



Corporations Amendment Regulation 2012 (No.)¹

Select Legislative Instrument 2012 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 2012

Governor-General

By Her Excellency's Command

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

DRAFT ONLY

1 Name of regulation

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

2 Commencement

This regulation commences as follows:

- (a) on the commencement of Schedule 1 to the *Corporations Amendment (Future of Financial Advice) Act 2012*—sections 1 to 3 and Schedule 1;
- (b) immediately after the commencement of Schedule 1 to the *Corporations Amendment (Future of Financial Advice) Act 2012*—section 4 and Schedule 2.

3 Amendment of *Corporations Regulations 2001*

Schedule 1 amends the *Corporations Regulations 2001*.

4 Amendment of *Corporations Regulations 2001*

Schedule 2 amends the *Corporations Regulations 2001*.

Schedule 1 **Amendments commencing on commencement of Schedule 1 to the *Corporations Amendment (Future of Financial Advice) Act 2012***
(section 3)

[1] **After Part 7.7**
insert

Part 7.7A **Best interests obligations and remuneration**

Note Regulations 7.7A.01 to 7.7A09 are reserved for future use.

Division 3 **Charging ongoing fees to clients**

7.7A.10 Arrangements that are not ongoing fee arrangements

- (1) For subsection 962A (5) of the Act, an arrangement under which the only fee to be paid, for the purposes of the arrangement, during a period of at least 12 months is a product fee is a kind of an arrangement that is not an ongoing fee arrangement.
- (2) For subsection 962A (5) of the Act, a product fee is a fee that the issuer of a financial product charges a retail client in relation to the administration of a financial product issued to the client.

Example

A fee charged by a platform operator in relation to a custodial arrangement.

7.7A.11 Fee disclosure statements: product fee

For paragraph 962H (3) (a) of the Act, information about a product fee mentioned in subregulation 7.7A.10 (2) is not required by subsection 962H (2) of the Act.

Schedule 2 Amendments commencing immediately after commencement of Schedule 1 to the *Corporations Amendment (Future of Financial Advice) Act 2012*

(section 4)

[1] After regulation 7.7.04A

insert

7.7.04AA Financial Services Guide given by financial services licensee: non-monetary benefit that is not conflicted remuneration

For paragraph 942B (4) (b) of the Act, information about a non-monetary benefit that, in accordance with paragraph 963C (b) of the Act, is not conflicted remuneration is not required by paragraph 942B (2) (e) of the Act.

Note Under paragraph 963C (b) of the Act, if a non-monetary benefit is given to a financial services licensee, or a representative of a financial services licensee, who provides financial advice, and is less than the prescribed amount, the benefit is not conflicted remuneration.

7.7.04AB Financial Services Guide given by authorised representative: non-monetary benefit that is not conflicted remuneration

For paragraph 942C (4) (b) of the Act, information about a non-monetary benefit that, in accordance with paragraph 963C (b) of the Act, is not conflicted remuneration is not required by paragraph 942C (2) (f) of the Act.

Note Under paragraph 963C (b) of the Act, if a non-monetary benefit is given to a financial services licensee, or a representative of a financial services licensee, who provides financial advice, and is less than the prescribed amount, the benefit is not conflicted remuneration.

[2] After regulation 7.7.09BB

insert

7.7.09BC Statement of Advice given by financial services licensee: non-monetary benefit that is not conflicted remuneration

For paragraph 947B (4) (b) of the Act, information about a non-monetary benefit that, in accordance with paragraph 963C (b) of the Act, is not conflicted remuneration is not required by paragraph 947B (2) (d) of the Act.

Note Under paragraph 963C (b) of the Act, if a non-monetary benefit is given to a financial services licensee, or a representative of a financial services licensee, who provides financial advice, and is less than the prescribed amount, the benefit is not conflicted remuneration.

7.7.09BD Statement of Advice given by authorised representative: non-monetary benefit that is not conflicted remuneration

For paragraph 947C (4) (b) of the Act, information about a non-monetary benefit that, in accordance with paragraph 963C (b) of the Act, is not conflicted remuneration is not required by paragraph 947C (2) (e) of the Act.

Note Under paragraph 963C (b) of the Act, if a non-monetary benefit is given to a financial services licensee, or a representative of a financial services licensee, who provides financial advice, and is less than the prescribed amount, the benefit is not conflicted remuneration.

[3] **Part 7.7A, after Division 3**

insert

Division 4 Conflicted remuneration

7.7A12 Monetary benefit given in certain circumstances not conflicted remuneration: prescribed benefit

For paragraph 963B (1) (e) of the Act, a benefit given to a financial services licensee, or a representative of a financial services licensee, for advice that relates to an interest in a time-sharing scheme is a prescribed benefit.

Note Under subsection 963B (1) of the Act, if a monetary benefit is a prescribed benefit, the benefit is not conflicted remuneration.

7.7A13 Non-monetary benefit given in certain circumstances not conflicted remuneration: prescribed amount

For subparagraph 963C (b) (i) of the Act, the amount is \$300 for each financial services licensee, or each representative of a financial services licensee, who is given a non-monetary benefit.

Note Under paragraph 963C (b) of the Act, if a non-monetary benefit is given to a financial services licensee, or a representative of a financial services licensee, who provides financial advice, and is less than the prescribed amount, the benefit is not conflicted remuneration.

7.7A.14 Non-monetary benefit given in certain circumstances not conflicted remuneration: education or training course

- (1) For subparagraph 963C (c) (iii) of the Act, this regulation sets out requirements if a non-monetary benefit to which subparagraphs 963C (c) (i) and (ii) of the Act apply is the provision of an education or training course to a financial services licensee, or a representative of a financial services licensee.

Under paragraph 963C (c) of the Act, if certain non-monetary benefits have a genuine education or training purpose, and comply with the regulations, the benefits are not conflicted remuneration.

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- (2) At least 75% of the time spent on the course must be spent on education or training activities for the professional development of the participants in the course.
 - (3) The participant, or the participant's employer, must pay for the costs of:
 - (a) travel and accommodation relating to the course; and
 - (b) events and functions held in conjunction with the course.

Examples

- 1 The cost of the participant's travel or accommodation.
- 2 The cost of day trips or dinners.

- (4) In this regulation:
education or training course includes a conference or seminar.

7.7A.15 Non-monetary benefit given in certain circumstances not conflicted remuneration: other education and training benefit

- (1) For subparagraph 963C (c) (iii) of the Act, this regulation sets out a requirement if a non-monetary benefit to which subparagraphs 963C (c) (i) and (ii) of the Act apply is not the provision of an education or training course to which regulation 7.7A13 applies.

Under paragraph 963C (c) of the Act, if certain non-monetary benefits have a genuine education or training purpose, and comply with the regulations, the benefits are not conflicted remuneration.
- (2) The dominant purpose of the non-monetary benefit must be education and training.

[4] After regulation 7.8.11

insert

7.8.11A Particular categories of information to be shown in records: records of non-monetary benefit that is not conflicted remuneration

- (1) For paragraph 988E (g) and section 988F of the Act, the table sets out matters in relation to a non-monetary benefit that:
- (a) is given to a financial services licensee or a representative of a financial services licensee; and
 - (b) in accordance with section 963C of the Act, is not conflicted remuneration.

Note Particulars of the matters must be shown in the records kept by the financial services licensee.

Item	Matter
1	A description of the benefit
2	Either: <ul style="list-style-type: none">(a) the value of the benefit; or(b) if the value is not known, the estimated value of the benefit; expressed as a dollar amount or as a range of dollars
3	The date on which the benefit was given
4	The name of the person who gave the benefit and, if relevant, the number of the person's financial services licence
5	Whether the benefit was given to the licensee or to a representative of the licensee
6	If the benefit was given to an authorised representative of the licensee, the name and contact details of the authorised representative
7	If the benefit was given to another representative of the licensee, the name and contact details of the other representative

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- (2) At the request of a person, a financial services licensee must give the person the particulars in its records relating to those matters for the last financial year.
 - (3) The licensee may require the person making the request to pay a charge for obtaining the particulars.
 - (4) The amount of the charge must not exceed the reasonable costs that the licensee incurs that are reasonably related to giving the particulars (including any costs incurred in photocopying the document containing the particulars).
Note This would include the costs of searching for, obtaining and collating the information.
 - (5) The licensee must give the particulars to the person as soon as practicable, and no later than one month after the person makes the request to the licensee.

[5] After Part 10.15

insert

**Part 10.18 Transitional provisions
relating to the *Corporations
Amendment (Further Future of
Financial Advice Measures)
Act 2012***

**10.18.01 Ban on conflicted remuneration does not apply in
certain circumstances**

- (1) For subsection 1528 (3) of the Act, a circumstance in which Division 4 of Part 7.7A of the Act does not apply to a benefit given to a financial service licensee, or a representative of a financial services licensee, is that the benefit relates to:
 - (a) a group life policy for members of a superannuation entity; or
 - (b) a life policy for a member of a default superannuation fund.

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- (2) This regulation expires on 1 July 2013 as if the regulation had been repealed by another legislative instrument.

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.