

EXPOSURE-DRAFT



EXPOSURE DRAFT (05/05/2013)

Corporations Amendment Regulation 2013 (No. N)

Select Legislative Instrument No. , 2013

(Financial Services and Superannuation)

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1 Name of regulation

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

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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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

Schedule 1—Amendments

Corporations Regulations 2001

1 Regulation 7.7A.12D (heading)

Omit “given to representatives”.

2 After subregulation 7.7A.12D(1)

Insert:

(1A) A monetary benefit is not conflicted remuneration if:

- (a) the benefit is a fee paid by a financial services licensee that is a trading participant of a prescribed financial market (the *trading participant*) to a financial services licensee that is not a trading participant (the *non-trading participant*) in respect of trades undertaken by a retail client through a specified service provided by the non-trading participant; and
- (b) each of those trades is executed by the trading participant on behalf of a retail client; and
- (c) the fee is a proportion of the brokerage fee paid to the trading participant by the retail client of the non-trading participant.

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

Insert:

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

4 Subregulation 7.7A.12D(2)

Insert:

specified service means a broking service which:

- (a) is provided for retail clients by a financial services licensee that is not a trading participant; and
- (b) is provided under the name or brand name of that financial services licensee; and
- (c) relates to the dealing, on behalf of the client, in a financial product traded on:

- (i) a prescribed financial market; or
- (ii) a prescribed foreign financial market; and
- (d) is made available only by direct electronic access; and
- (e) is provided in circumstances in which the client does not receive personal advice in relation to the trades undertaken on the client's behalf by any licensee or authorised representative associated with those trades.

5 After Subdivision 2 of Division 4 of Part 7.7A

Insert:

Subdivision 3—Asset-based fees on borrowed amounts

7.7A.17 Financial services licensees

For subsection 964D(4) of the Act, a circumstance in which subsections 964D(1) and (2) of the Act do not apply is that the asset-based fee being charged is a brokerage fee.

7.7A.18 Authorised representatives

For subsection 964E(3) of the Act, a circumstance in which subsection 964E(1) of the Act does not apply is that the asset-based fee being charged is a brokerage fee.