



Corporations Amendment (Life Insurance Remuneration Arrangements) Regulations 2017

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 regulations.

Dated 09 March 2017

Peter Cosgrove
Governor-General

By His Excellency's Command

Kelly O'Dwyer
Minister for Revenue and Financial Services

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1 Name

This instrument is the *Corporations Amendment (Life Insurance Remuneration Arrangements) Regulations 2017*.

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	Immediately after the commencement of Schedule 1 to the <i>Corporations Amendment (Life Insurance Remuneration Arrangements) Act 2017</i> .	1 January 2018

Note: This table relates only to the provisions of this instrument as originally made.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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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 Subdivision 1 of Division 4 of Part 7.7A

Insert:

Subdivision 1—Benefits in relation to life risk insurance products that are conflicted remuneration

7.7A.11A What this Subdivision is about

This Subdivision:

- (a) is made for the purposes of section 963AA of the Act; and
- (b) prescribes circumstances, in addition to those set out in section 963A, in which a benefit given to a financial services licensee, or a representative of a financial services licensee, in relation to a life risk insurance product, or life risk insurance products, is conflicted remuneration.

7.7A.11B Circumstances in which benefits in relation to life risk insurance products are conflicted remuneration

Giving information in relation to life risk insurance products

- (1) A benefit given to a financial services licensee, or a representative of a financial services licensee, is **conflicted remuneration** if:
 - (a) the benefit is given to the licensee or representative in relation to information given to a person, or persons, in relation to a life risk insurance product, or life risk insurance products; and
 - (b) access to the benefit, or the value of the benefit, is dependent on:
 - (i) the value of a life risk insurance product, or life risk insurance products, subsequently acquired by a person or persons to whom, or in relation to whom, the information is given; or
 - (ii) the value of a life risk insurance product, or life risk insurance products, subsequently varied that are held by a person or persons to whom, or in relation to whom, the information is given; or
 - (iii) the number of life risk insurance products subsequently acquired by a person or persons to whom, or in relation to whom, the information is given; or
 - (iv) the number of life risk insurance products subsequently varied that are held by a person or persons to whom, or in relation to whom, the information is given; and
 - (c) the information is not given in the course of, or as a result of, the licensee or representative, or an associate of the licensee or representative, providing financial product advice; and
 - (d) if the information is given in the course of providing a financial product—the information is not given in the course of providing that product to a person as a wholesale client, or to persons as wholesale clients.

Dealing in life risk insurance products

- (2) A benefit given to a financial services licensee, or a representative of a financial services licensee, is **conflicted remuneration** if:
- (a) the benefit is given to the licensee or representative in relation to a dealing in a life risk insurance product with a person as a retail client, or dealings in life risk insurance products with persons as retail clients; and
 - (b) access to the benefit, or the value of the benefit, is dependent on:
 - (i) the value of the life risk insurance product to which the dealing relates, or the life risk insurance products to which the dealings relate; or
 - (ii) the number of life risk insurance products to which the dealings relate; and
 - (c) the dealing, or dealings, do not occur in the course of, or as a result of, the licensee or representative, or an associate of the licensee or representative:
 - (i) providing financial product advice; or
 - (ii) giving information in circumstances in which the benefit would be conflicted remuneration under subregulation (1).

7.7A.11C Circumstances in which benefits in relation to information about life risk insurance products are not conflicted remuneration*Monetary benefits*

- (1) Despite subregulation 7.7A.11B(1), a monetary benefit given to a financial services licensee, or a representative of a financial services licensee, in relation to information given to a person, or persons, in relation to a life risk insurance product, or life risk insurance products, is not **conflicted remuneration** if:
- (a) because of the nature of the benefit or the circumstances in which it is given, the benefit could not reasonably be expected to influence:
 - (i) whether the licensee or representative gives the information to the person or persons; or
 - (ii) the way in which the licensee or representative presents the information in giving it to the person or persons; or
 - (b) none of the products is a group life policy for members of a superannuation entity (as defined in subsection 963B(2) of the Act) or a life policy for a member of a default superannuation fund (as defined in subsection 963B(3) of the Act) and either:
 - (i) the benefit ratio for the benefit is the same for the year in which the product or products are issued as it is for each year in which the product or products are continued; or
 - (ii) the benefit ratio requirements and clawback requirements in section 963BA of the Act are satisfied in relation to the benefit; or
 - (c) the benefit is given to the licensee or representative in relation to consumer credit insurance; or
 - (d) if the information is given in the course of providing a financial product to a person as a retail client or to persons as retail clients—the benefit is given by that person, or those persons; or

- (e) the benefit is given to the licensee as part of the purchase or sale of all or part of the licensee's business, or to the representative as part of the purchase or sale of all or part of the representative's business.

Non-monetary benefits

- (2) Despite subregulation 7.7A.11B(1), a non-monetary benefit given to a financial services licensee, or a representative of a financial services licensee, in relation to information given to a person, or persons, in relation to a life risk insurance product, or life risk insurance products, is not **conflicted remuneration** if:
 - (a) because of the nature of the benefit or the circumstances in which it is given, the benefit could not reasonably be expected to influence:
 - (i) whether the licensee or representative gives the information to the person or persons; or
 - (ii) the way in which the licensee or representative presents the information in giving it to the person or persons; or
 - (b) each of the following is satisfied:
 - (i) the licensee or representative is the final recipient of the benefit, or all or part of the benefit passes through the licensee or representative to another financial services licensee, or representative of a financial services licensee, who is the final recipient of the benefit;
 - (ii) the value of the benefit in the hands of each final recipient is less than \$300;
 - (iii) identical or similar benefits are not given on a frequent or regular basis; or
 - (c) each of the following is satisfied:
 - (i) the benefit has a genuine education or training purpose;
 - (ii) the benefit is relevant to giving information in relation to life risk insurance products;
 - (iii) if education or training is provided through an education or training course (within the meaning of regulation 7.7A.14)—subregulations 7.7A.14(3) and (4) are satisfied in relation to the education or training;
 - (iv) if education or training is provided other than through an education or training course—the dominant purpose of the benefit is education and training; or
 - (d) each of the following is satisfied:
 - (i) the benefit is the provision of information technology software or support;
 - (ii) the benefit is relevant to giving information in relation to a life risk insurance product, or life risk insurance products; or
 - (e) if the information is given in the course of providing a financial product to a person as a retail client or to persons as retail clients—the benefit is given by that person, or those persons.

7.7A.11D Circumstances in which benefits in relation to dealings in life risk insurance products are not conflicted remuneration*Monetary benefits*

- (1) Despite subregulation 7.7A.11B(2), a monetary benefit given to a financial services licensee, or a representative of a financial services licensee, in relation to a dealing in a life risk insurance product with a person as a retail client, or dealings in life risk insurance products with persons as retail clients, is not **conflicted remuneration** if:
 - (a) because of the nature of the benefit or the circumstances in which it is given, the benefit could not reasonably be expected to influence:
 - (i) whether the licensee or representative deals in the life risk insurance product, or life risk insurance products; or
 - (ii) the way in which the licensee or representative deals in the life risk insurance product, or life risk insurance products; or
 - (b) none of the products is a group life policy for members of a superannuation entity (as defined in subsection 963B(2) of the Act) or a life policy for a member of a default superannuation fund (as defined in subsection 963B(3) of the Act) and either:
 - (i) the benefit ratio for the benefit is the same for the year in which the product or products are issued as it is for each year in which the product or products are continued; or
 - (ii) the benefit ratio requirements and clawback requirements in section 963BA of the Act are satisfied in relation to the benefit; or
 - (c) the benefit is given to the licensee or representative in relation to consumer credit insurance; or
 - (d) the benefit is given to the licensee or representative by the retail client, or retail clients; or
 - (e) the benefit is paid to the licensee as part of the purchase or sale of all or part of the licensee's business, or to the representative as part of the purchase or sale of all or part of the representative's business.

Non-monetary benefits

- (2) Despite subregulation 7.7A.11B(2), a non-monetary benefit given to a financial services licensee, or a representative of a financial services licensee, in relation to a dealing in a life risk insurance product with a person as a retail client, or dealings in life risk insurance products with persons as retail clients, is not **conflicted remuneration** if:
 - (a) because of the nature of the benefit or the circumstances in which it is given, the benefit could not reasonably be expected to influence:
 - (i) whether the licensee or representative deals in the life risk insurance product, or life risk insurance products; or
 - (ii) the way in which the licensee or representative deals in the life risk insurance product, or life risk insurance products; or
 - (b) each of the following is satisfied:
 - (i) the licensee or representative is the final recipient of the benefit, or all or part of the benefit passes through the licensee or representative to another financial services licensee, or representative of a financial services licensee, who is the final recipient of the benefit;

- (ii) the value of the benefit in the hands of each final recipient is less than \$300;
- (iii) identical or similar benefits are not given on a frequent or regular basis; or
- (c) each of the following is satisfied:
 - (i) the benefit has a genuine education or training purpose;
 - (ii) the benefit is relevant to dealing in life risk insurance products;
 - (iii) if the education or training is provided through an education or training course (within the meaning of regulation 7.7A.14)—subregulations 7.7A.14(3) and (4) are satisfied in relation to the education or training;
 - (iv) if the education or training is provided other than through an education or training course—the dominant purpose of the benefit is education and training; or
- (d) each of the following is satisfied:
 - (i) the benefit is the provision of information technology software or support;
 - (ii) the benefit is relevant to dealing in life risk insurance products; or
- (e) the benefit is given to the licensee or representative by the retail client, or retail clients.

2 Subdivision 1 of Division 4 of Part 7.7A (heading)

Repeal the heading, substitute:

Subdivision 2—Monetary benefits that are not conflicted remuneration

3 Regulation 7.7A.12A

Repeal the regulation.

4 After regulation 7.7A.12EA

Insert:

Subdivision 3—Monetary benefits that relate to life risk insurance products

7.7A.12EB Life risk insurance products—clawback requirements related to cancellation etc.

For the purposes of subparagraph 963BA(3)(a)(i) of the Act, the prescribed circumstances are that the life risk insurance product, or the relevant one of the life risk insurance products, is cancelled or is not continued because:

- (a) the person insured dies; or
- (b) the person insured commits an act of self-harm; or
- (c) the person insured reaches an age that, under the terms of the life risk insurance product under which the person is insured, has the result that the product is cancelled or is not continued; or
- (d) an administrative error has been made.

7.7A.12EC Life risk insurance products—clawback requirements related to reduction of policy cost

For the purposes of subparagraph 963BA(3)(a)(ii) of the Act, the prescribed circumstances are that the policy cost for the life risk insurance product, or the relevant one of the life risk insurance products, is reduced because:

- (a) the person who issued the product and the person to whom the product is issued agree that there is a reduction in a risk in relation to a person insured under the product; or
- (b) the person who issued the product reduces the premium for the product without changing the risks covered, or the benefits available, in relation to any person insured under the product; or
- (c) each of the following is satisfied:
 - (i) a rebate is paid or a discount applied;
 - (ii) it is reasonable in all the circumstances to conclude that the rebate is paid or discount applied to induce the person to whom the product is issued to acquire, or to continue to hold, the product; or
- (d) a benefit payable in relation to a person insured under the product has been, or is being, paid; or
- (e) an administrative error has been made.

5 Subdivision 2 of Division 4 of Part 7.7A (heading)

Repeal the heading, substitute:

Subdivision 4—Other monetary and non-monetary benefits that are not conflicted remuneration

6 After regulation 7.7A.15A

Insert:

Subdivision 5—Application provisions relating to the Corporations Amendment (Further Future of Financial Advice Measures) Act 2012

7 After regulation 7.7A.16F

Insert:

Subdivision 6—Application provisions relating to the Corporations Amendment (Life Insurance Remuneration Arrangements) Act 2017

7.7A.16G Definitions

In this Subdivision:

amending Act means the *Corporations Amendment (Life Insurance Remuneration Arrangements) Act 2017*.

commencement day means the day on which Schedule 1 to the *Corporations Amendment (Life Insurance Remuneration Arrangements) Act 2017* commences.

7.7A.16H Life risk insurance products substantially related to existing products

- (1) This regulation is made for the purposes of subsection 1549B(3) of the Act.
- (2) The amendments made by Schedule 1 to the amending Act do not apply to a benefit given to a financial services licensee, or a representative of a financial services licensee, in relation to a life risk insurance product issued to a person on or after the commencement day (the *post-commencement product*) if:
 - (a) the person held another life risk insurance product immediately before the commencement day (the *pre-commencement product*); and
 - (b) either:
 - (i) the person acquires the post-commencement product by exercising an option given to the person under the pre-commencement product; or
 - (ii) the person acquires the post-commencement product because the pre-commencement product was cancelled due to an administrative error.

8 Subdivision 3 of Division 4 of Part 7.7A (heading)

Repeal the heading, substitute:

Subdivision 7—Asset-based fees on borrowed amounts