

2010-2011-2012

The Parliament of the
Commonwealth of Australia

THE SENATE

EXPOSURE DRAFT

Corporations Amendment (Further Future of Financial Advice Measures) Bill 2012

(Government)

- (1) Schedule 1, page 25 (after line 10), after item 25, insert:

25A Paragraph 967(3)(a)

After “Division 3”, insert “, 4 or 5”.

25B Subsection 968(1)

Omit “Division 3”, substitute “Division 2, Division 3 or Subdivision B of Division 5”.

25C Subsection 968(2)

Repeal the subsection, substitute:

- (2) The *notice day*:

- (a) for a person in relation to whom the licensee, or a person acting as a representative of the licensee, has an obligation or is subject to a prohibition under Division 2 of this Part in relation to personal advice provided on or after a day that falls in the transition period—is the day on which that advice is provided; and
- (b) for a person to whom the licensee, or a person acting as a representative of the licensee, is obliged to give a fee disclosure statement during the transition period:
 - (i) unless subparagraph (ii) applies—is the disclosure day for the arrangement in relation to which the fee disclosure statement is to be given; and
 - (ii) if a fee disclosure statement is given before the end of a period of 30 days beginning on that disclosure day, is the day on which it is given; and
- (c) for a person in relation to whom the licensee, or a person acting as a representative of the licensee, has an obligation or is subject to a prohibition under Subdivision B

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of Division 5 of this Part in relation to the charging of an asset-based fee during the transition period—is the day on which the asset-based fee is charged.

[election to commence on or after 1 July 2012]

- (2) Schedule 1, item 33, page 29 (lines 5 to 10), omit section 1527, substitute:

1527 Application of best interests obligations

- (1) The following apply in relation to the provision of personal advice to a person as a retail client on or after the application day (whether or not the advice was sought before that day):
- (a) Division 2 of Part 7.7A, as inserted by item 23 of Schedule 1 to the amending Act;
 - (b) the amendments made by items 6, 7, 8, 9 and 34 of Schedule 1 to the amending Act.
- (2) In this section:

application day, in relation to a financial services licensee or a person acting as a representative of a financial services licensee, means:

- (a) if the financial services licensee has lodged notice with ASIC in accordance with subsection 967(1) that the obligations and prohibitions imposed under Part 7.7A are to apply to the licensee and persons acting as representatives of the licensee on and from the day specified in the notice—the day specified in the notice; or
- (b) if the person has not lodged such a notice—1 July 2013.

[election to commence on or after 1 July 2012]

- (3) Schedule 1, item 33, page 29 (line 17), omit “the day on which that item commences”, substitute “the application day”.

[election to commence on or after 1 July 2012]

- (4) Schedule 1, item 33, page 29 (after line 28), at the end of section 1528, add:

- (4) In this section:

application day:

- (a) in relation to a financial services licensee or a person acting as a representative of a financial services licensee, means:
 - (i) if the financial services licensee has lodged notice with ASIC in accordance with subsection 967(1) that the obligations and prohibitions imposed under Part 7.7A are to apply to the licensee and persons acting as representatives of the licensee on and from a day specified in the notice—the day specified in the notice; or
 - (ii) in any other case—1 July 2013; and
- (b) in relation to any other person who would be subject to an obligation or prohibition under Division 4 of Part 7.7A if it applied, means:
 - (i) if the person has lodged notice with ASIC in accordance with subsection 967(3) that the obligations and prohibitions imposed under Part 7.7A are to apply to the person on and from a day specified in the notice—the day specified in the notice; or
 - (ii) in any other case—1 July 2013.

[election to commence on or after 1 July 2012]

- (5) Schedule 1, item 33, page 30 (line 2), omit “the day on which that item commences”, substitute “the application day”.

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[election to commence on or after 1 July 2012]

- (6) Schedule 1, item 33, page 30 (line 6), omit “the day on which that item commences”, substitute “the application day”.

[election to commence on or after 1 July 2012]

- (7) Schedule 1, item 33, page 30 (after line 6), at the end of section 1529, add:

(3) In this section:

application day:

- (a) in relation to a financial services licensee or a person acting as a representative of a financial services licensee, means:
- (i) if the financial services licensee has lodged notice with ASIC in accordance with subsection 967(1) that the obligations and prohibitions imposed under Part 7.7A are to apply to the licensee and persons acting as representatives of the licensee on and from a day specified in the notice—the day specified in the notice; or
 - (ii) in any other case—1 July 2013; and
- (b) in relation to any other person who would be subject to an obligation or prohibition under Subdivision A of Division 5 of Part 7.7A if it applied, means:
- (i) if the person has lodged notice with ASIC in accordance with subsection 967(3) that the obligations and prohibitions imposed under Part 7.7A are to apply to the person on and from the day specified in the notice—the day specified in the notice; or
 - (ii) in any other case—1 July 2013.

[election to commence on or after 1 July 2012]

- (8) Schedule 1, item 33, page 30 (line 19), omit “the day on which that item commences”, substitute “the application day”.

[election to commence on or after 1 July 2012]

- (9) Schedule 1, item 33, page 30 (after line 28), at the end of section 1531, add:

(3) In this section:

application day, in relation to a financial services licensee or a person acting as a representative of a financial services licensee, means:

- (a) if the financial services licensee has lodged notice with ASIC in accordance with subsection 967(1) that the obligations and prohibitions imposed under Part 7.7A are to apply to the licensee and persons acting as representatives of the licensee on and from the day specified in the notice—the day specified in the notice; or
- (b) if the person has not lodged such a notice—1 July 2013.

[election to commence on or after 1 July 2012]