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# **EXPLANATORY STATEMENT for**

## **ASIC Corporations (Deposit Product Disclosure) Instrument 2015/683**

Prepared by the Australian Securities and Investments Commission

*Corporations Act 2001*

The Australian Securities and Investments Commission (ASIC) makes the *ASIC Corporations (Deposit Product Disclosure) Instrument 2015/683* under paragraph 1020F(1)(a) of the *Corporations Act 2001* (the Act).

Paragraph 1020F(1)(a) provides that ASIC may exempt a person or class of persons from Part 7.9 of the Act or specified provisions in that Part.

### **1. Background**

#### *Disclosure of interest rates in Product Disclosure Statements*

Generally issuers of financial products (such as deposit products) must prepare a Product Disclosure Statement (PDS) that contains the information described in section 1013D of the Act.

Section 1013D requires product issuers to include information about significant benefits to which the person acquiring the product may or will become entitled. Information contained in the PDS must be up-to-date: see section 1012J.

These obligations would normally require a PDS for a deposit product to include the interest rate payable on deposits. Changes to applicable interest rates would then need to be reflected in updated information, either by replacing the PDS or issuing a supplementary PDS. This requirement is likely to:

- be burdensome, because the cost for product providers to update interest rate information in PDSs would be substantial; and
- act as a disincentive to product changes, such as interest rate increases, that would benefit consumers.

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A PDS does not have to be prepared for many basic deposit products because of an exemption from the requirement to give a PDS for those products (subsection 1012D(7A), as inserted by regulation 7.9.07FA of the Corporations Regulations 2001).

### *Disclosure of termination values in periodic statements*

Section 1017D requires issuers of deposit products to give their retail clients periodic statements that contain specified information. Periodic statements must include the termination value of the investment (in dollars) at the end of the statement period. A termination value is the amount that would be paid to the consumer if they closed their account at that time. The statement must also include the closing balance of the deposit account.

There has been uncertainty about whether a periodic statement for a deposit product must include both a closing balance and a termination value. In the context of this uncertainty, the requirement to include a termination value in periodic statements for deposit products would be unduly burdensome because:

- there is often no difference between the closing balance and the termination value and the additional disclosure may be confusing; and
- the PDS would include information about whether there are any restrictions on termination and if any early termination costs may apply.

ASIC previously addressed these issues by making ASIC Class Order [CO 05/681] ([CO 05/681]) *Transitional relief for deposit product providers — PDSs and periodic statements*. [CO 05/681] initially addressed these issues until 30 June 2006. ASIC subsequently amended [CO 05/681] to make the relief it provides from Part 7.9 ongoing.

[CO 05/681] sunsets on 1 October 2015. ASIC has reviewed its operation and, as a result, made the *ASIC Corporations (Deposit Product Disclosure) Instrument 2015/683*.

## **2. Purpose of the instrument**

The purpose of the *ASIC Corporations (Deposit Product Disclosure) Instrument 2015/683* is to remove the unnecessary burden of:

- disclosing interest rates in a PDS for a deposit product; and
- disclosing a termination value in a periodic statement for a deposit product.

## **3. Operation of the instrument**

Clause 5 of the instrument provides that a responsible person does not need to comply with Division 2 of Part 7.9 to the extent that those provisions require a PDS for a deposit product to include the interest rate that applies to that product.

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Consumers will continue to receive clear, appropriate disclosure because the exemption is only available where the responsible person takes steps to ensure that:

- the PDS describes how a person may find out what interest rate applies to the product; and
- the person may find out the interest rate in a free, simple and convenient way.

Clause 6 of the instrument provides that the issuer of a deposit product does not need to include a termination value of the kind described in paragraph 1017D(5)(b) in the periodic statements it is required to give its retail clients under subsection 1017D(1).

#### **4. Consultation**

As part of its review of [CO 05/681], ASIC released Consultation Paper 230 *Remaking ASIC class orders on banking and insurance* (CP 230). A draft of the *ASIC Corporations (Deposit Product Disclosure) Instrument 2015/683* was attached to CP 230.

ASIC received 3 submissions in response to CP 230. No submissions received raised any concerns with ASIC's proposal to remake [CO 05/681] in the form outlined in CP230.

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## **Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

### **ASIC Corporations (Deposit Product Disclosure) Instrument 2015/683**

*ASIC Corporations (Deposit Product Disclosure) Instrument 2015/683 is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the Human Rights (Parliamentary Scrutiny) Act 2011.*

#### **Overview**

*ASIC Corporations (Deposit Product Disclosure) Instrument 2015/683 provides exemptions from the requirements to:*

- disclose an interest rate in a Product Disclosure Statement for a deposit product; and
- disclose a termination value in a periodic statement for a deposit product.

The first exemption listed above is conditional on other disclosure requirements being satisfied.

#### **Human rights implications**

This legislative instrument does not engage any of the applicable rights or freedoms.

#### **Conclusion**

This legislative instrument is compatible with human rights as it does not raise any human rights issues.

**Stephen Yen PSM, Special Counsel**