



Banking Sector Legislation Amendment Regulation 2012 (No. 1)¹

Select Legislative Instrument 2012 No. 319

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 *Banking Act 1959* and the *First Home Saver Accounts Act 2008*.

Dated 6 December 2012

QUENTIN BRYCE
Governor-General

By Her Excellency's Command

WAYNE SWAN
Treasurer

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1 Name of regulation

This regulation is the *Banking Sector Legislation Amendment Regulation 2012 (No. 1)*.

2 Commencement

This regulation commences on the day after it is registered.

3 Amendment of *Banking Regulations 1966*

Schedule 1 amends the *Banking Regulations 1966*.

4 Amendment of *First Home Saver Accounts Regulations 2008*

Schedule 2 amends the *First Home Saver Accounts Regulations 2008*.

Schedule 1 **Amendment of *Banking Regulations 1966***

(section 3)

[1] **After Part 2**

insert

Part 7 Miscellaneous

20 Unclaimed moneys—specified accounts and conditions

- (1) For subsection 69(1B) of the Act, this regulation specifies accounts and conditions relating to those accounts.

Note Under subsection 69(1B) of the Act, moneys to the credit of an account specified in the regulations are ***unclaimed moneys*** if, and only if, the conditions specified in the regulations are satisfied.

Linked accounts

- (2) A specified account is an account (a ***linked account***) to which the following apply:
- (a) the account is opened or maintained as a condition of holding another account in the same ADI;
 - (b) the account and the other account are linked in accordance with the terms and conditions of either or both of the accounts.
- (3) A specified account is the account (a ***linked account***) described in subregulation (2) as the other account.
- (4) The conditions relating to a linked account are that, for at least 3 years:
- (a) no deposits have been made into the linked account and any of the accounts to which it is linked; and
 - (b) no withdrawals have been made from the linked account and any of the accounts to which it is linked.

Sub accounts

- (5) A specified account is an account (a *sub account*) to which the following apply:
- (a) the account is operated or maintained as part of another account (a *parent account*);
 - (b) the account is part of the parent account.
- (6) The conditions relating to a sub account are that:
- (a) no deposits have been made into the sub account for at least 3 years; and
 - (b) no withdrawals have been made from the sub account for at least 3 years; and
 - (c) no deposits have been made into the parent account for at least 3 years; and
 - (d) no withdrawals have been made from the parent account for at least 3 years; and
 - (e) for each other sub account of the parent account:
 - (i) no deposits have been made into that sub account for at least 3 years; and
 - (ii) no withdrawals have been made from that sub account for at least 3 years.

Frozen accounts

- (7) A specified account is an account (a *frozen account*) to which the following apply:
- (a) deposits into the account and withdrawals from the account have not been allowed by order of a court;
 - (b) the order no longer prohibits deposits into the account and withdrawals from the account.
- (8) A specified account is an account (a *frozen account*) to which the following apply:
- (a) deposits into the account and withdrawals from the account have not been allowed by the operation of a law;
 - (b) the law no longer prohibits deposits into the account and withdrawals from the account.

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- (9) The conditions relating to a frozen account are that:
- (a) no deposits have been made into the frozen account for at least 3 years after the day:
 - (i) the order mentioned in paragraph (7)(a) ceased to prohibit deposits into the account and withdrawals from the account; or
 - (ii) the law mentioned in paragraph (8)(a) ceased to prohibit deposits into the account and withdrawals from the account; and
 - (b) no withdrawals have been made from the frozen account for at least 3 years after the day:
 - (i) the order mentioned in paragraph (7)(a) ceased to prohibit deposits into the account and withdrawals from the account; or
 - (ii) the law mentioned in paragraph (8)(a) ceased to prohibit deposits into the account and withdrawals from the account.

Children's accounts

- (10) A specified account is an account (a *children's account*) to which the following apply:
- (a) the terms and conditions of the account require it to be held by, or for the benefit of, a person under 18;
 - (b) the account is opened:
 - (i) in the name of a person who is under 18 at the time; or
 - (ii) by the trustee of a trust for the benefit of a person who is under 18 at the time.
- (11) The conditions relating to a children's account are that:
- (a) no deposits have been made into the children's account for at least 7 years; and
 - (b) no withdrawals have been made from the children's account for at least 7 years.

**21 Unclaimed moneys—deposits to which subsections
69(1) and (1A) of the Act do not apply**

For subsection 69(1E) of the Act, a term deposit is specified.

Schedule 2 **Amendment of *First Home Saver Accounts Regulations 2008***

(section 4)

[1] **After Part 1**

insert

Part 1A Key concepts and other definitions

3A Meaning of *unclaimed money*—specified FHSAs

- (1) For subsection 17A(3) of the Act, the balance of an FHSA specified in this regulation and held by a person is ***unclaimed money*** in relation to the person if, and only if, the conditions specified in this regulation are satisfied.
- (2) All FHSAs are specified.
- (3) The conditions relating to a FHSA are that:
 - (a) either:
 - (i) one of the requirements (a ***4 year requirement***) in subparagraphs 32(1)(c)(i) to (iii) of the Act has been met; or
 - (ii) one of the requirements (a ***4 year requirement***) in subparagraphs 32A(1)(e)(i) to (iii) of the Act has been met; and
 - (b) at any time after the time the 4 year requirement is met:
 - (i) no amount has been contributed to the FHSA for at least 3 years; and
 - (ii) no payment has been made from the FHSA for at least 3 years.

Note The requirements mentioned in paragraph (a) relate to actions of an FHSA holder that have occurred over at least 4 years.

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.