**ASIC Corporations (Amendment) Instrument 2016/566**

**EXPLANATORY STATEMENT**

Prepared by the Australian Securities and Investments Commission

*Corporations Act 2001*

The Australian Securities and Investments Commission (ASIC) makes the *ASIC Corporations (Amendment) Instrument 2016/566* under paragraph 1020F(1)(c) of the *Corporations Act 2001* (the Corporations Act).

Paragraph 1020F(1)(c) provides that ASIC may declare that Part 7.9 of the Corporations Act applies in relation to a person or a financial product or class of persons or financial products, as if specified provisions were omitted, modified or varied as specified in the declaration.

1. **Background**

The Australian Government has established the Financial Claims Scheme (FCS). The purpose of the FCS is to protect depositors of authorised deposit-taking institutions and policyholders of general insurance companies from loss due to the failure of these institutions. The Australian Prudential Regulations Authority (APRA) administers the scheme.

The Corporations Regulations 2001require disclosure of APRA’s contact details in the following two situations so consumers can obtain further information about the FCS.

* + - * Under regulation 7.9.07FA: where a Product Disclosure Statement (PDS) is not required in a recommendation, issue or sale situation of specified products, and the product is protected under the *Banking Act 1959*.
* Under regulation 7.9.14D: in a PDS that relates to a protected policy issued by a general insurer or a protected account issued by an authorised deposit-taking institution.

ASIC previously made [CO 11/1340] to update APRA’s contact details by modifying the telephone number in regulation 7.9.07FA. APRA has recently launched a new website that contains information about the FCS for consumers.

1. **Purpose of the instrument**

The purpose of the *ASIC Corporations (Amendment) Instrument 2016/566* is to amend the contact details listed in regulations 7.9.07FA and 7.9.14D to refer to the new FCS website.

Requiring disclosure of the most direct access to the FCS website provides quicker and more convenient access to information about the FCS.

1. **Operation of the instrument**

Schedule 1 of the *ASIC Corporations (Amendment) Instrument 2016/566* amends paragraph 4 of [CO 11/1340] to modify regulations 7.9.07FA and 7.9.14D so that regulated persons under Part 7.9 of the Corporations Act are required to disclose the FCS website and not the general APRA website and hotline telephone number.

### **Consultation**

Before making the legislative instruments, ASIC consulted with APRA. ASIC considered that this level of consultation was appropriate given that this change in minor and machinery and will have limited effect.

The Office of Best Practice Regulation advised that a RIS is not required in order to make the legislative instrument.

**Statement of Compatibility with Human Rights**

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

**ASIC Corporations (Amendment) Instrument 2016/566**

*ASIC Corporations (Amendment) Instrument 2016/566* 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 (Amendment) Instrument 2016/566* updates the APRA contact details that must be disclosed to consumers so that they can obtain information about the Financial Claims Scheme (FCS).

**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.