

ASIC Corporations (Factoring Arrangements) Instrument 2017/794

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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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.