



Corporations Legislation Amendment Regulations 2011 (No. 2)

Select Legislative Instrument 2011 No. 274

I, QUENTIN BRYCE, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Corporations Act 2001*.

Dated 7 December 2011

QUENTIN BRYCE
Governor-General

By Her Excellency's Command

BILL SHORTEN
Assistant Treasurer

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1 Name of Regulations

These Regulations are the *Corporations Legislation Amendment Regulations 2011 (No. 2)*.

2 Commencement

These Regulations commence on the day after they are registered.

3 Amendment of *Corporations Amendment Regulations 2010 (No. 5)*

Schedule 1 amends the *Corporations Amendment Regulations 2010 (No. 5)*.

4 Amendment of *Corporations Regulations 2001*

Schedule 2 amends the *Corporations Regulations 2001*.

**Schedule 1 Amendments of Corporations
Amendment Regulations 2010
(No. 5)**
(regulation 3)

[1] After subregulation 4 (1)

insert

(1A) If, during the period commencing on the day on which this subregulation commences and ending on 22 June 2012:

- (a) a person decides to issue a supplementary Product Disclosure Statement; and
- (b) the supplementary Product Disclosure Statement relates to a Product Disclosure Statement for a superannuation product or a financial product mentioned in subregulation (1) that was prepared in accordance with the *Corporations Regulations 2001* as in force before the day on which this subregulation commences;

the amendments made by Schedule 1 apply to the extent necessary to allow the person to prepare the supplementary Product Disclosure Statement in accordance with the *Corporations Regulations 2001* as amended.

(1B) If, during the period commencing on the day on which this subregulation commences and ending on 22 June 2012, a person decides to issue a Product Disclosure Statement for a superannuation product or a financial product mentioned in subregulation (1) without relying on the amendments made by Schedule 1:

- (a) the person is permitted to issue the Product Disclosure Statement without relying on the amendments; and
- (b) the person is not then permitted to issue another Product Disclosure Statement of that kind during the period in a way that relies on those amendments.

[2] Subregulation 4 (3)

omit

On and after the end of the period of 1 year commencing on the day on which these Regulations commence

insert

On and after 22 June 2012

[3] Subregulation 4 (4)

omit

On and after the end of the period of 1 year commencing on the day on which these Regulations commence

insert

On and after 22 June 2012

[4] After subregulation 4 (6)

insert

(7) Despite subregulations (1), (1A) and (2) to (6), if:

- (a) the amendments made by Schedule 1 do not apply at a particular time because of any of those subregulations; and
- (b) a person decides to rely on those amendments in relation to a superannuation product or a financial product mentioned in the relevant subregulation;

the relevant subregulation does not apply and the amendments made by Schedule 1 are taken to apply in relation to the person and the product on and after that time.

Note Subregulation (1B) allows a person to decide not to rely on the amendments made by Schedule 1 in relation to a Product Disclosure Statement for a superannuation product or financial product in particular circumstances. The person is permitted to issue the Product Disclosure Statement without relying on those amendments and the person cannot then change that decision and issue a Product Disclosure Statement that relies on those amendments.

Schedule 2 **Amendments of *Corporations Regulations 2001***

(regulation 4)

[1] Subregulation 7.9.11E (1)

omit

subsection 1013C (1B)

insert

subsection 1013C (1D)

[2] Subregulation 7.9.11K (2)

substitute

- (2) However, this Subdivision does not apply to the following financial products:
- (a) an interest in a superannuation product that is solely a defined benefit interest;
 - (b) a superannuation product that is solely a pension product;
 - (c) a superannuation product that has no investment component (also known as a risk-only superannuation product).

[3] Regulation 7.9.11M

omit

For paragraph 1020G (1) (b)

insert

- (1) For paragraph 1020G (1) (b)

[4] Regulation 7.9.11M

insert

(2) If a person:

- (a) proposes to prepare a Product Disclosure Statement or a supplementary Product Disclosure Statement for a superannuation product during the period commencing on the day on which this subregulation commences and ending on 22 June 2012; and
- (b) is permitted to decide, in accordance with regulation 4 of the *Corporations Amendment Regulations 2010 (No. 5)*, to prepare the Product Disclosure Statement or supplementary Product Disclosure Statement in accordance with Subdivision D of Division 2 of Part 7.9 of the Act; and
- (c) prepares the Product Disclosure Statement or supplementary Product Disclosure Statement in accordance with that Subdivision;

the preparation of the Product Disclosure Statement or supplementary Product Disclosure Statement is taken to be full compliance with all requirements of Part 7.9 of the Act and these Regulations relating to how the Product Disclosure Statement or supplementary Product Disclosure Statement is to be prepared.

Note The *Corporations Amendment Regulations 2010 (No. 5)* amended these Regulations to make new arrangements for the preparation of Product Disclosure Statements for superannuation products, including identifying that Subdivision D of Division 2 of Part 7.9 of the Act would no longer apply. However, the transitional arrangements in subregulations 4 (1) to (7) of the Amendment Regulations allowed certain persons to decide to rely on Subdivision D of Division 2 of Part 7.9 of the Act for the purpose of preparing the Product Disclosure Statement.

[5] Subregulation 7.9.11P (1)

omit

subsection 1013C (1B)

insert

subsection 1013C (1D)

[6] Subregulation 7.9.11P (4), table, item 2

omit

when you sign the application form

insert

when you acquire the product

[7] Subregulation 7.9.11P (7)

omit

the person signs the application form accompanying the Statement

insert

the product is acquired

[8] Regulation 7.9.11U

omit

For paragraph 1020G (1) (b)

insert

- (1) For paragraph 1020G (1) (b)

[9] Regulation 7.9.11U

insert

- (2) If a person:
- (a) proposes to prepare a Product Disclosure Statement or a supplementary Product Disclosure Statement for a simple managed investment scheme to which this Subdivision applies during the period commencing on the day on which this subregulation commences and ending on 22 June 2012; and

- (b) is permitted to decide, in accordance with regulation 4 of the *Corporations Amendment Regulations 2010 (No. 5)*, to prepare the Product Disclosure Statement or supplementary Product Disclosure Statement in accordance with Subdivision D of Division 2 of Part 7.9 of the Act; and
- (c) prepares the Product Disclosure Statement or supplementary Product Disclosure Statement in accordance with that Subdivision;

the preparation of the Product Disclosure Statement or supplementary Product Disclosure Statement is taken to be full compliance with all requirements of Part 7.9 of the Act and these Regulations relating to how the Product Disclosure Statement or supplementary Product Disclosure Statement is to be prepared.

Note The *Corporations Amendment Regulations 2010 (No. 5)* amended these Regulations to make new arrangements for the preparation of Product Disclosure Statements for simple managed investment schemes, including identifying that Subdivision D of Division 2 of Part 7.9 of the Act would no longer apply. However, the transitional arrangements in subregulations 4 (1) to (7) of the Amendment Regulations allowed certain persons to decide to rely on Subdivision D of Division 2 of Part 7.9 of the Act for the purpose of preparing the Product Disclosure Statement.

[10] Subregulation 7.9.11X (1)

omit

subsection 1013C (1B)

insert

subsection 1013C (1D)

[11] Subregulation 7.9.11X (4), table, item 2

omit

when you sign the application form

insert

when you acquire the product

[12] Subregulation 7.9.11X (7)

omit

the person signs the application form accompanying the Statement

insert

the product is acquired

[13] Schedule 10E, subclause 5 (2)

substitute

- (2) The responsible entity may provide additional information about:
- (a) any feature or benefit of the simple managed investment scheme; or
 - (b) other features and benefits of the simple managed investment scheme; or
 - (c) other features and benefits of simple managed investment schemes;
- by applying, adopting or incorporating a matter in writing.

[14] Schedule 10E, subclauses 7 (3) to (5)

substitute

New simple managed investment scheme

- (3) If the simple managed investment scheme has never previously been offered to investors, and does not offer any investment option mentioned in subclauses (4) and (5) about which section 5 can give information, section 5 must give the following information for the investment option that the responsible entity reasonably believes has the least volatile underlying assets (whether or not section 5 gives that information for any other investment option):
- (a) the name of the option and a short description of it, including the type of investors for whom it is intended to be suitable;

- (b) a list of the asset classes in which the option invests, setting out the strategic asset allocation of the asset classes in the form of a range or otherwise;
- (c) a description of the investment return objective of the option;
- (d) the minimum suggested time frame for holding the investment;
- (e) a description, in the form of a summary, of the risk level of the option.

Balanced investment option

- (4) If the simple managed investment scheme has a balanced investment option (within the meaning given by item 101 of Schedule 10), section 5 must give the following information for the balanced investment option (whether or not section 5 gives that information for any other investment option):
 - (a) the name of the option and a short description of it, including the type of investors for whom it is intended to be suitable;
 - (b) a list of the asset classes in which the option invests, setting out the strategic asset allocation of the asset classes in the form of a range or otherwise;
 - (c) a description of the investment return objective of the option;
 - (d) the minimum suggested time frame for holding the investment;
 - (e) a description, in the form of a summary, of the risk level of the option.

No balanced investment option

- (5) If the simple managed investment scheme does not have a balanced investment option (within the meaning given by item 101 of Schedule 10), section 5 must give the following information for the investment option under which the entity has the most funds invested (whether or not section 5 gives that information for any other investment option):
- (a) the name of the option and a short description of it, including the type of investors for whom it is intended to be suitable;
 - (b) a list of the asset classes in which the option invests, setting out the strategic asset allocation of the asset classes in the form of a range or otherwise;
 - (c) a description of the investment return objective of the option;
 - (d) the minimum suggested time frame for holding the investment;
 - (e) a description, in the form of a summary, of the risk level of the option.

[15] Schedule 10E, subparagraph 7 (6) (b) (i)

omit

subclause (3)

insert

subclause (3), (4) or (5)

[16] Schedule 10E, subclause 9 (3)

substitute

- (3) The responsible entity may provide additional information about:
- (a) taxation matters relating to the registered managed investment scheme; or
 - (b) taxation matters relating to registered managed investment schemes;
- by applying, adopting or incorporating a matter in writing.

