



**ASIC**

Australian Securities & Investments Commission

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## **ASIC Corporations (Amendment and Repeal) Instrument 2017/65**

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I, Grant Moodie, delegate of the Australian Securities and Investments Commission, make the following legislative instrument.

Date                      21 March 2017

Grant Moodie

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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 Schedules .....	3
5 Definitions .....	3
<b>Schedule 1—Amendments</b>	<b>4</b>
ASIC Class Order [CO 09/425] .....	4
ASIC Class Order [CO 11/272] .....	4
ASIC Class Order [CO 13/656] .....	4
ASIC Class Order [CO 13/760] .....	4
ASIC Class Order [CO 13/1410] .....	4
ASIC Class Order [CO 14/1252] .....	5
<i>ASIC Corporations (Compromises or Arrangements) Instrument 2015/358</i> .....	5
<i>ASIC Corporations (Securitisation Special Purpose Vehicles) Instrument 2016/272</i> .....	6
<i>ASIC Corporations (Charitable Investment Fundraising) Instrument 2016/813</i>	6
<i>ASIC Corporations (Managed Investment Schemes: Interests Not For Money) Instrument 2016/1107</i> .....	6
<b>Schedule 2—Repeal</b>	<b>7</b>
ASIC Class Order [CO 03/578] .....	7

## Part 1—Preliminary

### 1 Name of legislative instrument

This is the *ASIC Corporations (Amendment and Repeal) Instrument 2017/65*.

### 2 Commencement

This instrument commences on the day after it is registered on the Federal Register of Legislation.

Note: The register may be accessed at [www.legislation.gov.au](http://www.legislation.gov.au).

### 3 Authority

This instrument is made under subsections 283GA(1), 601QA(1), 673(1), 741(1), 926A(2), 951B(1), 992B(1) and 1020F(1) of the *Corporations Act 2001*.

### 4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the applicable Schedule.

### 5 Definitions

In this instrument:

*Act* means the *Corporations Act 2001*.

## Schedule 1—Amendments

### ASIC Class Order [CO 09/425]

**1 Subparagraph 14(a) (definition of *custodian*, subparagraphs (b)(ia) and (ib))**

Repeal subparagraphs (b)(ia) and (ib), substitute:

- (ia) Schedule 2 to the *ASIC Corporations (Repeal and Transitional) Instrument 2016/396*; or
- (ib) an instrument, not being a legislative instrument, made by ASIC and which applies to the person on terms similar to Schedule 2 of the legislative instrument referred to in subparagraph (ia) or any of the ASIC Class Orders repealed by that legislative instrument; or

### ASIC Class Order [CO 11/272]

**2 Paragraph 5 (notional subsection 609(10C) of the Act, definition of *service provider*, subparagraphs (b)(ii) and (iii))**

Repeal subparagraphs (b)(ii) and (iii), substitute:

- (ii) Schedule 2 to the *ASIC Corporations (Repeal and Transitional) Instrument 2016/396*; or
- (iii) an instrument, not being a legislative instrument, made by ASIC and which applies to the person on terms similar to Schedule 2 of the legislative instrument referred to in subparagraph (ia) or any of the ASIC Class Orders repealed by that legislative instrument;

### ASIC Class Order [CO 13/656]

**3 Subparagraph 4(a)**

Before “making an offer”, insert “not”.

### ASIC Class Order [CO 13/760]

**4 Paragraph 4 (notional subsection 912AA(11) of the Act, definition of *special custody assets*, paragraph (e))**

Omit “assig”, substitute “assign”.

### ASIC Class Order [CO 13/1410]

**5 Paragraph 5 (notional paragraph 912AAD(4)(a) of the Act)**

Omit “financial services licensee or its associates”, substitute “sub-custodian or its associates”.

## **ASIC Class Order [CO 14/1252]**

### **6 Sub-subparagraph 6(f)(ib)**

Omit “not otherwise”, substitute “otherwise”.

### **7 Sub-subparagraph 8(b)(ii)**

After “Statement”, insert “and”.

### **8 At the end of paragraph 8**

Add:

Note: Paragraphs 5 and 5D commenced on the commencement of *ASIC Corporations (Amendment and Repeal) Instrument 2015/876*. Paragraph 5CA commenced on the commencement of *ASIC Corporations (Amendment) Instrument 2016/1224*.

### **9 Subparagraph 8D(b)**

Omit “statements”, substitute “each statement referred to in paragraph 8(b) in relation to the responsible person for the Statement has been”.

### **10 Subparagraph 8D(c)**

Omit “manage”, substitute “managed”.

### **11 Paragraph 8B (the paragraph 8B inserted by item 21 of Schedule 1 to *ASIC Corporations (Amendment and Repeal) Instrument 2015/876*)**

Repeal the paragraph.

## ***ASIC Corporations (Compromises or Arrangements) Instrument 2015/358***

### **12 Section 7**

Before “Chapter 6D”, insert “(1)”.

### **13 At the end of section 7**

Add:

- (2) Part 7.9 of the Act applies in relation to a person making an unsolicited offer to purchase a financial product as if subparagraph 1019D(1)(d)(iii) were modified or varied by omitting “approved at a meeting held” and substituting “approved at a meeting held, or to be considered at a meeting to be held,”.

***ASIC Corporations (Securitisation Special Purpose Vehicles)  
Instrument 2016/272*****14 Sub-subparagraph 5(2)(a)(ii)(B)**

Omit “ASIC Class Orders [CO 03/1099], [CO 03/1100], [CO 03/1101], [CO 03/1102], [CO 03/1103], [CO 04/829] or [CO 04/1313]”, substitute “ASIC Corporations (Repeal and Transitional) Instrument 2016/396”.

***ASIC Corporations (Charitable Investment Fundraising)  
Instrument 2016/813*****15 Section 4 (definition of *retail client*, paragraph (b))**

Repeal the paragraph, substitute:

- (b) a debenture means a person to whom an offer of the debenture:
  - (i) needs disclosure to investors under Part 6D.2 of the Act; or
  - (ii) does not need disclosure to investors because of subsection 708(1) or 708(14) of the Act; or
  - (iii) does not need disclosure to investors because of an exemption made under paragraph 741(1)(a) of the Act.

Note: For example, a person will be a retail client if an offer of debentures to the person would need disclosure to investors under Part 6D.2 of the Act but for the exemption in paragraph 5(1)(b).

***ASIC Corporations (Managed Investment Schemes: Interests Not For Money) Instrument 2016/1107*****16 Section 4 (definition of *interests not for money scheme*, paragraph (b))**

Repeal the paragraph, substitute:

- (b) in circumstances, other than because of this instrument, that do not require a Product Disclosure Statement to be given;

but does not include a scheme if all interests in the scheme have been issued in the circumstances referred to in paragraph (b).

## **Schedule 2—Repeal**

### **ASIC Class Order [CO 03/578]**

#### **1 The whole of the instrument**

Repeal the instrument.