



**ASIC**

Australian Securities & Investments Commission

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## **ASIC Corporations (Factoring Arrangements) Instrument 2017/794**

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I, Anthony Graham, delegate of the Australian Securities and Investments Commission, make the following legislative instrument.

Date 12 September 2017

Anthony Graham

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## Contents

<b>Part 1—Preliminary</b>	<b>3</b>
1 Name of legislative instrument .....	3
2 Commencement .....	3
3 Authority .....	3
4 Definitions .....	3
<b>Part 2—Exemption</b>	<b>4</b>
5 Exemption from licensing, hawking and disclosure obligations .....	4
6 Where exemption is available .....	4

## Part 1—Preliminary

### 1 Name of legislative instrument

This is the *ASIC Corporations (Factoring Arrangements) Instrument 2017/794*.

### 2 Commencement

This instrument commences at the same time as the commencement of the *ASIC Corporations (Repeal) Instrument 2017/796*.

### 3 Authority

This instrument is made under paragraphs 926A(2)(a), 992B(1)(a) and 1020F(1)(a) of the *Corporations Act 2001*.

### 4 Definitions

In this instrument:

*Act* means the *Corporations Act 2001*.

*eligible person* means a person who:

- (a) is an eligible seller; or
- (b) is or proposes to be the purchaser of debt obligations under the terms of a factoring arrangement; or
- (c) provides a financial service in relation to a factoring arrangement.

*eligible seller* means a person who is or proposes to be the seller of debt obligations under the terms of a factoring arrangement.

*factoring arrangement* means an arrangement under which a person acquires debt obligations, such as receivables, at a discount.

## Part 2—Exemption

### 5 Exemption from licensing, hawking and disclosure obligations

An eligible person does not have to comply with any of the following:

- (a) subsection 911A(1) of the Act for the provision of any of the following financial services:
  - (i) dealing in derivatives that are factoring arrangements;
  - (ii) providing financial product advice in relation to derivatives that are factoring arrangements;

Note: *ASIC Corporations (Miscellaneous Technical Relief) Instrument 2015/1115* provides relief from subsections 911A(1) and 911B(1) of the Act to a person who provides financial services on behalf of a person who does not need an Australian financial services licence because of an exemption under section 926A of the Act.

- (b) section 992A of the Act in relation to the making of an offer to issue a derivative that is a factoring arrangement;
- (c) Part 7.9 of the Act in relation to a recommendation to acquire, or an offer or issue of, or making an offer to arrange the issue of, a derivative that is a factoring arrangement.

### 6 Where exemption is available

The exemption in section 5 is available where the eligible person:

- (a) is an eligible seller; or
- (b) otherwise:
  - (i) gives the terms and conditions of the factoring arrangement in writing to each retail client to whom the factoring arrangement is issued before the arrangement is issued; and
  - (ii) establishes and maintains an internal dispute resolution system that:
    - (A) complies with Australian Standard AS ISO 10002-2006 *Customer satisfaction – Guidelines for complaints handling in organizations (ISO 10002:2004 MOD)* published by SAI Global Limited on 5 April 2006; and
    - (B) covers complaints made by retail clients against the person in connection with the provision of financial services that relate to factoring arrangements.