

Parliamentary Joint Committee
on Corporations and Financial Services

Inquiry into Regulation 7.1.29 in
Corporations Amendment Regulations
2003 (No. 3), Statutory Rules 2003 No. 85

June 2003

© Commonwealth of Australia 2003

ISBN 0 642 71272 7

MEMBERS OF THE COMMITTEE

Senator Grant Chapman, **Chairman**
Senator Penny Wong, **Deputy Chair**

Senator George Brandis
Senator Stephen Conroy
Senator Andrew Murray
Mr Anthony Byrne MP
Mr Steven Ciobo MP
Mr Alan Griffin MP
Mr Gregory Hunt MP
Mr Stewart McArthur MP

Secretariat

Dr Kathleen Dermody, Secretary
Ms Bronwyn Meredith, Principal Research Officer
Dr Frank Donnan, Principal Research Officer
Ms Cheryl Hardiman, Executive Assistant
Ms Angela Lancsar, Executive Assistant

Suite SG.64
Parliament House
Canberra ACT 2600
T: 61 2 6277 3581
F: 61 2 6277 5719
E: corporations.joint@aph.gov.au
W: www.aph.gov.au/senate/committee/corporations_ctte

ACRONYMS AND ABBREVIATIONS

ASIC	Australian Securities and Investments Commission
FSR Act	<i>Financial Services Reform Act 2001</i>
FSR licence	Australian Financial Services Licence
FSR licensee	Australian Financial Services Licensee
FPA	Financial Planning Association of Australia Limited
ICAA	The Institute of Chartered Accountants in Australia
ITAA	<i>Income Tax Assessment Act 1936</i>
Law Council	Law Council of Australia
Licence	Australian Financial Services Licence
Licensee	Australian Financial Services Licensee
NTAA	National Tax & Accountants' Association
NIA	National Institute of Accountants
PS 146	ASIC Policy Statement 146: <i>Licensing: Training of financial product advisers</i>
RIS	Regulation impact statement
SMSF	Self-managed superannuation fund
TAI	Taxpayers Australia Inc
TIA	Taxation Institute of Australia

TABLE OF CONTENTS

Members of the Committee	iii
Acronyms and Abbreviations	v

CHAPTER 1

REGULATION 7.1.29 OF CORPORATIONS AMENDMENT REGULATIONS 2003 (NO. 3)

CHAPTER 2

REVIEW OF REGULATION 7.1.29

History	3
Overview of the provisions	4
The provisions in detail	5

CHAPTER 3

REVIEW OF THE EVIDENCE AND THE COMMITTEE'S CONCLUSIONS

Introduction	9
Drafting issues	9
Regulation 7.1.29 and its implications for accountants	10
Why accountants say there should be a licensing carve-out	12
Why the superannuation advice exemption is inappropriate	13
Effect on consumers—the cost and quality of advice	15
Referrals, costs and fragmentation of advice	15
High costs of licensing and flow-throughs to consumers	16
Authorised representative status, accountants' independence and effect on quality of advice	17
The Committee's views	19
Conclusion	24
Regulation 7.1.29 and its implications for lawyers	25
Custodial and depository services	26
Activities associated with 'dealing'	27
Provisos in the regulation	27
The Committee's views	28

CHAPTER 4

THE CORPORATIONS AMENDMENT REGULATIONS 2003 (NO. 3), STATUTORY RULES 2003 NO. 85

Regulation 7.1.33D	31
Regulation 7.6.01(1)(la)	32
Regulation 12.7.06	33
Conclusion	33

REPORT BY THE LABOR MEMBERS	35
------------------------------------	-----------

APPENDIX 1

SUBMISSIONS RECEIVED AND ADDITIONAL INFORMATION	41
--	-----------

APPENDIX 2

PUBLIC HEARING AND WITNESSES	43
-------------------------------------	-----------

APPENDIX 3

ADDITIONAL INFORMATION PROVIDED BY THE DEPARTMENT OF THE TREASURY	45
--	-----------