



Corporations Amendment Regulation 2013 (No. 3)

Select Legislative Instrument No. 101, 2013

I, Professor Marie Bashir AC CVO, Administrator of the Government of Australia, acting with the advice of the Federal Executive Council, make the following regulation under the *Corporations Act 2001*.

Dated 30 May 2013

Marie Bashir
Administrator

By Her Excellency's Command

William Richard Shorten
Minister for Financial Services and Superannuation

OPC50224 - C

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1 Name of regulation

This regulation is the *Corporations Amendment Regulation 2013 (No. 3)*.

2 Commencement

Each provision of this regulation specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 4 and anything in this regulation not elsewhere covered by this table	1 July 2013.	1 July 2013
2. Schedule 1	1 July 2013.	1 July 2013
3. Schedule 2	1 July 2016.	1 July 2016
4. Schedule 3	1 July 2019.	1 July 2019

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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments commencing on 1 July 2013

Corporations Regulations 2001

1 Paragraph 7.1.29A(2)(c)

Repeal the paragraph, substitute:

- (c) a member of the Institute of Public Accountants (*IPA*) who:
 - (i) is entitled to use the letters “FIPA” or “MIPA”; and
 - (ii) is subject to, and complies with, IPA’s continuing professional education requirements.

2 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 a licensee other than a limited licensee—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 paragraph 912A(1)(e) the following paragraphs:
 - “(ea) for a limited licensee who is an individual—maintain knowledge of the financial services covered by the licence; and
 - (eb) for a limited licensee that is a corporation or partnership—ensure that each recognised accountant that supervises and has responsibility for the provision of financial services covered by the licence maintain knowledge of the financial services covered by the licence; and”.
- (3) 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 subsections:

“(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 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.

limited financial services means the following financial services:

- (a) financial product advice on self-managed superannuation funds;
- (b) 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:
 - (i) making a recommendation that the person establish a self-managed superannuation fund; or
 - (ii) providing advice to the person on contributions or pensions under a superannuation product;
- (c) class of product advice on the following:
 - (i) superannuation products;
 - (ii) securities;
 - (iii) simple managed investment schemes;
 - (iv) general insurance products;
 - (v) life risk insurance products;
 - (vi) basic deposit products;
- (d) arrange to deal in an interest in a self-managed superannuation fund.

Note 1: 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***.

Note 2: Financial product advice on self-managed superannuation funds includes advice about acquiring or disposing an interest in a self-managed superannuation fund.

limited licensee means a financial services licensee that:

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

- (ii) a corporation 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 limited financial services.

recognised accountant means:

- (a) a member of CPA Australia who:
 - (i) holds a Public Practice Certificate issued by CPA Australia Ltd; and
 - (ii) is entitled to use the letters “CPA” or “FCPA”; and
 - (iii) is subject to, and complies with, CPA Australia’s continuing professional education requirements; or
- (b) a member of The Institute of Chartered Accountants in Australia (**ICAA**) who:
 - (i) holds a Certificate of Public Practice issued by ICAA; and
 - (ii) is entitled to use the letters “ACA”, “CA” or “FCA”; and
 - (iii) is subject to, and complies with, ICAA’s continuing professional education requirements; or
- (c) a member of the Institute of Public Accountants (**IPA**) who:
 - (i) holds a Public Practice Certificate issued by IPA; and
 - (ii) is entitled to use the letters “FIPA” or “MIPA”; and
 - (iii) is subject to, and complies with, IPA’s continuing professional education requirements.

simple managed investment scheme has the same meaning as in the regulations.”.

3 At the end of subregulation 7.6.04(1)

Add:

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- ; (k) if the financial services licensee is a limited licensee—a condition that the licensee must, within 3 years from the date on which the licence is granted and if requested in writing by ASIC, demonstrate 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 corporation—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; and
 - (B) the competence to provide the financial services covered by the licence.

4 At the end of regulation 7.6.04

Add:

- (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 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.

limited financial services means the following financial services:

- (a) financial product advice on self-managed superannuation funds;
- (b) 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:
 - (i) making a recommendation that the person establish a self-managed superannuation fund; or

- (ii) providing advice to the person on contributions or pensions under a superannuation product;
- (c) class of product advice on the following:
 - (i) superannuation products;
 - (ii) securities;
 - (iii) simple managed investment schemes;
 - (iv) general insurance products;
 - (v) life risk insurance products;
 - (vi) basic deposit products;
- (d) arrange to deal in an interest in a self-managed superannuation fund.

Note 1: 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*.

Note 2: See subregulation 1.0.02(1) for the meaning of *simple managed investment scheme*.

Note 3: Financial product advice on self-managed superannuation funds includes advice about acquiring or disposing of an interest in a self-managed superannuation fund.

limited licensee means a financial services licensee that:

- (a) is:
 - (i) a recognised accountant; or
 - (ii) a corporation 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 limited financial services.

recognised accountant means:

- (a) a member of CPA Australia who:

- (i) holds a Public Practice Certificate issued by CPA Australia Ltd; and
- (ii) is entitled to use the letters “CPA” or “FCPA”; and
- (iii) is subject to, and complies with, CPA Australia’s continuing professional education requirements; or
- (b) a member of The Institute of Chartered Accountants in Australia (**ICAA**) who:
 - (i) holds a Certificate of Public Practice issued by ICAA; and
 - (ii) is entitled to use the letters “ACA”, “CA” or “FCA”; and
 - (iii) is subject to, and complies with, ICAA’s continuing professional education requirements; or
- (c) a member of the Institute of Public Accountants (**IPA**) who:
 - (i) holds a Public Practice Certificate issued by IPA; and
 - (ii) is entitled to use the letters “FIPA” or “MIPA”; and
 - (iii) is subject to, and complies with, IPA’s continuing professional education requirements.

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 who is a limited licensee for the whole of a financial year—a compliance certificate containing the information and matters required by the regulations; or
 - (b) for a licensee who is a limited licensee for part of a financial year:
 - (i) a compliance certificate containing the information and matters required by the regulations for the part of the financial year that the licensee was a limited licensee; and

- (ii) an auditor's reporting containing the information and matters required by the regulations for the part of the financial year that the licensee was not a limited licensee; or
- (c) 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 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.

limited financial service means the following financial services:

- (a) financial product advice on self-managed superannuation funds;
- (b) 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:
 - (i) making a recommendation that the person establish a self-managed superannuation fund; or
 - (ii) providing advice to the person on contributions or pensions under a superannuation product;
- (c) class of product advice on the following:
 - (i) superannuation products;
 - (ii) securities;
 - (iii) simple managed investment schemes;
 - (iv) general insurance products;
 - (v) life risk insurance products;
 - (vi) basic deposit products;

- (d) arrange to deal in an interest in a self-managed superannuation fund.

Note 1: 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*.

Note 2: Financial product advice on self-managed superannuation funds includes advice about acquiring or disposing of an interest in a self-managed superannuation fund.

limited 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 limited financial services.

simple managed investment scheme has the same meaning as in the regulations.”.

6 Subregulations 7.8.13(1) and (2)

Omit “subsection 989B (3)” (wherever occurring), substitute “subparagraph 989B(3)(b)(ii) or paragraph 989B(3)(c)”.

7 After regulation 7.8.13

Insert:

7.8.13A Compliance certificate with profit and loss statement and balance sheet

For paragraph 989B(3)(a) and subparagraph 989B(3)(b)(i) of the Act, a compliance certificate lodged by a licensee with a true and fair profit and loss statement and balance sheet in respect of a financial year must:

- (a) be lodged with ASIC in the prescribed form; and
- (b) be signed by:
 - (i) if the licensee is an individual—the licensee; or
 - (ii) if the licensee is a corporation—an officer of the corporation; or

- (iii) if the licensee is a partnership or the trustees of a trust—a partner or trustee who performs duties in relation to financial services.

8 Paragraph 7.8.14(b)

Repeal the paragraph, substitute:

- (b) if the licensee is required to lodge an auditor's report under subparagraph 989B(3)(b)(ii) or paragraph 989B(3)(c) 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 paragraph 989B(3)(a) or subparagraph 989B(3)(b)(i) of the Act—the information in the compliance certificate lodged with the profit and loss statement and balance sheet is complete and accurate.

9 After regulation 7.8.14A

Insert:

7.8.14B Modification of section 990B of the Act

- (1) For paragraph 992C(1)(c) of the Act, Part 7.8 of the Act applies as if subsection 990B(1) of the Act were modified by:
 - (a) omitting “must, within 1 month after beginning to hold the licence,” and substituting “who is not a limited licensee must”; and
 - (b) omitting “(4) and (5)” and substituting “(4), (5) and (5A)”.
- (2) For paragraph 992C(1)(c) of the Act, Part 7.8 of the Act applies as if section 990B of the Act were modified by inserting after subsection 990B(5) the following subsection:
 - “(5A) The licensee must appoint an auditor or auditors within:
 - (a) if the licensee was a limited licensee—one month after the licensee ceased to be a limited licensee; or
 - (b) for all other licensees—one month after beginning to hold the licence.”.

- (3) For paragraph 992C(1)(c) of the Act, Part 7.8 of the Act applies as if subsection 990B(9) of the Act were modified to read as follows:

“(9) 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 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.

limited financial services means the following financial services:

- (a) financial product advice on self-managed superannuation funds;
- (b) 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:
 - (i) making a recommendation that the person establish a self-managed superannuation fund; or
 - (ii) providing advice to the person on contributions or pensions under a superannuation product;
- (c) class of product advice on the following:
 - (i) superannuation products;
 - (ii) securities;
 - (iii) simple managed investment schemes;
 - (iv) general insurance products;
 - (v) life risk insurance products;
 - (vi) basic deposit products;
- (d) arrange to deal in an interest in a self-managed superannuation fund.

Note 1: 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***.

Note 2: Financial product advice on self-managed superannuation funds includes advice about acquiring or disposing of an interest in a self-managed superannuation fund.

limited 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 limited financial services.

person means:

- (a) an individual auditor; or
- (b) an authorised audit company.

simple managed investment scheme has the same meaning as in the regulations.”.

Schedule 2—Amendments commencing on 1 July 2016

Corporations Regulations 2001

1 Regulation 7.1.29A

Repeal the regulation.

Schedule 3—Amendments commencing on 1 July 2019

Corporations Regulations 2001

1 Regulation 7.6.01BA

Repeal the regulation.