



# Corporations Amendment Regulation 2013 (No. 4)

## Select Legislative Instrument No. 115, 2013

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

Dated 13 June 2013

Marie Bashir  
Administrator

By Her Excellency's Command

William Richard Shorten  
Minister for Financial Services and Superannuation

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OPC60003 - A



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*No. 115, 2013*

*Corporations Amendment Regulation 2013 (No. 4)*

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*OPC60003 - A*



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## **1 Name of regulation**

This regulation is the *Corporations Amendment Regulation 2013 (No. 4)*.

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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

## 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 between a financial services licensee that is a trading participant of a prescribed financial market and a financial services licensee that is not a trading participant in respect of dealings undertaken by a retail client through a specified service; and
  - (b) each of those trades is executed by the trading participant on behalf of the retail client; and
  - (c) the fee is a percentage, not exceeding 100%, of a brokerage fee paid directly or indirectly by the retail client; and
  - (d) no portion of the benefit is paid to a person other than the trading participant or the licensee that is not a trading participant.

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

Add:

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 service which:

- (a) is provided for retail clients under the name or brand name of:
  - (i) the financial services licensee that is not a trading participant; or

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- (ii) the trading participant and the financial services licensee that is not a trading participant; and
  - (b) relates to the dealing, on behalf of the retail client, in a financial product traded on:
    - (i) a prescribed financial market; or
    - (ii) a prescribed foreign financial market; and
  - (c) is provided in either or both of the following ways:
    - (i) by direct electronic access;
    - (ii) by telephone, but only if:
      - (A) direct electronic access is not available for a temporary period, or the retail client expresses a preference that the service be provided by telephone; and
      - (B) neither the trading participant nor the financial services licensee that is not a trading participant is to provide financial product advice to the retail client by telephone in relation to the dealing undertaken on the retail client's behalf; and
  - (d) is provided in circumstances in which neither the trading participant nor the financial services licensee that is not a trading participant provides personal advice to the retail client in relation to the dealing undertaken on the retail client's behalf.

## **5 At the end of Division 4 of Part 7.7A**

Add:

### **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 within the meaning of regulation 7.7A.12D.

**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 within the meaning of regulation 7.7A.12D.