

Financial Sector Reform (Hayne Royal Commission Response—Advice Fees) Regulations 2021

I, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 13 May 2021

David Hurley Governor-General

By His Excellency's Command

Jane Hume

Minister for Superannuation, Financial Services and the Digital Economy



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1 Name

This instrument is the *Financial Sector Reform (Hayne Royal Commission Response—Advice Fees) Regulations 2021.*

2 Commencement

(1) Each provision of this instrument 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 Date/Details		
Provisions	Commencement			
1. Sections 1 to 4 and anything in this instrument not elsewhere covered by this table	The day after this instrument is registered.	15 May 2021		
2. Schedule 1	The later of: (a) the day after this instrument is registered; and (b) immediately after the commencement of Schedule 1 to the <i>Financial Sector Reform</i> (Hayne Royal Commission Response No. 2) Act 2021.	1 July 2021 (paragraph (b) applies)		
3. Schedule 2	The later of: (a) the day after this instrument is registered; and (b) immediately after the commencement of Schedule 3 to the <i>Financial Sector Reform</i> (Hayne Royal Commission Response No. 2) Act 2021.	1 July 2021 (paragraph (b) applies)		

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

(2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the following:

- (a) the Corporations Act 2001;
- (b) the Electronic Transactions Act 1999.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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

Corporations Regulations 2001

1 Subregulation 7.7A.11(2)

After "subsection 962H(2)", insert "or (2A)".

2 At the end of Division 3 of Part 7.7A

Add.

7.7A.11AA Compliance records required to be kept by fee recipients

- (1) This regulation is made for the purposes of section 962X of the Act.
- (2) A fee recipient must keep the following records in relation to an ongoing fee arrangement the fee recipient has with the client:
 - (a) each fee disclosure statement the fee recipient has given to the client;
 - (b) the date on which each such fee disclosure statement was given to the client, and the manner in which it was given;
 - (c) if the client gives any of the following notifications to the fee recipient—the notification and the date on which the notification was given:
 - (i) a notification of an election to renew the ongoing fee arrangement;
 - (ii) a notification of an election not to renew the ongoing fee arrangement;
 - (iii) a notification terminating the ongoing fee arrangement;
 - (d) if the ongoing fee arrangement has terminated—the date on which the arrangement terminated and the basis on which the arrangement terminated.
- (3) A fee recipient must also keep the following records in relation to an ongoing fee arrangement:
 - (a) each consent for deductions relating to the ongoing fee arrangement given to the fee recipient for the purposes of section 962R or 962S of the Act;
 - (b) the date on which each such consent was given;
 - (c) each notice given to the fee recipient under subsection 962U(1) of the Act withdrawing or varying such consent;
 - (d) the date on which each such notice was given;
 - (e) each confirmation of receipt of such notice given by the fee recipient under subsection 962U(2) of the Act;
 - (f) each of the following communications in relation to the consent referred to in paragraph (a), and the date on which the communication occurred:
 - (i) giving a copy of the consent as required under paragraph 962S(3)(c) of the Act;
 - (ii) giving a copy of a notice withdrawing or varying the consent as required under paragraph 962U(2)(b) of the Act;
 - (iii) giving written notice of the cessation of the consent under subsection 962V(2) of the Act;
 - (g) if the fee recipient arranges with another person (the *account provider*) for deductions relating to the ongoing fee arrangement to be made, as referred

to in paragraph 962S(1)(d) of the Act—the details of the arrangement with the account provider.

3 Paragraph 9.4AB.02(2)(f)

Repeal the paragraph, substitute: (f) subsection 962U(3);

Schedule 2—Trustees' obligations

Electronic Transactions Regulations 2020

1 Clause 1 of Schedule 1 (table item 89, column 1, paragraph (h))

Repeal the paragraph, substitute:

(h) subsection 99FA(1)

2 Clause 1 of Schedule 1 (table item 90, column 1, paragraph (a))

Repeal the paragraph.