-General

By Her Excellency's Command

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

CONSULTATION DRAFT

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1 Name of regulation

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

2 Commencement

This regulation commences as follows:

- (a) on 1 July 2013—sections 1 to 3 and Schedule 1;
- (b) on 1 July 2016—Schedule 2;
- (c) on 1 July 2019—Schedule 3.

3 Amendment of *Corporations Regulations 2001*

Schedules 1, 2 and 3 amend the *Corporations Regulations 2001*.

Schedule 1 Amendments commencing on 1 July 2013

(section 3)

[1] After regulation 7.6.01B

insert

7.6.01BA Modification of section 912A of the Act

- (1) For paragraph 926B (1) (c) of the Act, Part 7.6 of the Act applies as if paragraph 912A (1) (e) were modified to read as follows:

“(e) for:

- (i) a licensee who is an exempt licensee—maintain knowledge of the financial services covered by the licence; or
- (ii) all other licensees—maintain the competence to provide the financial services covered by the licence; and”

- (2) For paragraph 926B (1) (c) of the Act, Part 7.6 of the Act applies as if section 912A of the Act were modified by inserting after subsection 912A (3) the following subsection:

“(4) In this section:

class of product advice means financial product advice about a class of products but does not include a recommendation about a specific product in the class.

Example

A financial services licensee may give a general recommendation about term deposit products but must not make a specific recommendation that a person deposit their money into a term deposit product offered by a particular bank or building society.

exempt licensee means a financial services licensee that:

- (a) is:
 - (i) a recognised accountant; or

- (ii) a body corporate that has one or more recognised accountants that supervise and have responsibility for the provision of financial services covered by its licence; or
 - (iii) a partnership that has one or more recognised accountants that supervise and have responsibility for the provision of financial services covered by its licence; and
- (b) applied for the financial services licence between 1 July 2013 and 30 June 2016; and
- (c) is only licensed to provide one or more of the following financial services:
 - (i) financial product advice on self-managed superannuation funds;
 - (ii) financial product advice on superannuation products in relation to a person's existing holding in a superannuation product but only to the extent required for:
 - (A) making a recommendation that the person establish a self-managed superannuation fund; or
 - (B) providing advice to the person on contributions or pensions under a superannuation product;
 - (iii) class of product advice on the following:
 - (A) superannuation products;
 - (B) securities;
 - (C) simple managed investment schemes;
 - (D) general insurance products;
 - (E) life risk insurance products;
 - (F) basic deposit products;
 - (iv) arrange to deal in a self-managed superannuation fund.

Note See section 761A for the meaning of *basic deposit product*, *financial product advice*, *general insurance product*, *life risk insurance product*, *self-managed superannuation fund* and *superannuation product*.

recognised accountant means a person who:

- (a) holds a Certificate of Public Practice issued by The Institute of Chartered Accountants in Australia; or
- (b) holds a Public Practice Certificate issued by:
 - (i) CPA Australia Ltd; or
 - (ii) the Institute of Public Accountants.”

[2] Paragraph 7.6.04 (1) (j)

omit

that person.

insert

that person;

[3] After paragraph 7.6.04 (1) (j)

insert

- (k) if the financial services licensee is an exempt licensee—a condition that the licensee must, within 3 years from the date on which the licence is granted, demonstrate to ASIC, to the satisfaction of ASIC, that:
- (i) if the licensee is an individual—the licensee has:
 - (A) knowledge of the licensee’s obligations under the Act and these Regulations; and
 - (B) the competence to provide the financial services covered by the licence; or
 - (ii) if the licensee is a partnership or body corporate—each recognised accountant that supervises and has responsibility for the provision of financial services covered by the licence has:
 - (A) knowledge of the licensee’s obligations under the Act and these Regulations;
 - (B) the competence to provide the financial services covered by the licence.

[4] After subregulation 7.6.04 (2)

insert

- (3) In this regulation:

class of product advice means financial product advice about a class of products but does not include a recommendation about a specific product in the class.

Example

A financial services licensee may give a general recommendation about term deposit products but must not make a specific recommendation that a person deposit their money into a term deposit product offered by a particular bank or building society.

exempt licensee means a financial services licensee that:

- (a) is:
 - (i) a recognised accountant; or
 - (ii) a body corporate that has one or more recognised accountants that supervise and have responsibility for the provision of financial services covered by its licence; or
 - (iii) a partnership that has one or more recognised accountants that supervise and have responsibility for the provision of financial services covered by its licence; and
- (b) applied for the financial services licence between 1 July 2013 and 30 June 2016; and
- (c) is only licensed to provide one or more of the following financial services:
 - (i) financial product advice on self-managed superannuation funds;
 - (ii) financial product advice on superannuation products in relation to a person's existing holding in a superannuation product but only to the extent required for:
 - (A) making a recommendation that the person establish a self-managed superannuation fund; or
 - (B) providing advice to the person on contributions or pensions under a superannuation product;
 - (iii) class of product advice on the following:
 - (A) superannuation products;
 - (B) securities;
 - (C) simple managed investment schemes;
 - (D) general insurance products;
 - (E) life risk insurance products;

- (F) basic deposit products;
- (iv) arrange to deal in a self-managed superannuation fund.

Note See section 761A of the Act for the meaning of *basic deposit product*, *financial product advice*, *general insurance product*, *life risk insurance product*, *self-managed superannuation fund* and *superannuation product*.

recognised accountant means a person who:

- (a) holds a Certificate of Public Practice issued by The Institute of Chartered Accountants in Australia; or
- (b) holds a Public Practice Certificate issued by:
- (i) CPA Australia Ltd; or
 - (ii) the Institute of Public Accountants.

[5] After regulation 7.8.12

insert

7.8.12A Modification of section 989B of the Act

- (1) For paragraph 992C (1) (c) of the Act, Part 7.8 of the Act applies as if subsection 989B (3) were modified to read as follows:
- “(3) The licensee must, with the statement and balance sheet, lodge with ASIC:
- (a) for a licensee that is an exempt licensee—a compliance certificate that is in the prescribed form; or
 - (b) for all other licensees—an auditor’s report containing the information and matters required by the regulations.

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

- (2) For paragraph 992C (1) (c) of the Act, Part 7.8 of the Act applies as if section 989B of the Act were modified by inserting after subsection 989B (3) the following subsection:

“(4) In this section:

class of product advice means financial product advice about a class of products but does not include a recommendation about a specific product in the class.

Example

A financial services licensee may give a general recommendation about term deposit products but must not make a specific recommendation that a person deposit their money into a term deposit product offered by a particular bank or building society.

exempt licensee means a financial services licensee that:

- (a) does not deal with money to which Division 2 of Part 7.8 of the Act applies; and
- (b) is only licensed to provide one or more of the following financial services:
 - (i) financial product advice on self-managed superannuation funds;
 - (ii) financial product advice on superannuation products in relation to a person’s existing holding in a superannuation product but only to the extent required for:
 - (A) making a recommendation that the person establish a self-managed superannuation fund; or
 - (B) providing advice to the person on contributions or pensions under a superannuation product;
 - (iii) class of product advice on the following:
 - (A) superannuation products;
 - (B) securities;
 - (C) simple managed investment schemes;
 - (D) general insurance products;
 - (E) life risk insurance products;
 - (F) basic deposit products;
 - (iv) arrange to deal in a self-managed superannuation fund.

Note See section 761A of the Act for the meaning of ***basic deposit product, financial product advice, general insurance product, life risk insurance product, self-managed superannuation fund*** and ***superannuation product***.”

[6] Paragraph 7.8.14 (b)*substitute*

- (b) if the licensee is required to lodge an auditor's report under subsection 989B (3) of the Act—the auditor's report lodged with the profit and loss statement and balance sheet is a true copy of the report on the profit and loss statement and balance sheet of the financial services licensee; and
- (c) if the licensee is required to lodge a compliance certificate under subsection 989B (3) of the Act—the information in the compliance certificate lodged with the profit and loss statement and balance sheet is complete and accurate.

[7] After regulation 7.8.14A*insert***7.8.14B Exemption from appointing auditor**

- (1) For paragraph 992C (1) (a) of the Act, section 990B of the Act does not apply to an exempt licensee.

- (2) In this regulation:

class of product advice means financial product advice about a class of products but does not include a recommendation about a specific product in the class.

Example

A financial services licensee may give a general recommendation about term deposit products but must not make a specific recommendation that a person deposit their money into a term deposit product offered by a particular bank or building society.

exempt licensee means a financial services licensee that:

- (a) does not deal with money to which Division 2 of Part 7.8 of the Act applies; and
- (b) is only licensed to provide one or more of the following financial services:
 - (i) financial product advice on self-managed superannuation funds;

- (ii) financial product advice on superannuation products in relation to a person's existing holding in a superannuation product but only to the extent required for:
 - (A) making a recommendation that the person establish a self-managed superannuation fund; or
 - (B) providing advice to the person on contributions or pensions under a superannuation product;
- (iii) class of product advice on the following:
 - (A) superannuation products;
 - (B) securities;
 - (C) simple managed investment schemes;
 - (D) general insurance products;
 - (E) life risk insurance products;
 - (F) basic deposit products;
- (iv) arrange to deal in a self-managed superannuation fund.

Note See section 761A of the Act for the meaning of *basic deposit product*, *financial product advice*, *general insurance product*, *life risk insurance product*, *self-managed superannuation fund* and *superannuation product*.

**Schedule 2 Amendment commencing on
1 July 2016**

(section 3)

[1] Regulation 7.1.29A*omit***Schedule 3 Amendment commencing on
1 July 2019**

(section 3)

[1] Regulation 7.6.01BA*omit*

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.