

EXPLANATORY STATEMENT

Corporations (Fees) Act 2001

Corporations (Fees) Amendment (Relevant Providers) Regulations 2021

Section 8 of the *Corporations (Fees) Act 2001* (Corporations (Fees) Act) provides that the Governor-General may make regulations prescribing fees for chargeable matters.

The purpose of the *Corporations (Fees) Amendment (Relevant Providers) Regulations 2021* (the Regulations) is to support the amendments in the *Financial Sector Reform (Hayne Royal Commission Response—Better Advice) Act 2021* (the Better Advice Act), which received Royal Assent on 28 October 2021. The purpose of the Better Advice Act is to implement the Government’s response to recommendation 2.10 of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (Financial Services Royal Commission) by:

- introducing a new registration system for financial advisers to improve the accountability and transparency of the financial services sector; and
- transferring functions from the Financial Adviser Standards and Ethics Authority to the Minister responsible for administering the *Corporations Act 2001* (Corporations Act) and to the Australian Securities and Investments Commission (ASIC) to streamline the regulation of financial advisers.

The Regulations amend the *Corporations (Fees) Regulations 2001* (Corporations (Fees) Regulations) to:

- set fees for the following functions to be administered by ASIC:
 - the financial adviser exam under subsection 921B(3) of the Corporations Act;
 - requests to review candidates’ written responses on the financial adviser exam; and
 - applications to register relevant providers under subsections 921ZA(1) and 921ZB(1) of the Corporations Act.
- make consequential amendments to the Corporations (Fees) Regulations to remove references to monitoring bodies, which are repealed by the Better Advice Act.

Public consultation on draft Regulations took place between 29 September 2021 and 15 October 2021. During this time, Treasury held three roundtables with industry stakeholders and received 17 written submissions. Following consultation, the fees to sit the financial adviser exam and register relevant providers were adjusted to more accurately reflect the cost to ASIC to administer these functions.

Details of the Regulations are set out in [Attachment A](#).

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

The Regulations commence on 1 January 2022.

The Financial Services Royal Commission Final Report has been certified as being informed by a process and analysis equivalent to a Regulation Impact Statement for the purposes of the Government decision to implement this reform. The Financial Services Royal Commission Final Report and the Regulation Impact Statement certification is available from the Department of Prime Minister and Cabinet website.

A statement of Compatibility with Human Rights is at [Attachment B](#).

Details of the Corporations (Fees) Amendment (Relevant Providers) Regulations 2021

Section 1 – Name of the Regulations

This section provides that the name of the Regulations is *the Corporations (Fees) Amendment (Relevant Providers) Regulations 2021* (the Regulations).

Section 2 – Commencement

Schedule 1 to the Regulations commenced on 1 January 2022.

Section 3 – Authority

The Regulations are made under the *Corporations (Fees) Act 2001* (the Corporations (Fees) Act).

Section 4 – Schedule

This section provides that each instrument that is specified in the Schedules to this instrument will be amended or repealed as set out in the applicable items in the Schedules, and any other item in the Schedules to this instrument has effect according to its terms.

Schedule 1 – Amendments

Items 1 to 6 – Consequential amendments for repeal of monitoring bodies

As part of implementing the Government’s response to recommendation 2.10 of the Financial Services Royal Commission Final Report, the Better Advice Act removed section 922HD of the Corporations Act by replacing the requirement to establish code monitoring bodies with a single disciplinary body for financial advisers.

Items 1 to 6 of the Regulations make consequential amendments to support the amendments in the Better Advice Act by removing references to section 922HD of the Corporations Act in the Corporations (Fees) Regulations.

Item 7 – Fees for the financial adviser exam

Section 5 of the Corporations (Fees) Act, provides for the imposition of fees for ‘chargeable matters’, as defined in section 4 of the Corporations (Fees) Act.

Item 7 of the Regulations amends the Corporations (Fees) Regulations to prescribe fees for the financial adviser exam under subsection 921B(3) of the Corporations Act. Item 7 of the Regulations inserts two new table items (items 8A and 8B) in the table in clause 1 of Schedule 1 to the Corporations (Fees) Regulations.

New table item 8A provides that the fee to sit an exam administered by ASIC under subsection 921B(3) of the Corporations Act is \$973. This fee is applicable for each person and for each sitting of the exam. There is no maximum number of times that a person may sit an exam. The fee amount is not subject to the goods and services tax (GST) consistent with the existing treatment or indexation.

New table item 8B provides that the fee to submit a request for ASIC to review the marking of one or more answers to the written-style responses in an exam administered by ASIC under subsection 921B(3) of the Corporations Act is \$218. Only one application may be made by a person for each exam. The fee amount is not subject to GST consistent with the existing treatment or indexation. A review of the multiple choice questions in the exam is not available.

Item 8 – Fees for applications for registration of relevant providers

Item 8 of the Regulations, which is also made under section 5 of the Corporations (Fees) Act, amends the Corporations (Fees) Regulations to prescribe fees for an application for registration of relevant providers under subsections 921ZA(1) and 921ZB(1) of the Corporations Act.

Subsections 921ZA(1) and 921ZB(1) of the Corporations Act require financial services licensees to apply to ASIC for a relevant provider to be registered under subsection 921ZC(1) of the Corporations Act. Where a relevant provider is also the financial services licensee, the licensee may apply to ASIC to register themselves.

Item 8 of the Regulations inserts a new item (item 12D) in the table in clause 1 of Schedule 2 to the Corporations (Fees) Regulations.

New item 12D provides that the fee for making an application to register a relevant provider, under subsection 921ZA(1) or 921ZB(1) of the Corporations Act, is \$50. Consistent with the existing treatment, the fee is not subject to GST. However, in accordance with subsection 3(2A) of the Corporations (Fees) Regulations, which is applicable to all of the other ASIC Registry fees in Schedule 2 of the Corporations (Fees) Regulations, the fee for an application for registration is subject to indexation. This fee is payable for each application (i.e. for each relevant provider) lodged with ASIC.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Corporations (Fees) Amendment (Relevant Providers) Regulations 2021

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The Regulations amend the *Corporations (Fees) Regulations 2001* (Corporations (Fees) Regulations) to:

- set fees for the following functions to be administered by ASIC:
 - the financial adviser exam under subsection 921B(3) of the Corporations Act;
 - requests to review candidates' written responses on the financial adviser exam; and
 - applications to register relevant providers under subsections 921ZA(1) and 921ZB(1) of the Corporations Act.
- make consequential amendments to the Corporations (Fees) Regulations to remove references to monitoring bodies, which are repealed by the Better Advice Act.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.