



Corporations Amendment (Financial Advice) Regulation 2015

Select Legislative Instrument No. 108, 2015

I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulation.

Dated 25 June 2015

Peter Cosgrove
Governor-General

By His Excellency's Command

Josh Frydenberg
Assistant Treasurer

OPC61268 - A

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1 Name

This is the *Corporations Amendment (Financial Advice) Regulation 2015*.

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
Provisions	Commencement	Date/Details
1. The whole of this instrument	1 July 2015.	1 July 2015

Note: This table relates only to the provisions of this instrument as originally made.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 *Corporations Act 2001*.

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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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

Corporations Regulations 2001

1 Before regulation 7.1.28A

Insert:

7.1.28AA Provision of financial product advice about default funds

For paragraph 766A(1)(f) of the Act, the provision of financial product advice to an employer about the choice of a fund to which to contribute for the benefit of those employees for whom there is no chosen fund (within the meaning of the *Superannuation Guarantee (Administration) Act 1992*) is prescribed.

Note: The financial product advice provided to the employer is a financial service provided to a person as a retail client: see paragraph 761G(6)(b) of the Act.

2 Regulation 7.6.02AB (after table item 2)

Insert:

2A section 1368 Part 7.7A

3 Regulation 7.6.02AC (after table item 2)

Insert:

2A section 1368 Part 7.7A

4 Regulation 7.6.02AD (after table item 2)

Insert:

2A section 1368 Part 7.7A

5 Regulation 7.6.02AE (after table item 2)

Insert:

2A section 1368

Part 7.7A

6 Part 7.7A (note)

Repeal the note, substitute:

Note: Regulations 7.7A.01 to 7.7A.04 are reserved for future use.

7 Subdivision 1 of Division 2 of Part 7.7A (heading)

Repeal the heading.

8 Regulation 7.7A.1

Repeal the regulation, substitute:

7.7A.05 Best interests duty—basic banking products etc.

- (1) This regulation:
 - (a) is made for paragraph 961B(5)(b) of the Act; and
 - (b) prescribes a circumstance in which the provider is not required to prove that he or she has taken the steps mentioned in paragraphs 961B(2)(d), (e), (f) and (g) of the Act in relation to advice that relates to a basic banking product or general insurance product.
- (2) The provider is not required to prove that he or she has taken the steps if:
 - (a) the provider is:
 - (i) an agent or employee of an Australian ADI; or
 - (ii) otherwise acting by arrangement with an Australian ADI under the name of the Australian ADI; and
 - (b) the subject matter of the advice sought by the client relates only to the following:
 - (i) a basic banking product;
 - (ii) a general insurance product;
 - (iii) consumer credit insurance;
 - (iv) a combination of any of those products.

7.7A.06 Best interests duty—general insurance products

- (1) This regulation:

- (a) is made for paragraph 961B(5)(b) of the Act; and
 - (b) prescribes a circumstance in which the provider is not required to prove that he or she has taken the steps mentioned in paragraphs 961B(2)(d), (e), (f) and (g) of the Act.
- (2) The provider is not required to prove that he or she has taken the steps to the extent that the subject matter of the advice sought by the client is a general insurance product.

7.7A.07 Best interests duty—basic banking products

For paragraph 961F(e) of the Act, a facility for making non-cash payments (see section 763D of the Act) that is not related to a basic deposit product is a *basic banking product*.

9 Regulation 7.7A.12 (note)

Omit “Note”, substitute “Note 1”.

10 At the end of regulation 7.7A.12

Add:

- Note 2: A reference in this Division to giving a benefit includes a reference to causing or authorising it to be given (see section 52 of the Act).
- Note 3: Under the governing rules of some regulated superannuation funds, a member may seek advice on the basis that the trustee of the fund will pay the licensee or representative for the advice and then recover the amount paid from the assets of the fund attributed to that member. In that case, the member has caused or authorised the amount to be paid to the licensee or representative. If the operation of section 52 of the Act and these regulations means that the payment is not conflicted remuneration, the trustee’s obligations under section 62 of the *Superannuation Industry (Supervision) Act 1993* (which deals with the purposes for which a trustee may act in maintaining a regulated superannuation fund) will not be affected.

11 Subparagraph 7.7A.12H(a)(iii)

Repeal the subparagraph, substitute:

- (iii) consumer credit insurance;
- (iv) a combination of any of those products; and