

# EXPOSURE DRAFT



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## Corporations Amendment (Client Money) Regulation 2016

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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 2016

Peter Cosgrove  
Governor-General

By His Excellency's Command

Scott Morrison [DRAFT ONLY—NOT FOR SIGNATURE]  
Treasurer

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## 1 Name

This is the *Corporations Amendment (Client Money) Regulation 2016*.

## 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. Sections 1 to 4 and anything in this instrument not elsewhere covered by this table	The later of: (a) the start of the day after this instrument is registered; and (b) the commencement of the <i>Corporations Amendment (Client Money) Act 2016</i> .  However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.	

Note: This table relates only to the provisions of this instrument as originally made.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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

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Schedule 1 Client money

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## Schedule 1—Client money

### *Corporations Regulations 2001*

#### **1 At the end of paragraphs 7.8.02(1)(a) and (c)**

Add “(subject to regulation 7.8.02A)”.

#### **2 After section 7.8.02**

Insert:

#### **7.8.02A Accounts maintained for section 981B of the Act—special rules for retail clients**

- (1) Paragraph 7.8.02(1)(a) of these Regulations does not apply to a direction to the extent the direction allows the financial services licensee to use derivative retail client money as mentioned in subregulation (3).
- (2) Paragraph 7.8.02(1)(c) of these Regulations does not apply to an entitlement of the financial services licensee to use derivative retail client money as mentioned in subregulation (3).
- (3) Subregulations (1) and (2) apply to using the money:
  - (a) as the licensee’s working capital; or
  - (b) for the purpose of meeting obligations incurred by the licensee other than on behalf of the client; or
  - (c) for the purpose of entering into, or meeting obligations under, transactions that the licensee enters into to hedge, counteract or offset the risk to the licensee associated with a transaction between the licensee and the client.

Note: In certain circumstances, the money may be used for the purpose of meeting obligations incurred by the licensee in connection with margining, guaranteeing, securing, transferring, adjusting or settling dealings in derivatives by the licensee: see section 981D of the Act.

#### **3 Chapter 10**

Insert in its appropriate numerical position:

### **Part 10.24—Application provisions related to the Corporations Amendment (Client Money) Regulation 2016**

#### **10.24.01 Application of regulation 7.8.02A**

- (1) Subregulation 7.8.02A(1), as inserted by the *Corporations Amendment (Client Money) Regulation 2016* applies in relation to payments made, on or after the commencement of this regulation, out of an account maintained for section 981B of the Act, whether the relevant direction was given before, on or after that commencement.

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Client money **Schedule 1**

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- (2) Subregulation 7.8.02A(2), as inserted by the *Corporations Amendment (Client Money) Regulation 2016* applies in relation to payments made, on or after the commencement of this regulation, out of an account maintained for section 981B of the Act, whether the relevant entitlement was created before, on or after that commencement.

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