

Map of the Product Disclosure Statement (PDS) Disclosure Regime
under the *Corporations Act 2001* (Cth)

Prepared by the Australian Law Reform Commission



Australian Government

Australian Law Reform Commission

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PRODUCT DISCLOSURE STATEMENT (PDS) REGIME

OVERVIEW

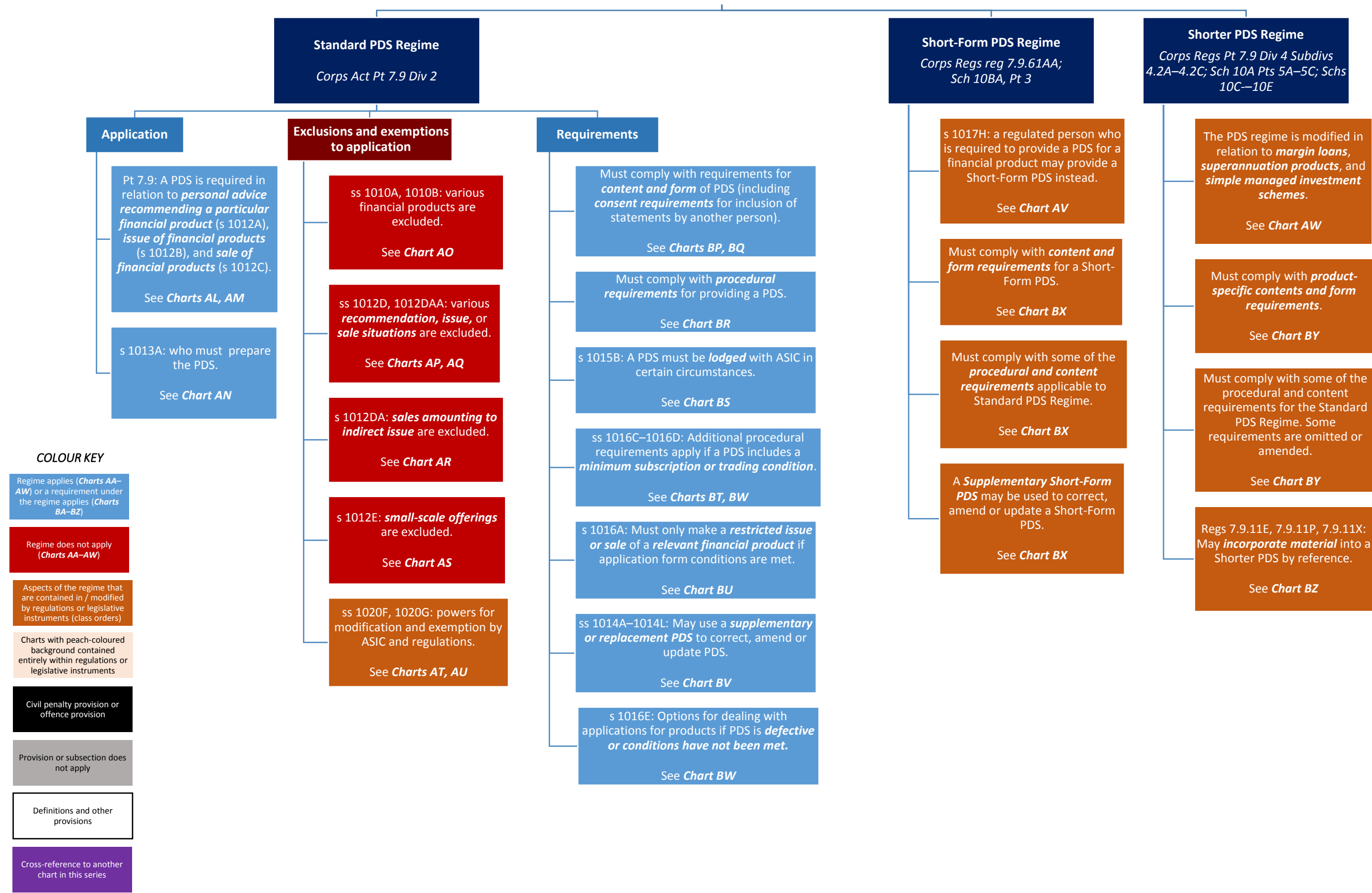


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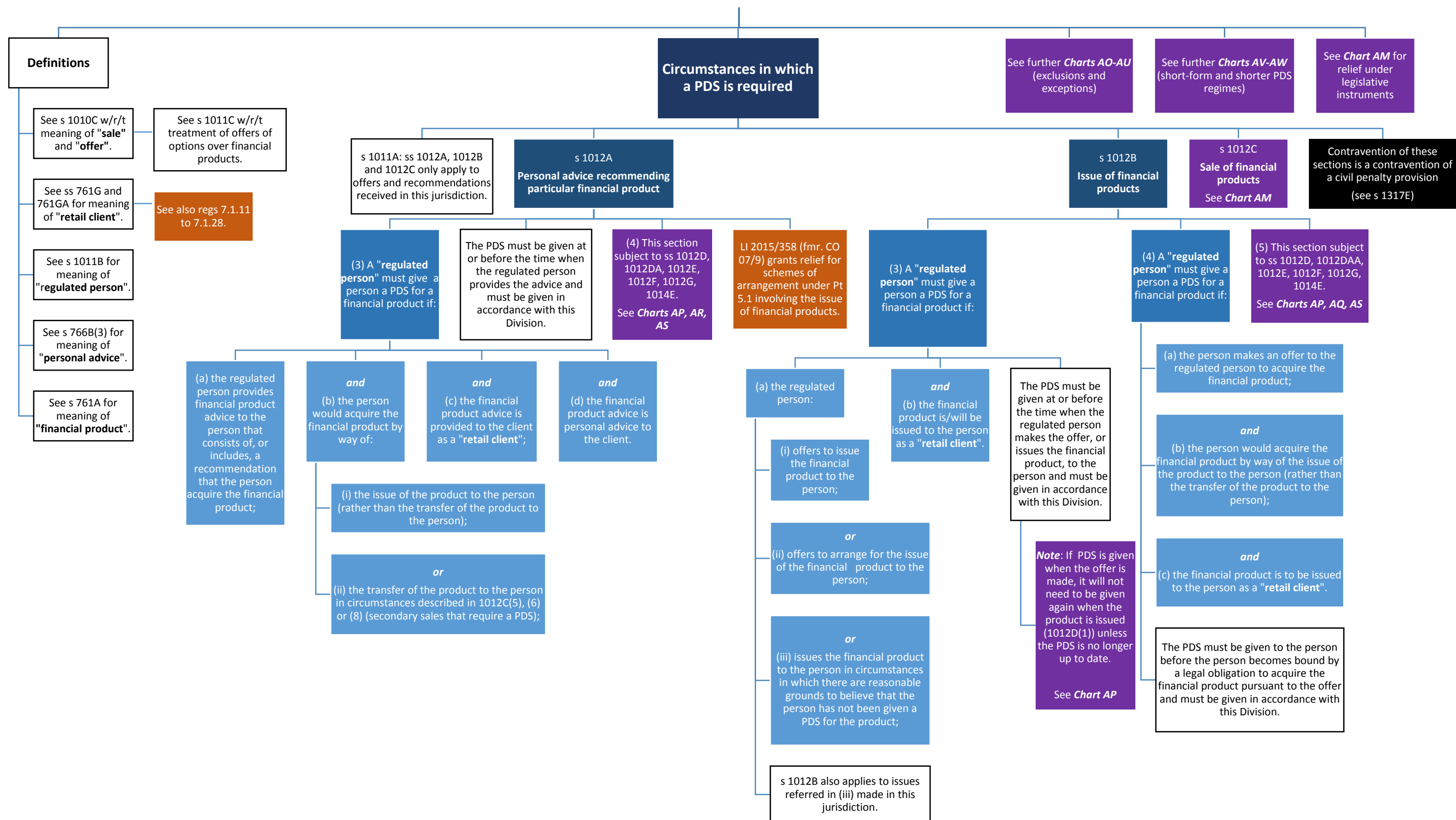
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APPLICATION OF THE STANDARD PDS REGIME

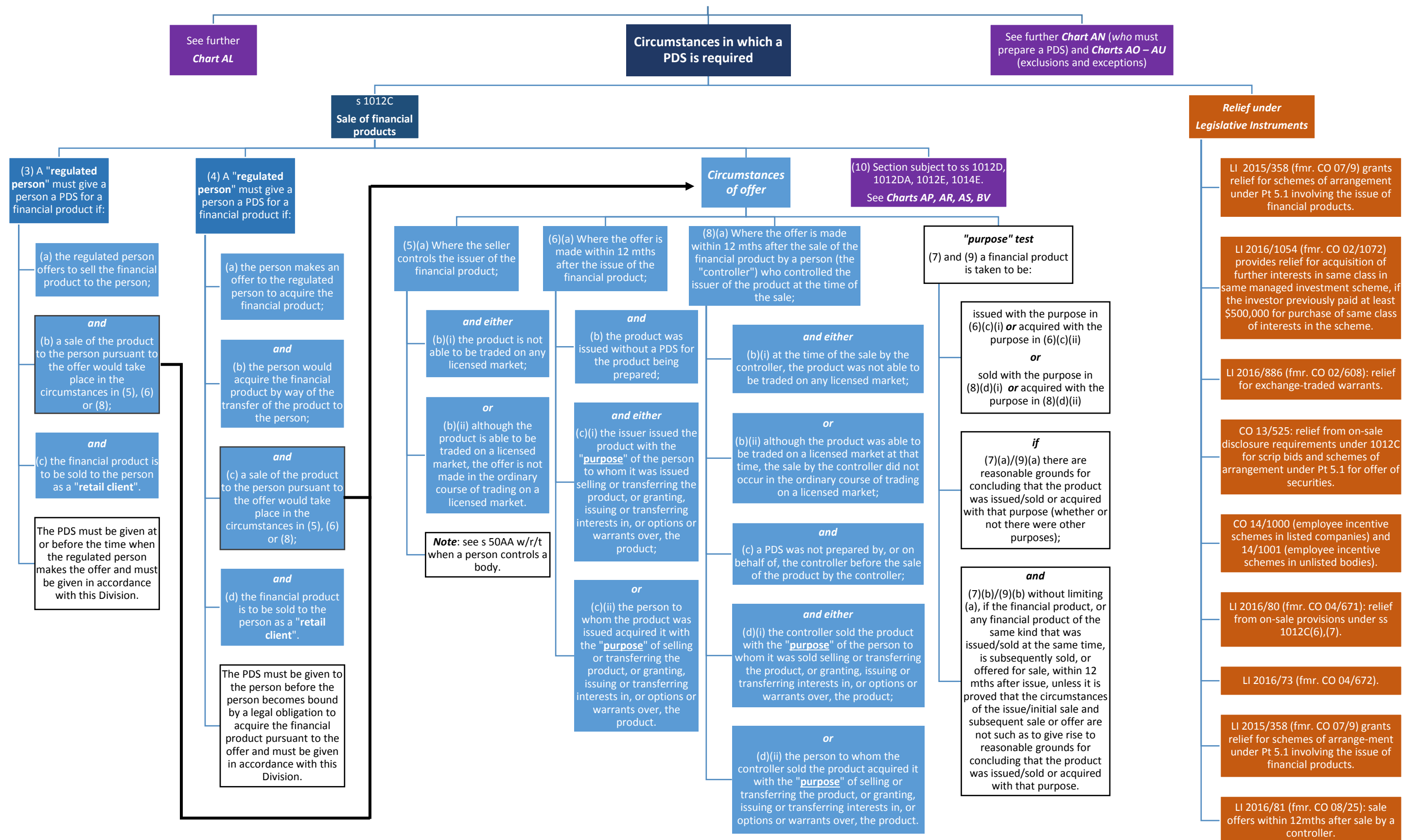
PART ONE





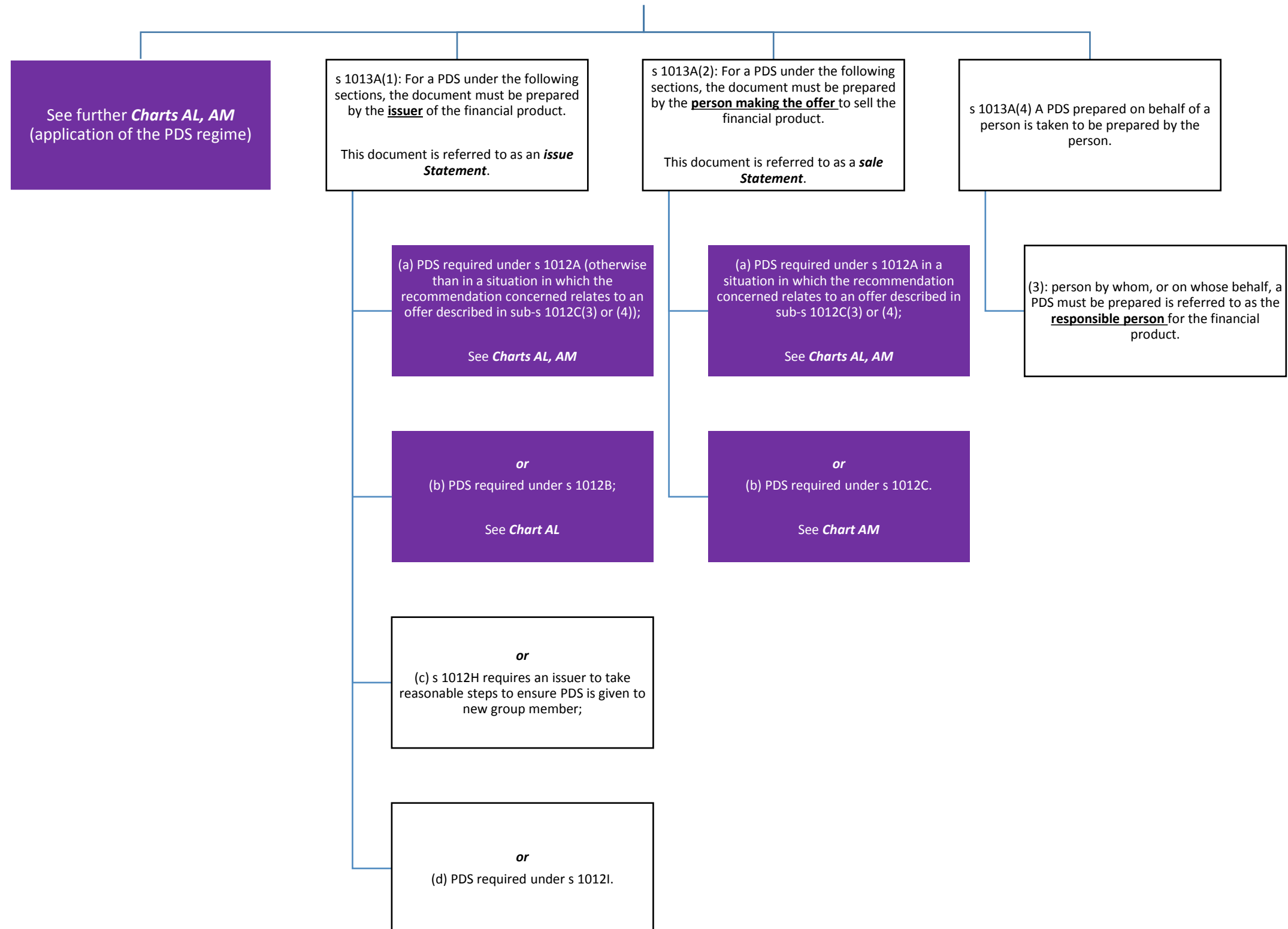
APPLICATION OF THE STANDARD PDS REGIME

PART TWO



Corps Act s 1013A

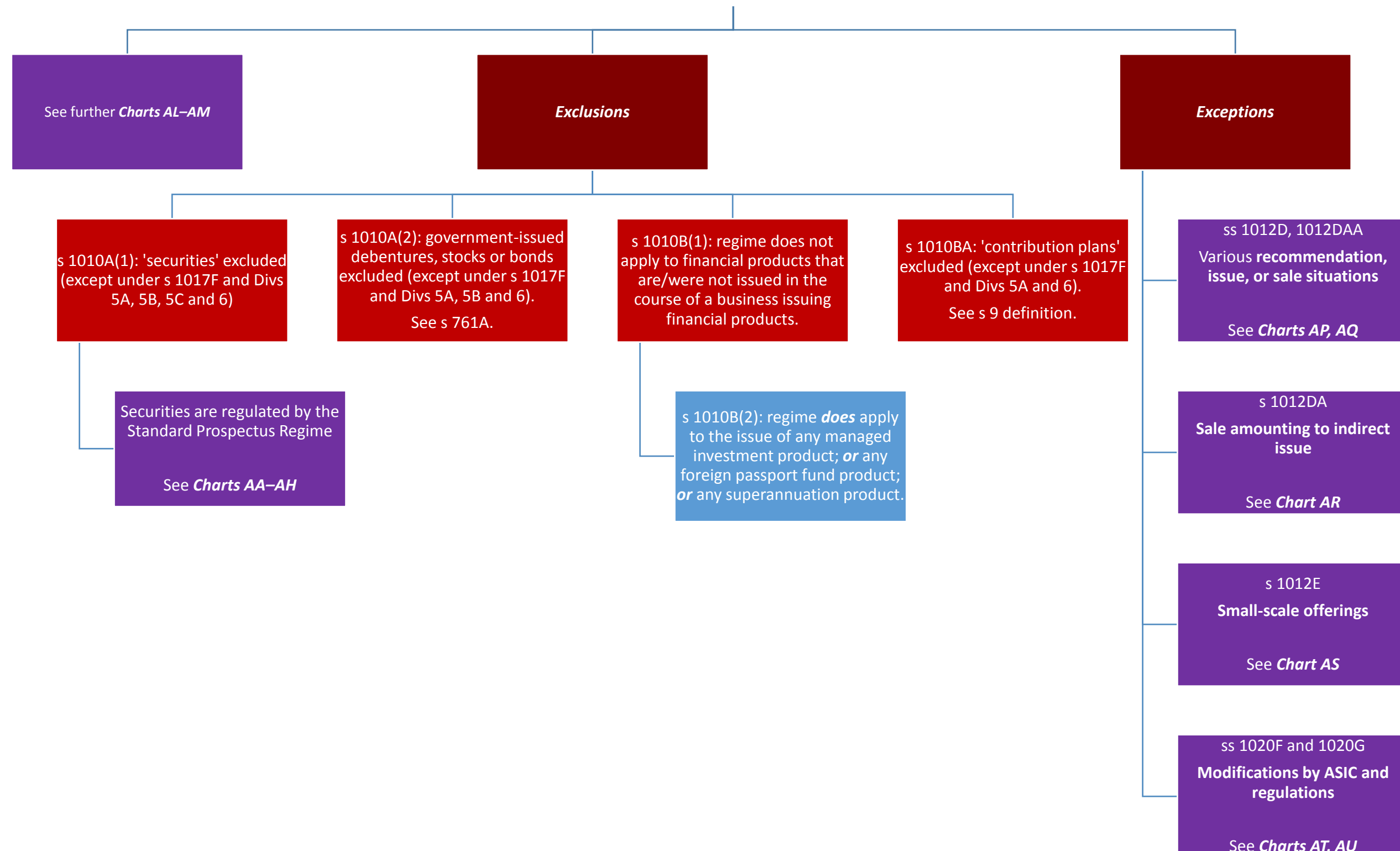
WHO MUST PREPARE A PDS





Corps Act Pt 7.9

EXCLUSIONS AND EXCEPTIONS TO THE STANDARD PDS REGIME PART ONE

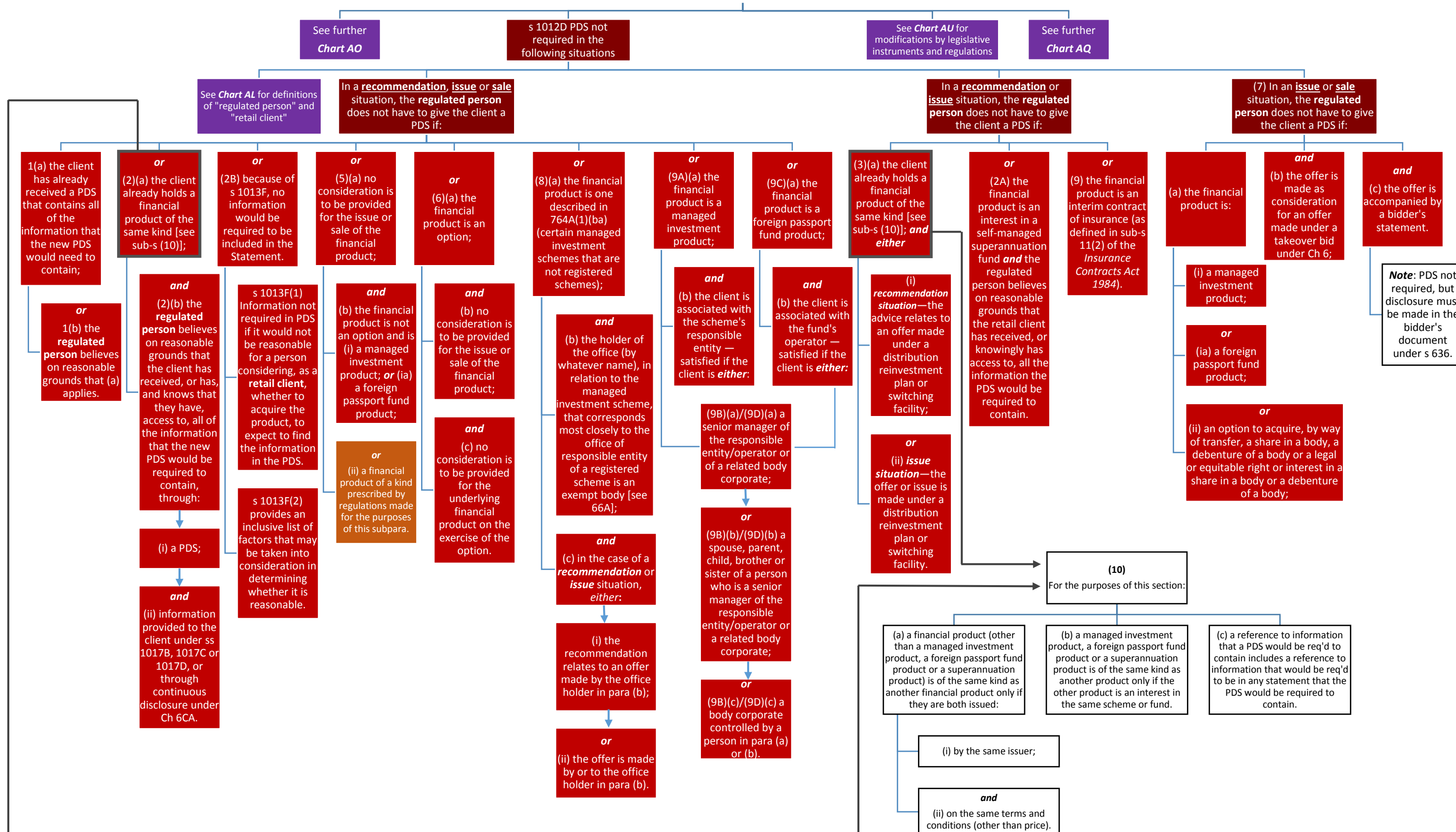




Corps Act Pt 7.9

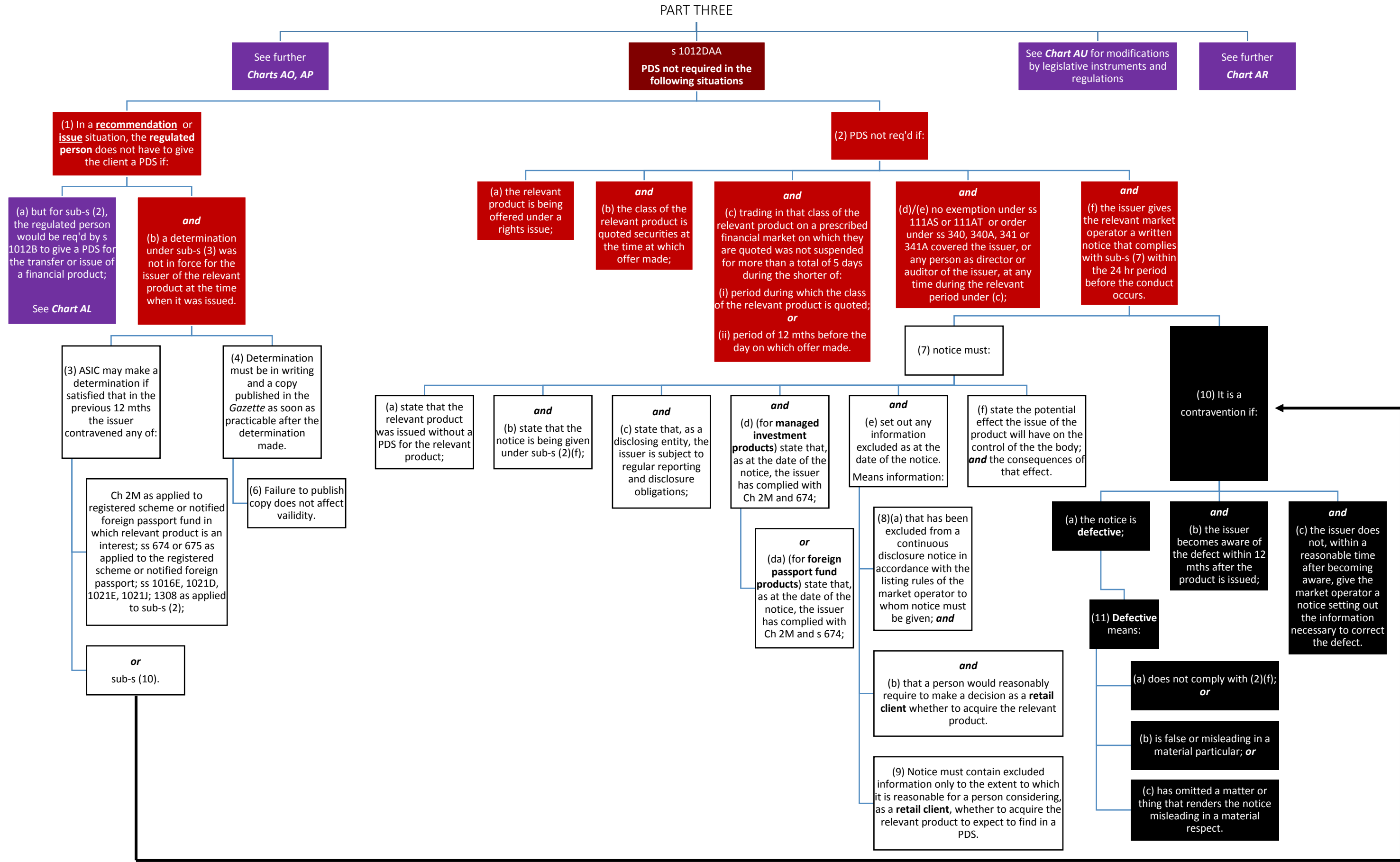
EXCEPTIONS TO THE STANDARD PDS REGIME

PART TWO





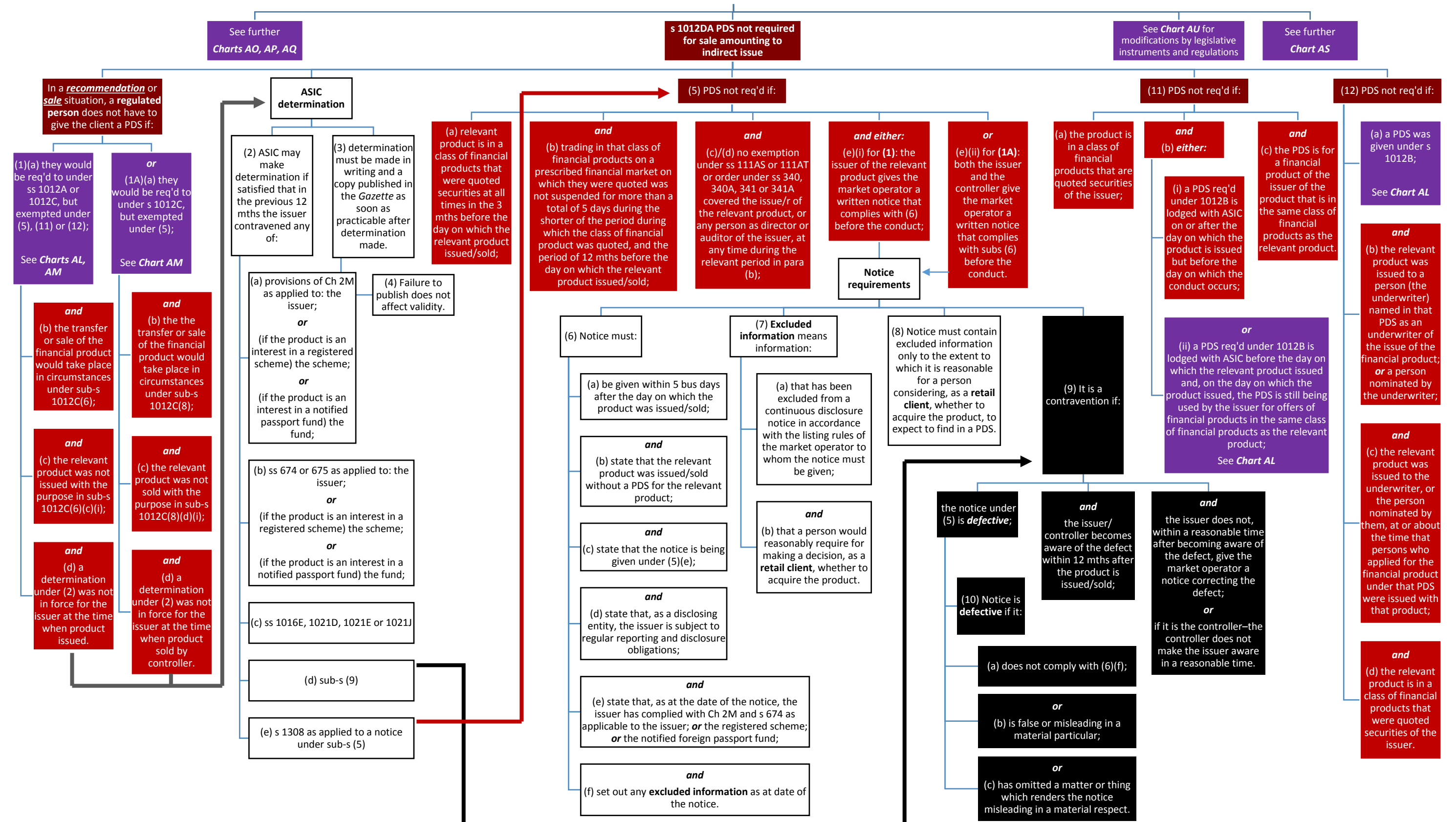
EXCEPTIONS TO THE STANDARD PDS REGIME





EXCEPTIONS TO THE STANDARD PDS REGIME

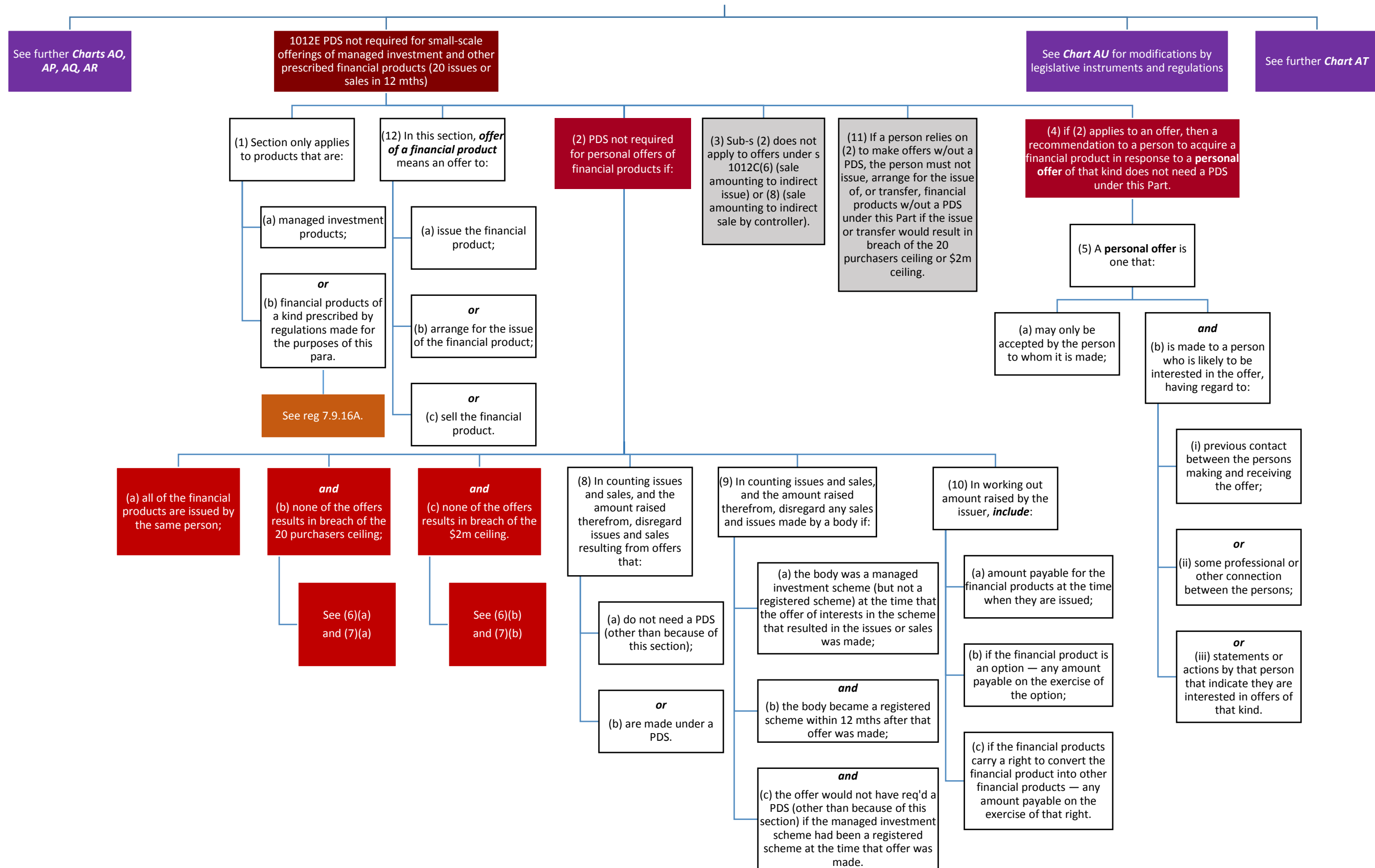
PART FOUR



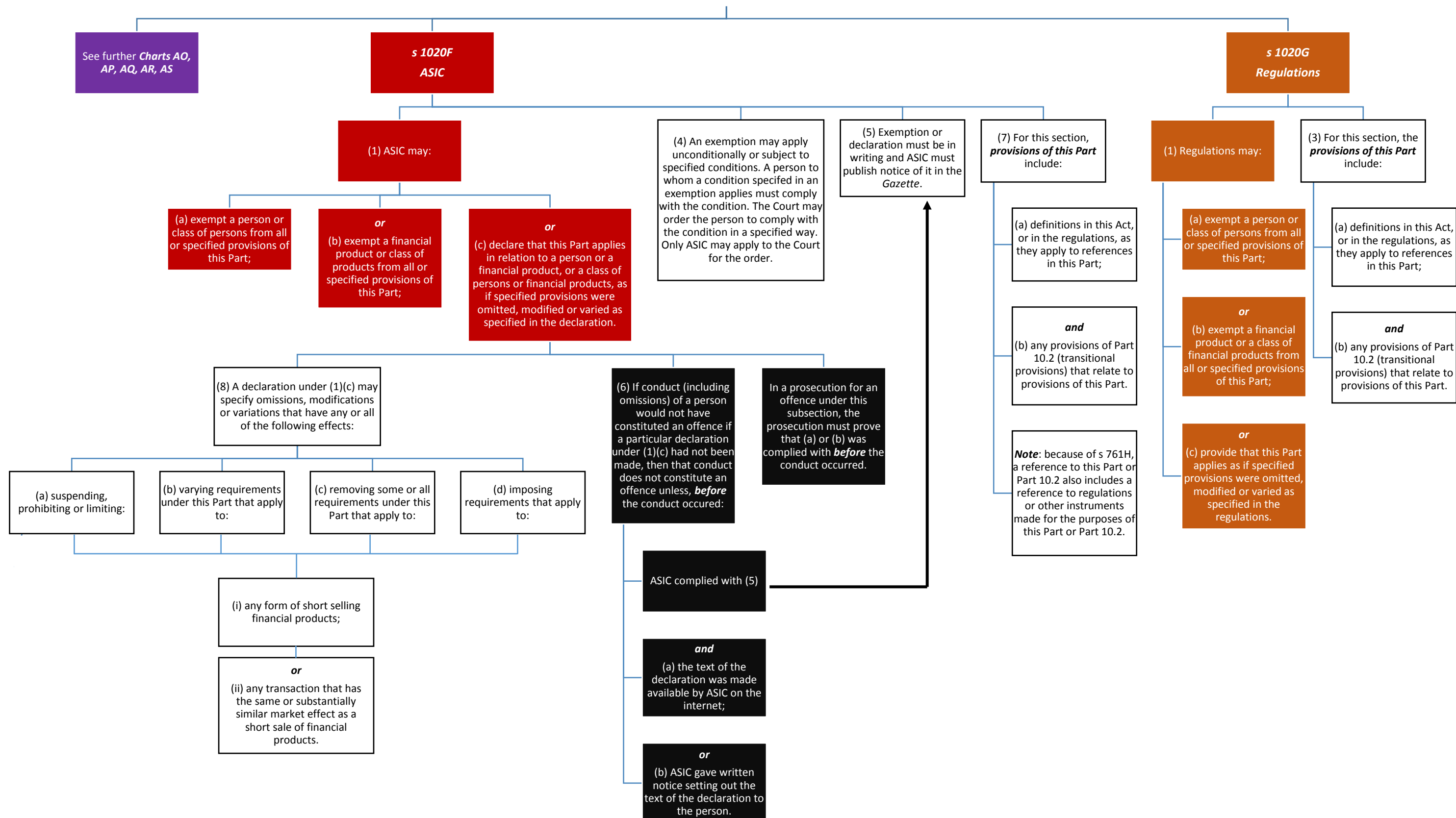


EXCEPTIONS TO THE STANDARD PDS REGIME

PART FIVE



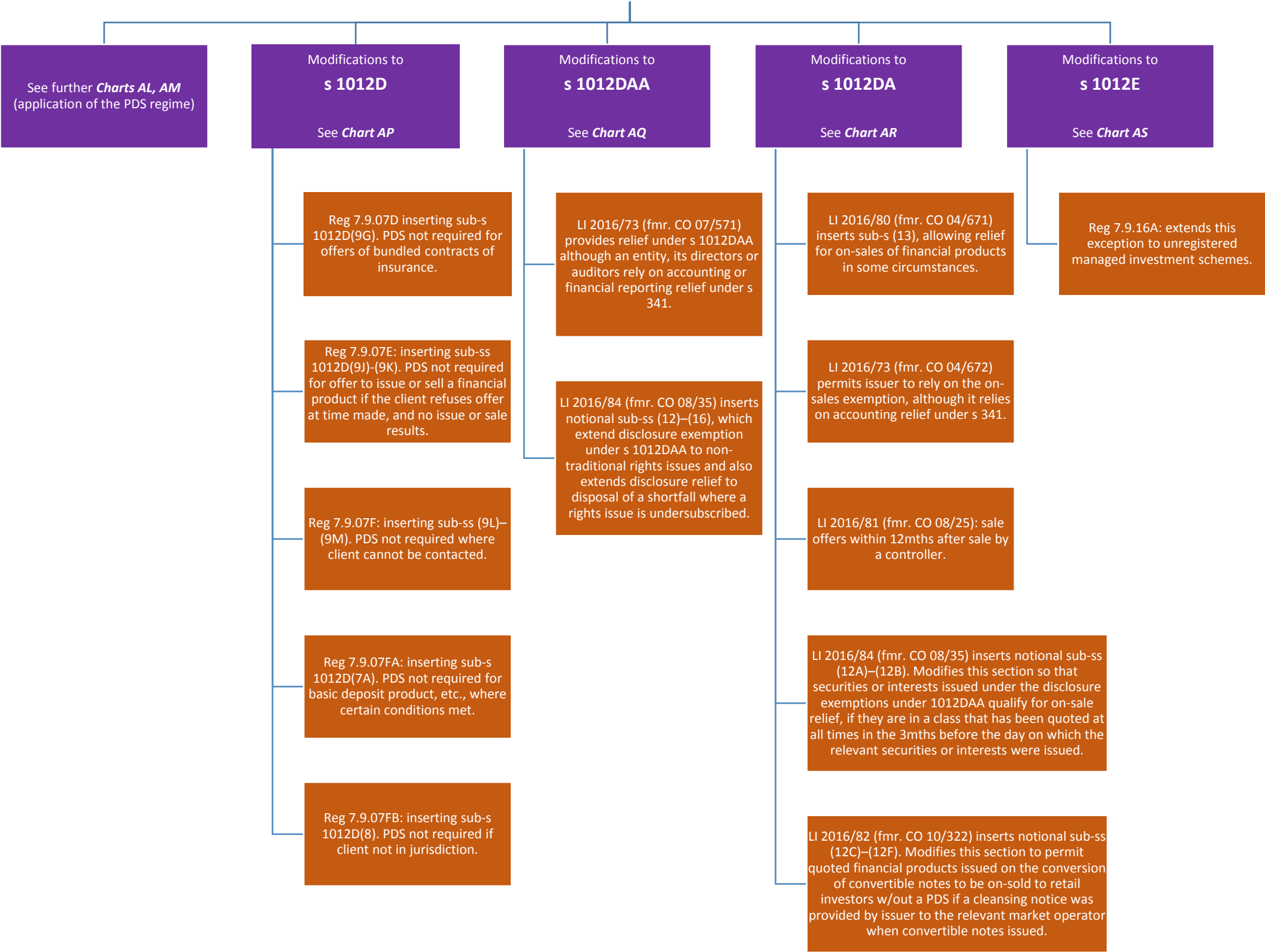
EXEMPTIONS AND MODIFICATIONS BY ASIC AND REGULATIONS





Modifications by regulations and legislative instruments

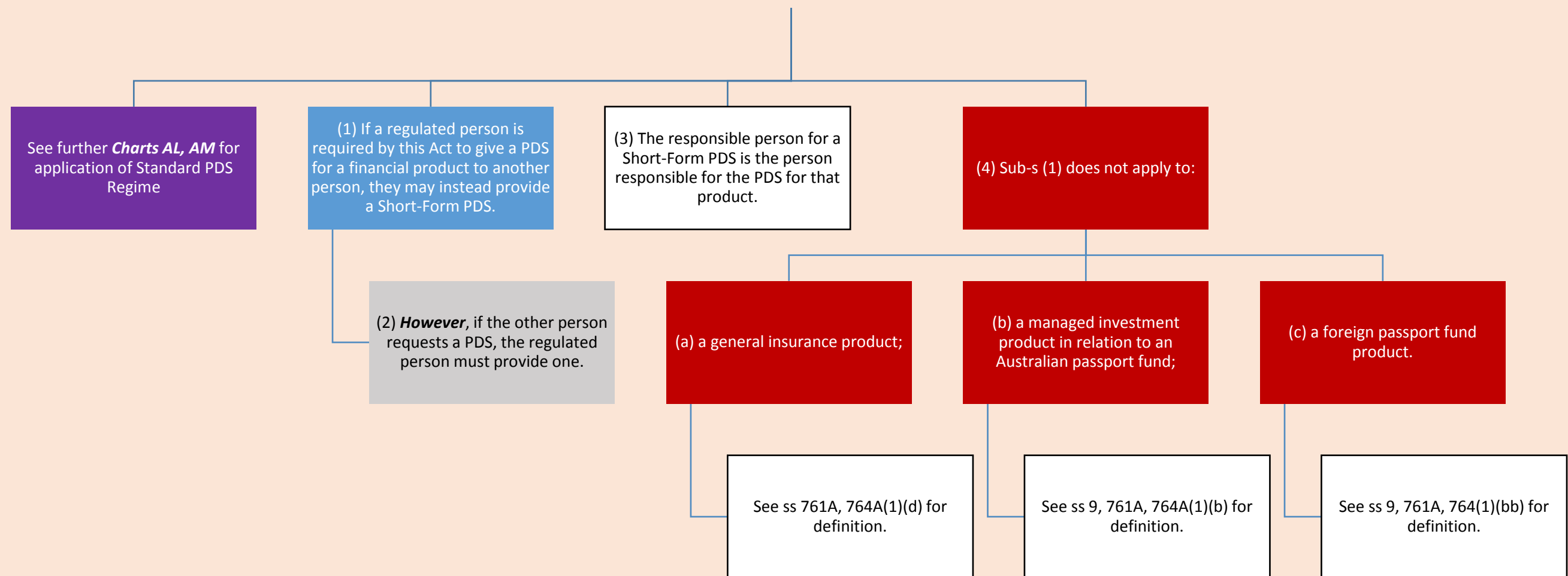
EXCLUSIONS AND EXCEPTIONS TO THE PDS REGIME
PART SEVEN



* The ALRC is indebted to RP Austin and the Hon Justice AJ Black for their *Annotations to the Corporations Act* in summarising the effect of these legislative instruments (available on Lexis Advance).

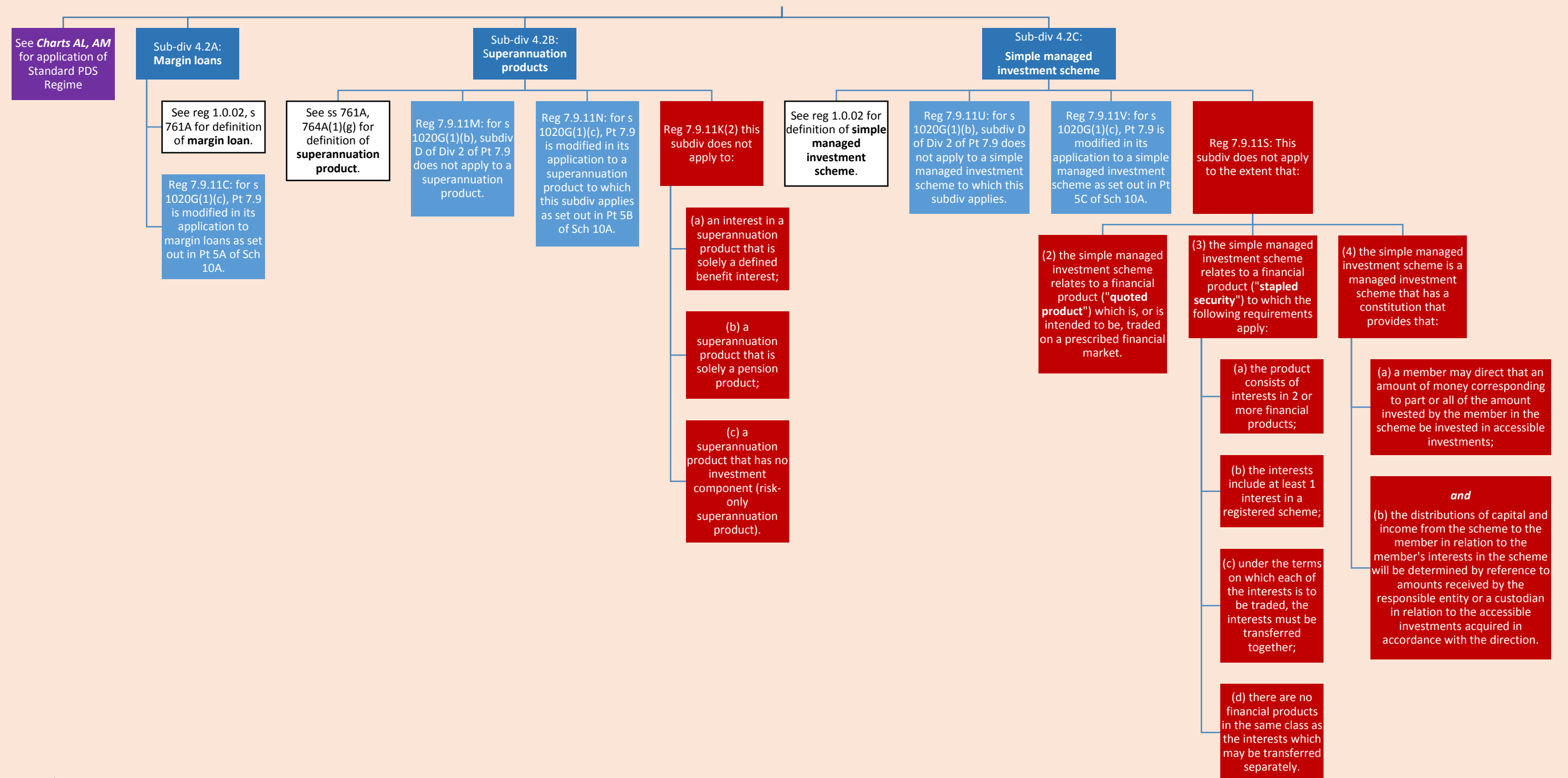
Corps Reg 7.9.61AA; Sch 10BA, Pt 3
[inserting notional s 1017H Corps Act]

APPLICATION OF THE SHORT-FORM PDS REGIME

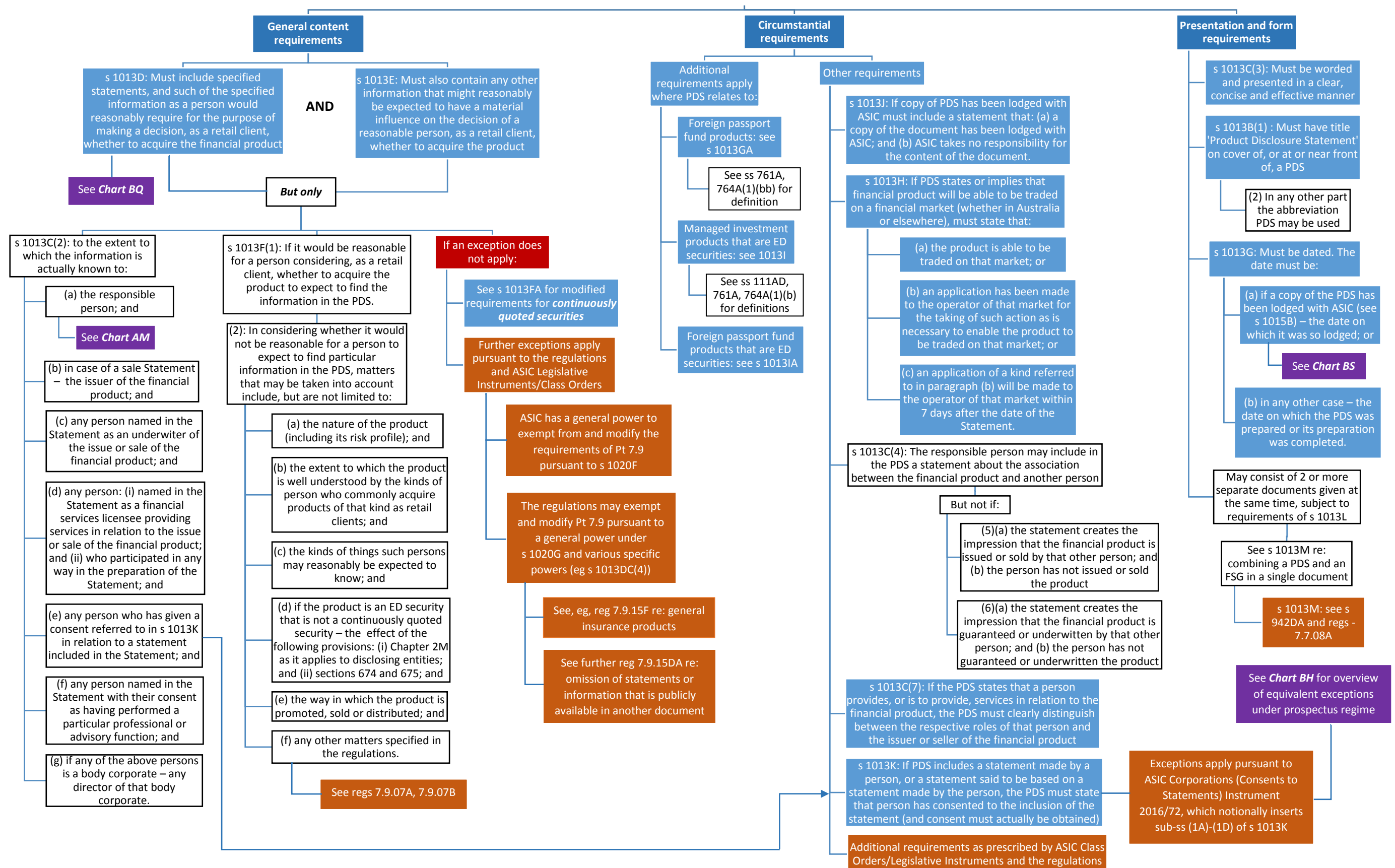


Corps Regs Pt 7.9, Sub-divs 4.2A–4.2C

APPLICATION OF THE SHORTER PDS REGIME



CONTENT REQUIREMENTS FOR A STANDARD PDS





Corps Act s 1013D

MAIN CONTENT REQUIREMENTS FOR STANDARD PDS

s 1013D(1): Subject to this section, sub-s 1013C(2) and ss 1013F and 1013FA, a PDS must include the following statements, and such of the following information as a person would reasonably require for the purpose of making a decision, as a retail client, whether to acquire the financial product:

(3) Only to the extent to which the requirement is applicable to the financial product

(4) The regulations may:

(a) provide that a provision of sub-s (1) does not apply in a particular situation;

See reg 7.9.15D

or

(b) provide that particular information is not required by a provision of sub-s (1), either in a particular situation or generally;

See reg 7.9.15CA.
See also reg 7.9.07B.

or

(c) provide a more detailed statement of the information that is required by a provision of sub-s (1), either in a particular situation or generally.

See regs 7.9.15, 7.9.15E, 7.9.16, 7.9.16L. See also ASIC LI 2019/1070.

(a) a statement setting out the name and contact details of:

(i) the issuer of the financial product;

and

(ii) if the Statement is a sale Statement – the seller;

(b) information about any significant benefits to which a holder of the product will or may become entitled, the circumstances in which and times at which those benefits will or may be provided, and the way in which those benefits will or may be provided;

(i) the cost of the product;

and

(ii) any amounts that will or may be payable by a holder of the product in respect of the product after its acquisition, and the times at which those amounts will or may be payable;

(2) an amount will or may be payable in respect of a financial product by the holder of the financial product if:

(2) Includes an amount that the holder will or may have to pay, or that will or may be deducted or debited, as a fee, expense or charge in relation to a particular transaction in relation to the financial product.

(c) information about any significant risks associated with holding the product;

and

(d) information about:

and

(e) if the product will or may generate a return to a holder of the product—information about any commission, or other similar payments, that will or may impact on the amount of such a return;

(iii) if the amounts paid in respect of the financial product and the amounts paid in respect of other financial products are paid into a common fund—any amounts that will or may be deducted from the fund by way of fees, expenses or charges;

and

(f) information about any other significant characteristics or features of the product or of the rights, terms, conditions and obligations attaching to the product;

See reg 7.9.15E for more detailed requirements for general insurance products

and

(g) information about the dispute resolution system that covers complaints by holders of the product and about how that system may be accessed;

and

(h) general information about any significant taxation implications of financial products of that kind;

and

(i) information about any cooling-off regime that applies in respect of acquisitions of the product (whether the regime is provided for by a law or otherwise);

and

(j) if the product issuer (in the case of an issue Statement) or the seller (in the case of a sale Statement) makes other information relating to the product available to holders or prospective holders of the product, or to people more generally—a statement of how that information may be accessed;

See reg 7.9.14D for further requirements for a PDS for a protected policy issued by a general insurer or a protected account issued by an ADI

and

(k) any other statements or information required by the regulations;

and

(l) if the product has an investment component—the extent to which labour standards or environmental, social or ethical considerations are taken into account in the selection, retention or realisation of the investment;

(2A) For the purposes of paragraph (1)(l), products which have an investment component include superannuation products, managed investment products, foreign passport fund products and investment life insurance products.

s 1013DA: ASIC may develop guidelines that must be complied with where a Product Disclosure Statement makes any claim that labour standards or environmental, social or ethical considerations are taken into account in the selection, retention or realisation of the investment.

See reg 7.9.14C; ASIC RG 65

and

(m) unless in accordance with the regulations and a determination by ASIC, information to be disclosed in accordance with paragraphs (b), (d) and (e) must be stated as amounts in dollars.

Text as modified by reg 7.9.15A

See further regs 7.9.15B, 7.9.15C; ASIC LI 2016/767

(a) the holder will or may have to pay an amount in respect of the product;

or

(b) an amount will or may be deducted from:

or

(c) an account representing the holder's interest in the financial product will or may be debited with an amount.

(i) a payment to be made by the holder;

or

(ii) a payment to be made to the holder;

or

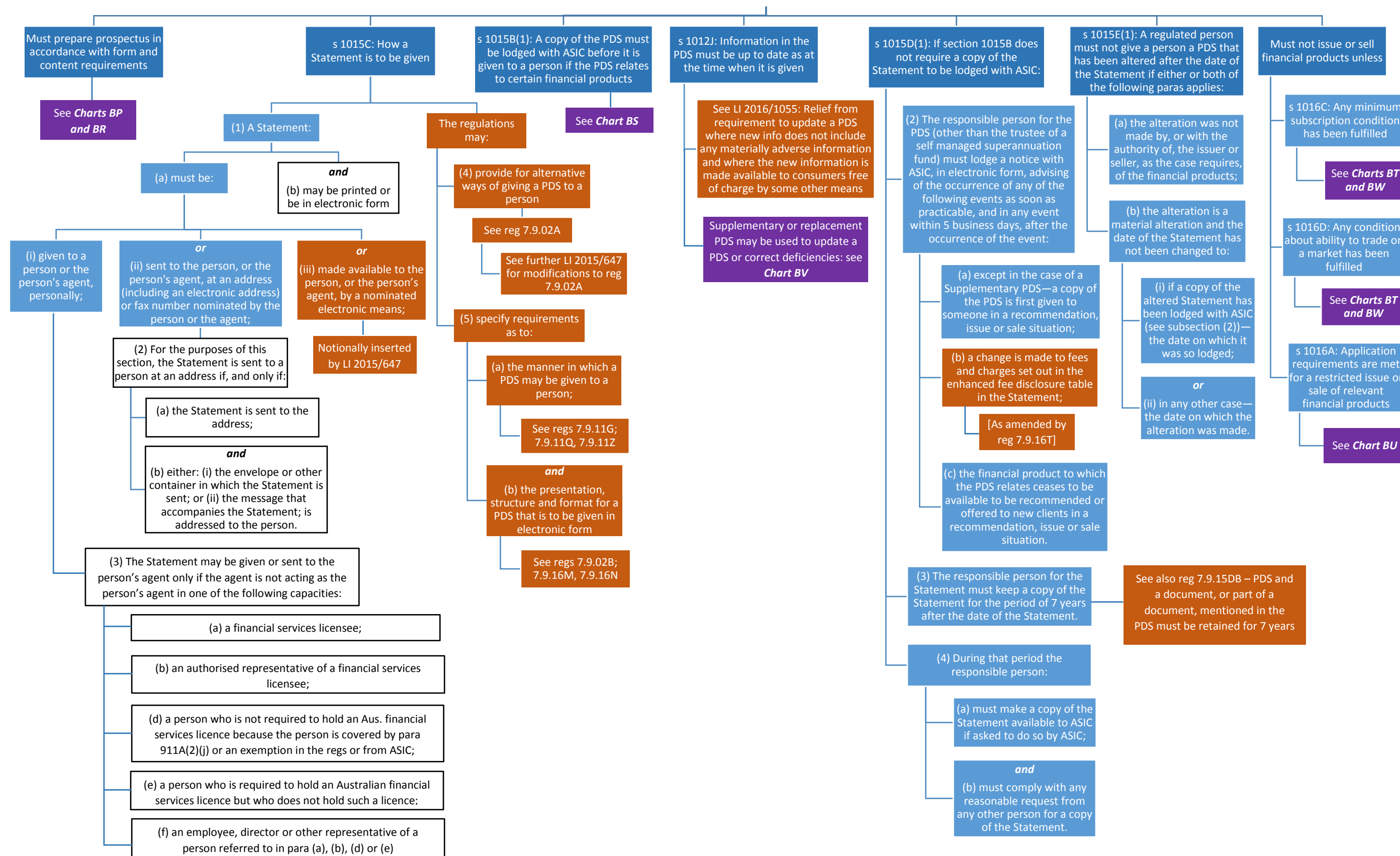
(iii) an amount held on the holder's behalf under the financial product;



Corps Act ss 1012J, 1015A–1015E

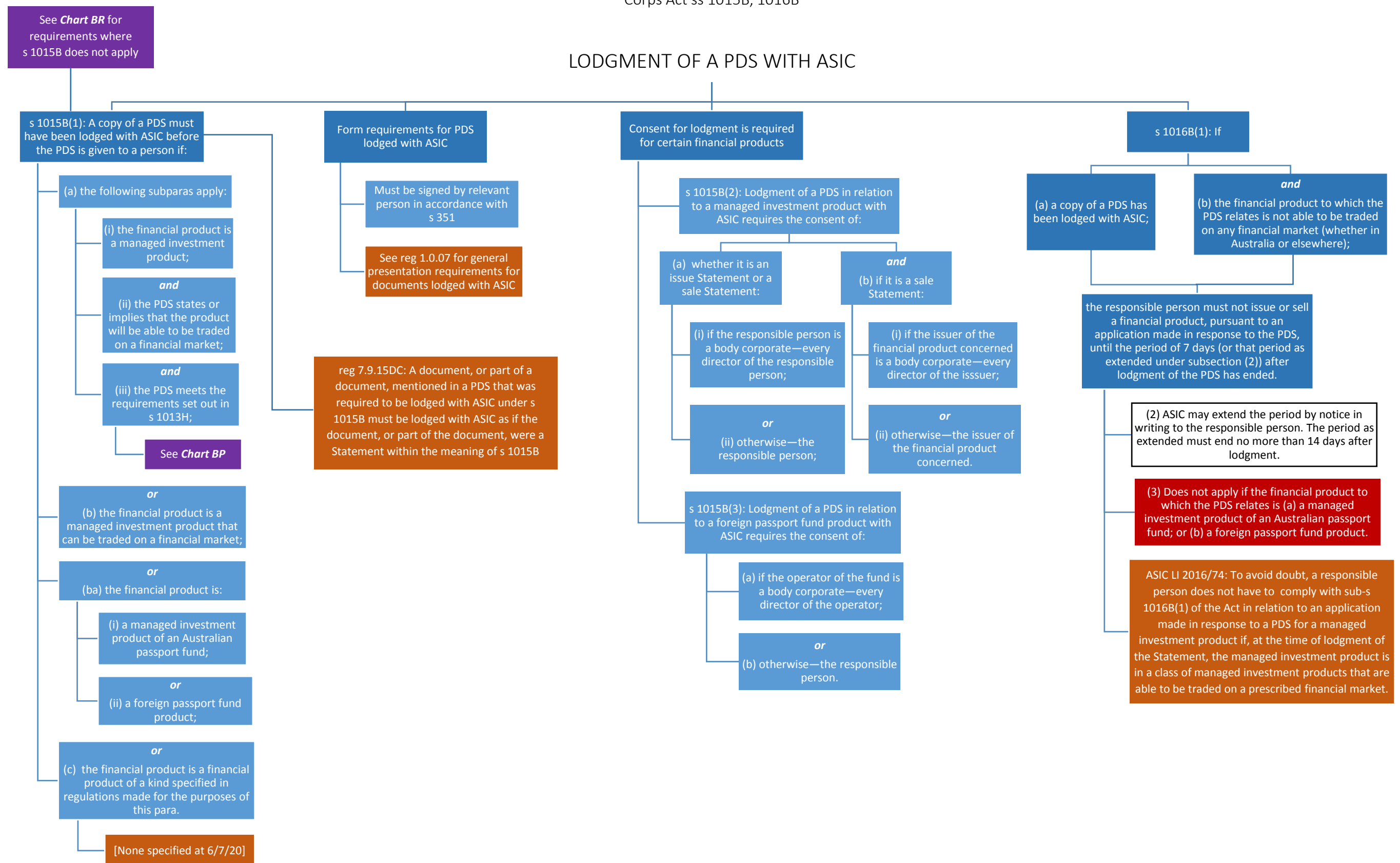
Applicable to PDS, short-form PDS, supplementary PDS and supplementary Short-Form PDS [substituted s 1015A per reg 7.9.61AA, Sch 10BA, Pt 3.2 of Corps Regs]

PROCEDURE FOR PROVIDING A STANDARD PDS



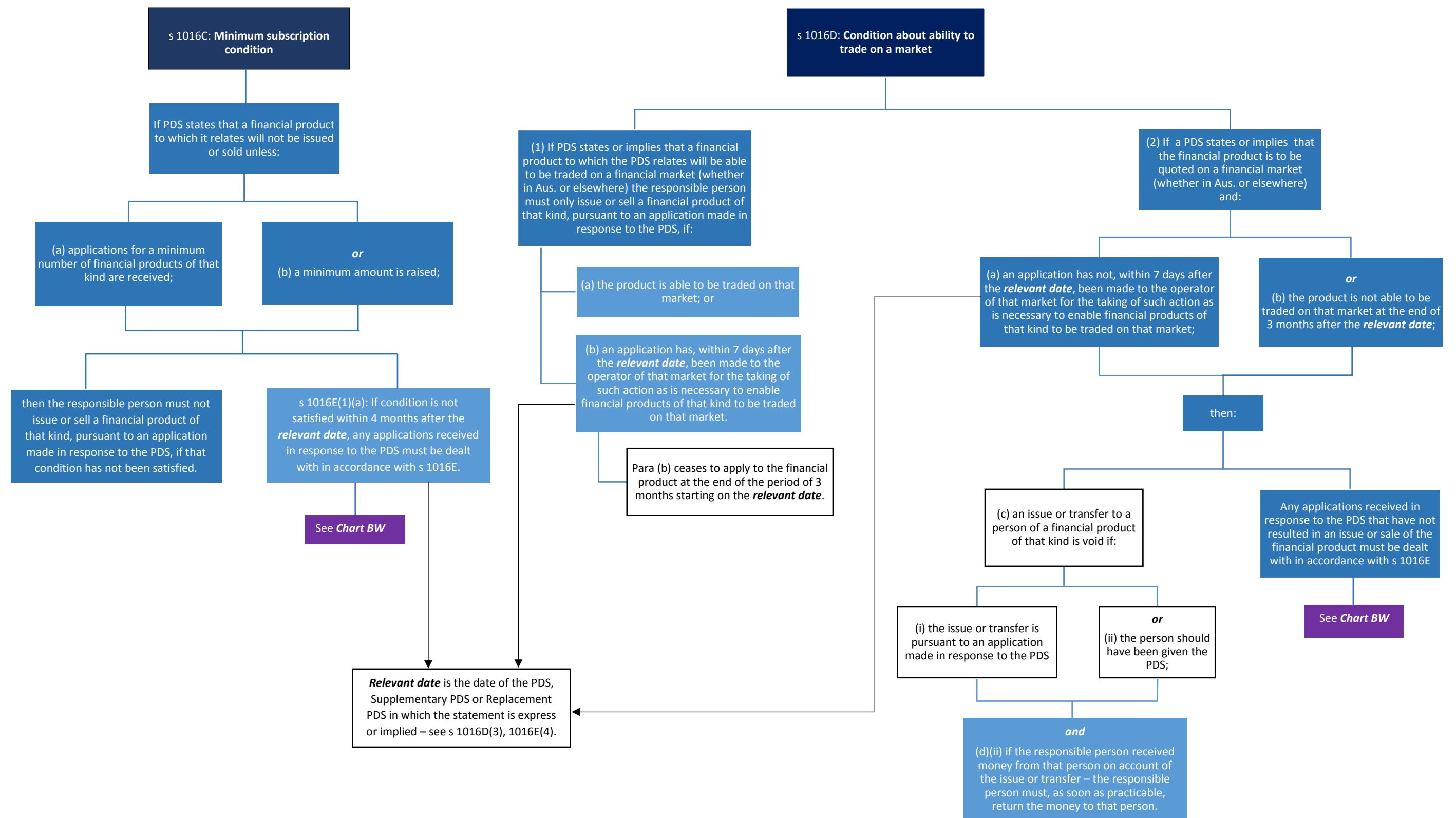
Corps Act ss 1015B, 1016B

LODGMET OF A PDS WITH ASIC



Corps Act ss 1016C–1016D

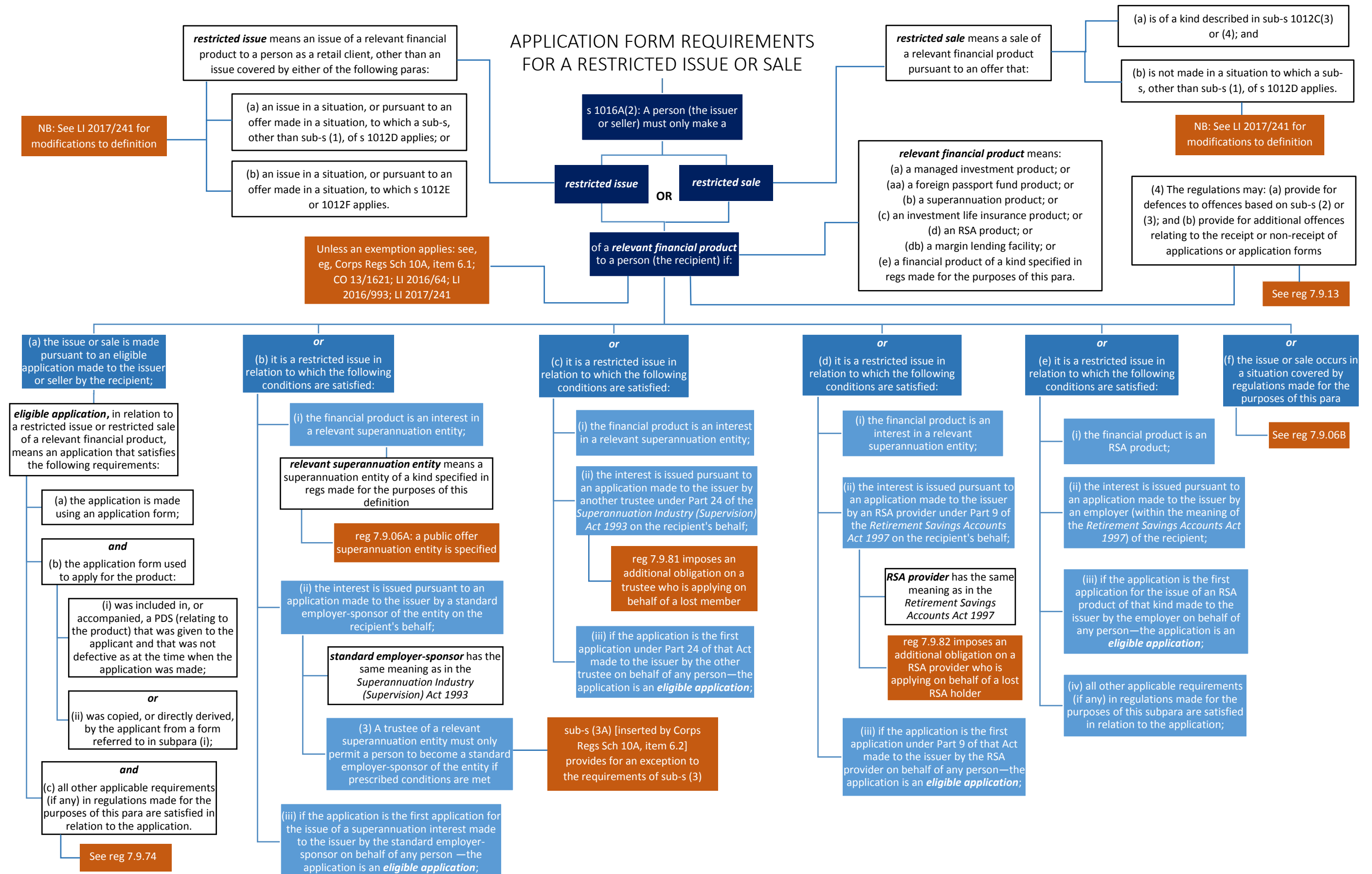
MINIMUM SUBSCRIPTION AND TRADING CONDITIONS IN PDS



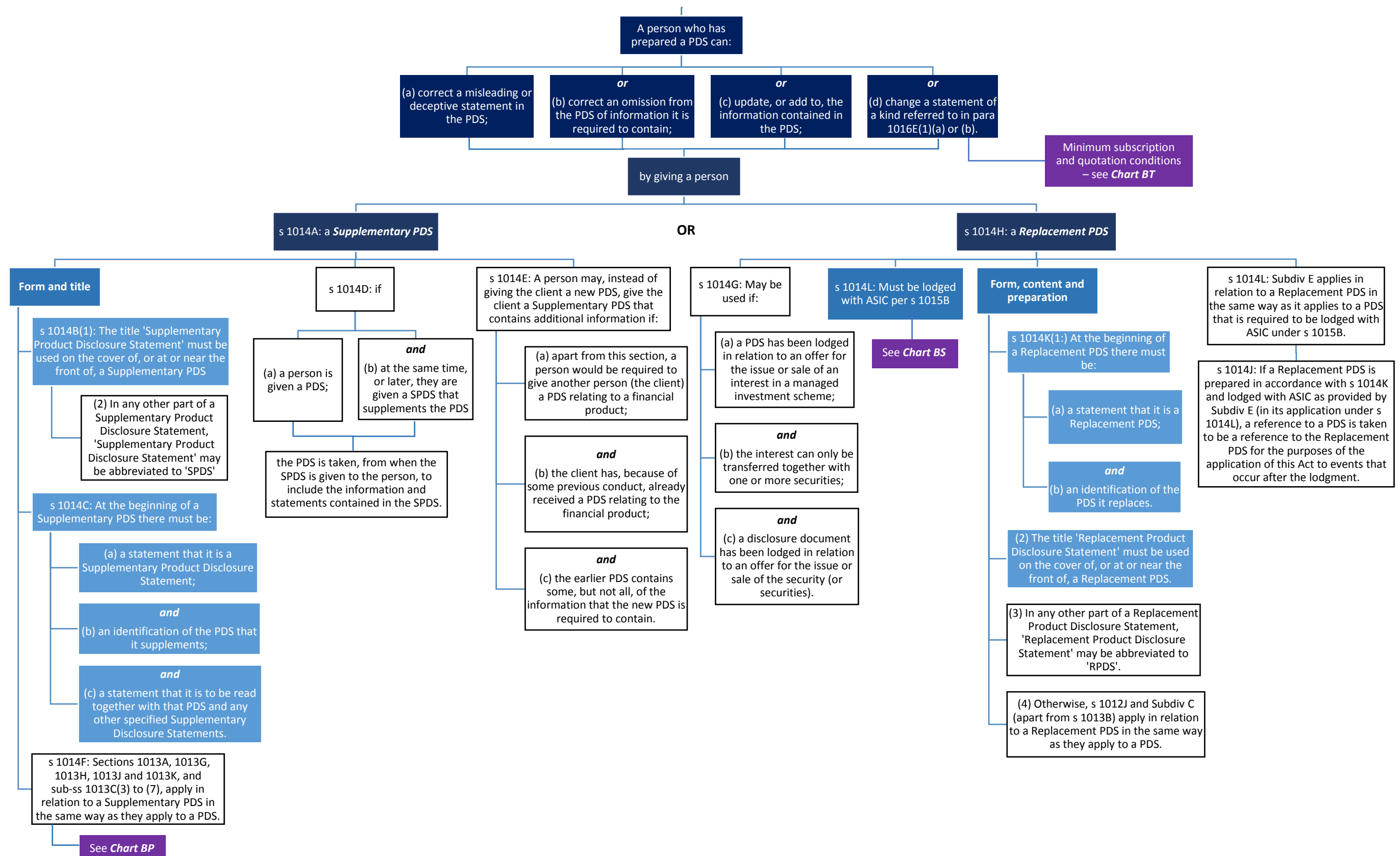


Corps Act s 1016A

APPLICATION FORM REQUIREMENTS FOR A RESTRICTED ISSUE OR SALE



SUPPLEMENTARY AND REPLACEMENT PDS



Corps Act s 1016E

OPTIONS FOR DEALING WITH APPLICATIONS IF PDS IS DEFECTIVE OR CONDITIONS ARE NOT MET

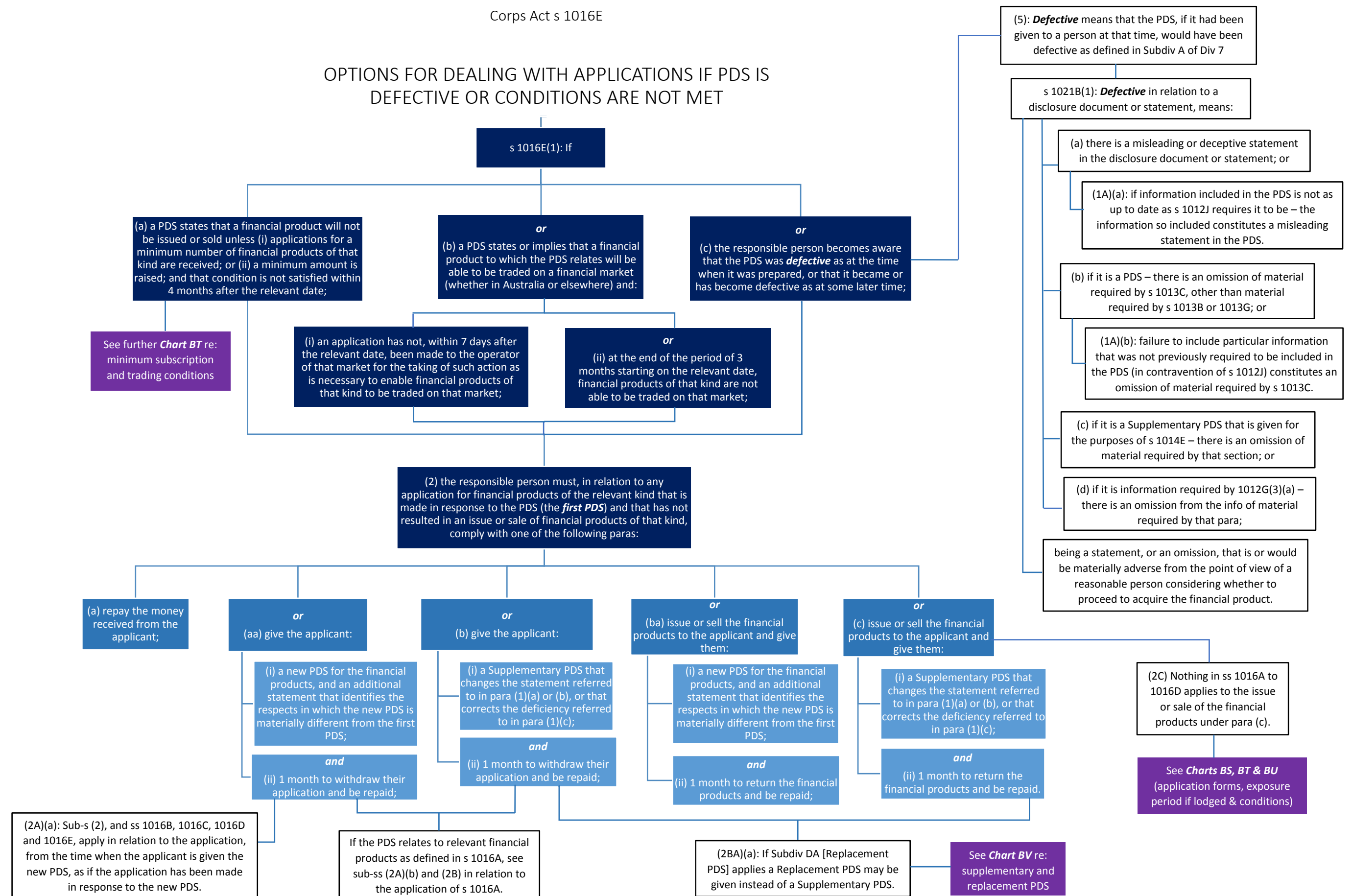


Chart BX: Short-Form PDS requirements

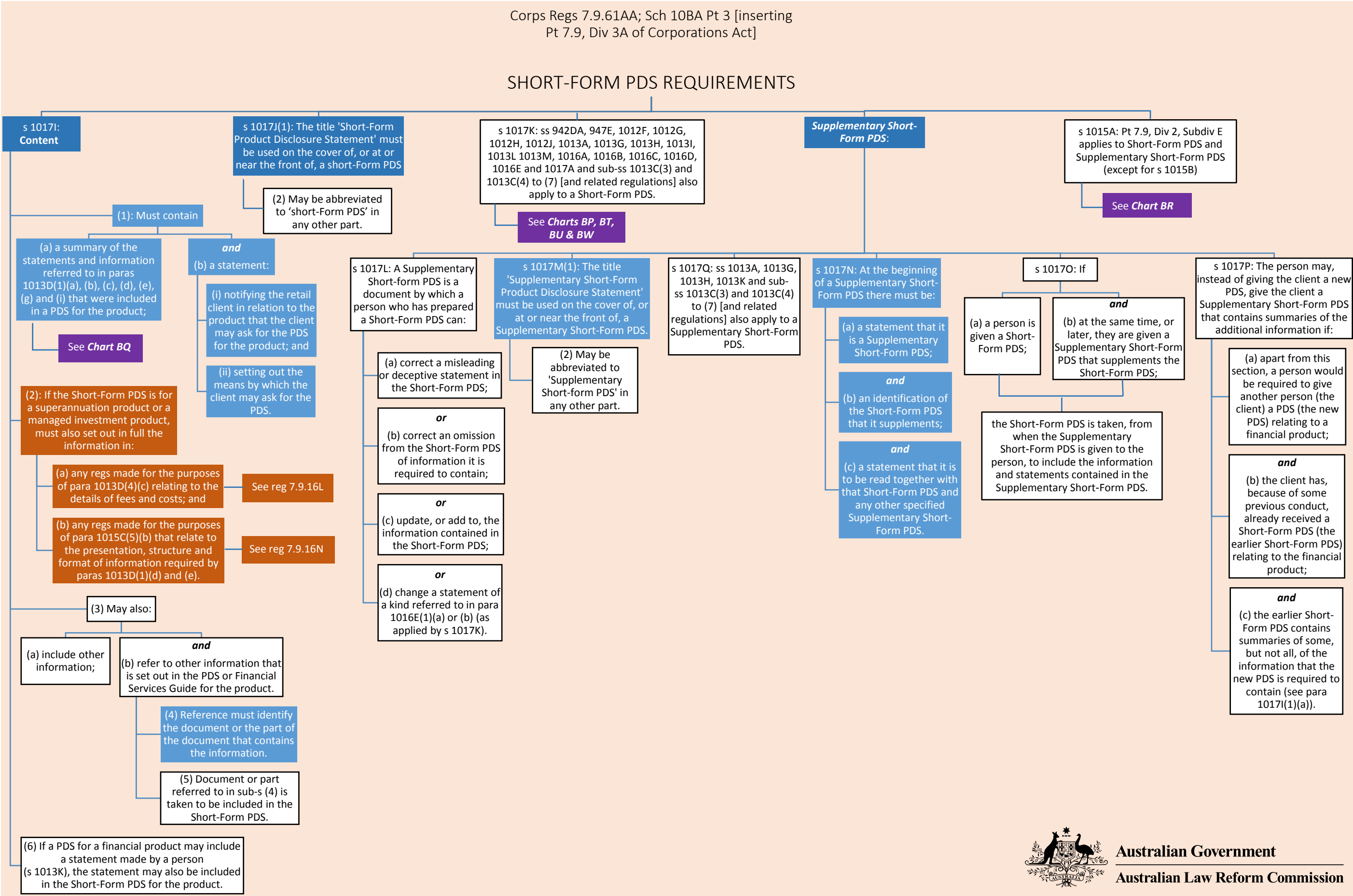


Chart BY: General requirements for Shorter PDS Regime

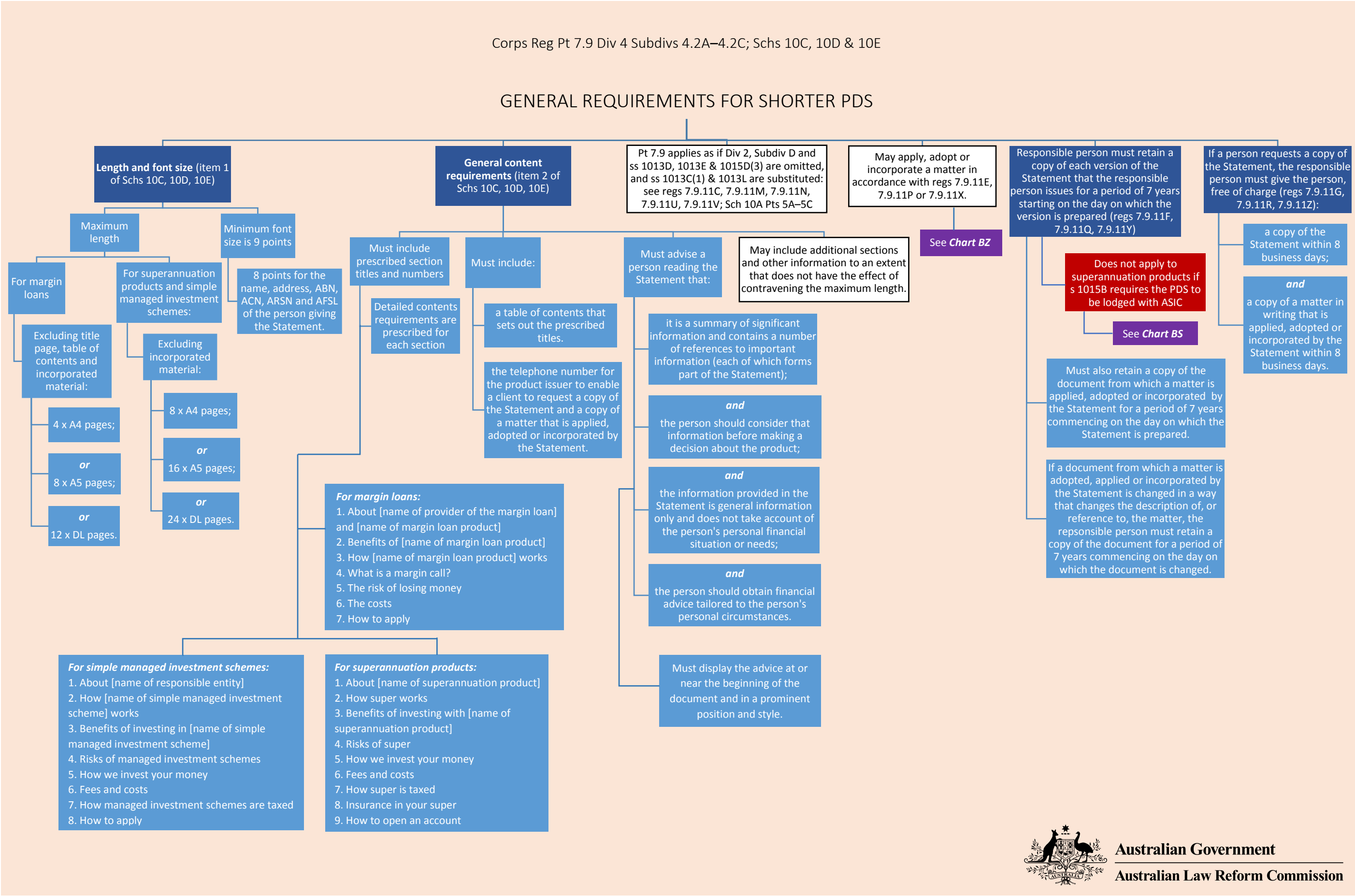


Chart BZ: Incorporation by reference for Shorter PDS Regime

