**EXPLANATORY STATEMENT for**

**ASIC Corporations (Updated Product Disclosure Statements) Instrument 2016/1055**

Prepared by the Australian Securities and Investments Commission

*Corporations Act 2001*

The Australian Securities and Investments Commission **(ASIC)** makes *ASIC Corporations (Updated Product Disclosure Statements) Instrument 2016/1055*, under paragraph 1020F(1)(c) of the *Corporations Act 2001* (**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 financial product as if specified provisions were omitted, modified or varied as specified in the declaration.

The instrument remakes ASIC Class Order [CO 03/237] *Updated information in Product Disclosure Statements* which is due to sunset on 1 April 2017 under the *Legislation Act 2003.*

ASIC Class Order [CO 03/237] is repealed by ASIC Corporations (Repeal) Instrument 2016/1053.

1. **Background**

This instrument grants relief from the requirement in section 1012J of the Corporations Act for information in a Product Disclosure Statement (**PDS**) to be up to date at the time it is given to investors, so long as:

1. there is a change to non-materially adverse information in the PDS, from the point of view of an investor;
2. the investor can obtain the up-to-date information through a facility of a kind contemplated by ASIC Regulatory Guide 155 Debenture prospectuses (RG 155); and
3. that facility is identified in the PDS.

This instrument enables a product issuer to avoid the expense and inconvenience of preparing successive supplementary PDSs, required by section 1012J, by putting in place a mechanism by which investors may conveniently obtain up-to-date information about matters that change frequently but that is not materially adverse information.

1. **Purpose of the instrument**

The purpose of *ASIC Corporations (Updated Product Disclosure Statements) Instrument 2016/1055* is to continue the substantive effect of the relief granted by ASIC Class Order [CO 03/237].

1. **Operation of the instrument**

**Declaration in relation to responsible persons and regulated persons**

Section 5 provides a declaration that Part 7.9 of the Act applies in relation to responsible persons who prepare a PDS and regulated persons who give a PDS as if section 1012J of the Corporations Act were omitted.

Section 6 sets out the requirements that must be satisfied for the declaration to apply, including:

(a) the PDS was up to date at the time when it was prepared;

(b) the updated information includes no materially adverse information; and

(c) the responsible person ensures the PDS contains certain information and establishes a means by which updated information can be accessed. For clarity, the means by which a person may find out any updated information could include arrangements where the updated information is made available to the person electronically without charge on request.

1. **Consultation**

ASIC consulted with industry stakeholders on its proposal to remake, without significant changes, ASIC Class Order [CO 03/237].

The feedback received in response to ASIC Consultation Paper CP 255 Remaking ASIC class orders on financial services disclosure requirements supported the proposal to issue a new instrument to continue the effect of the relief granted under ASIC Class Order [CO 03/237].

**Statement of Compatibility with Human Rights**

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

**ASIC Corporations (Updated Product Disclosure Statements) Instrument 2016/1055**

ASIC Corporations (Updated Product Disclosure Statements) Instrument 2016/1055 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 (Updated Product Disclosure Statements) Instrument 2016/1055 continues the effect of ASIC Class Order [CO 03/237] by providing relief from the requirement for a supplementary Product Disclosure Statement in circumstances where there is a mechanism in place under which investors may conveniently obtain up-to-date information about matters that change frequently but that is not materially adverse information.

**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.

 **Australian Securities and Investments Commission**