



**ASIC**  
Australian Securities &  
Investments Commission

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## **ASIC Corporations (COVID-19 – Distribution of Debit Cards) Instrument 2020/401**

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### **About this compilation**

#### **Compilation No. 1**

This is a compilation of *ASIC Corporations (COVID-19 – Distribution of Debit Cards) Instrument 2020/401* as in force on 29 September 2020. It includes any commenced amendment affecting the legislative instrument to that date.

This compilation was prepared by the Australian Securities and Investments Commission.

The notes at the end of this compilation (the *endnotes*) include information about amending instruments and the amendment history of each amended provision.

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## Part 1—Preliminary

### 1 Name of legislative instrument

This is the *ASIC Corporations (COVID-19 – Distribution of Debit Cards) Instrument 2020/401*.

### 3 Cessation

This instrument ceases to apply on 1 January 2021.

### 4 Authority

This instrument is made under subsection 992B(1) and paragraph 1020F(1)(c) of the *Corporations Act 2001*.

### 5 Definitions

In this instrument:

*Act* means the *Corporations Act 2001*

*ADI* (short for authorised deposit-taking institution) has the meaning given in section 5 of the *Banking Act 1959*.

*debit card* has the meaning given in subsection 12DL(5) of the ASIC Act.

*eligible account holder* means, in relation to an ADI, a person who holds a basic deposit product issued by the ADI, but who does not have a debit card issued by the ADI.

*eligible product* means:

- (a) a basic deposit product; or
- (b) a facility for making non-cash payments that is related to a basic deposit product.

*issue situation* has the same meaning as in section 1012B of the Act.

*recommendation situation* has the same meaning as in 1012A of the Act.

*regulated person* has the same meaning as in section 1011B of the Act.

*Regulations* mean the *Corporations Regulations 2001*.

## **Part 2—Exemption**

### **6 Exemption—offering debit cards to existing account holders**

- (1) An ADI does not have to comply with subsection 992A(1) of the Act in relation to an offer to issue an eligible product that occurs in the course of an unsolicited meeting with an eligible account holder.
- (2) The exemption in subsection (1) is only available where both of the following are satisfied:
  - (a) the unsolicited meeting occurs at a place where the ADI carries on business;
  - (b) the offer to issue the eligible product includes an offer to issue a debit card that is able to be used in relation to the eligible product.

## Part 3—Declarations

### 7 Declarations—offering debit cards to existing account holders

#### *Hawking*

- (1) Part 7.8 of the Act applies in relation to an ADI as if subsection 992A(3) were modified or varied by:
  - (a) in paragraph 992A(3)(a), omitting all the words after “prescribed by the regulations” and substituting “; and”; and
  - (b) in paragraph 992A(3)(b), before “given”, inserting “if the person is not listed on the “No Contact/No Call” register in relation to the person making the contact—”; and
  - (c) omitting paragraph 992A(3)(c).
- (2) The declaration in subsection (1) applies in relation to an offer by an ADI to issue an eligible product where the offer:
  - (a) is made in the course of an unsolicited telephone call to an eligible account holder; and
  - (b) includes an offer to issue a debit card that is able to be used in relation to the eligible product.

Note: Also see regulation 7.8.21A of the Regulations in relation to the operation of subsection 992A(3) of the Act.

#### *Product disclosure*

- (3) Part 7.9 of the Act applies in relation to a regulated person as if regulation 7.9.07FA of the Regulations were modified or varied by, in notional paragraph 1012D(7A) of the Act, omitting paragraphs 1012D(7A)(d) and (e) and substituting:
  - “(d) the regulated person has informed the client of how further information about the amounts mentioned in paragraph (c) can be obtained, or provided the client with that information; and
  - (e) the regulated person has provided the client with the information described in paragraphs (b) to (d) no later than:
    - (i) if the client is given a debit card (within the meaning of subsection 12DL(5) of the ASIC Act) that is able to be used in relation to the eligible product—the time the client is given the debit card; and

- (b) otherwise—the time the eligible product is issued to the client.”.
- (4) The declaration in subsection (3) applies in relation to a recommendation situation and an issue situation in relation to an eligible product where:
- (a) the regulated person is an ADI that is the issuer of the eligible product; and
  - (b) the client in relation to the recommendation situation or issue situation is an eligible account holder; and
  - (c) in the case of a recommendation situation—the recommendation includes a recommendation that the eligible account holder acquire a debit card that is able to be used in relation to the eligible product; and
  - (d) in the case of an issue situation that is an offer to issue the eligible product—the offer includes an offer to issue a debit card that is able to be used in relation to the eligible product; and
  - (e) in the case of an issue situation that is the issue of the eligible product—the ADI also issues to the eligible account holder a debit card that is able to be used in relation to the eligible product.
- (5) Part 7.9 of the Act applies in relation to a regulated person as if the provisions of the Part were modified or varied as follows:
- (a) in subsection 1012A(4), omit “and 1014E”, substitute “, 1012GB and 1014E”;
  - (b) in subsection 1012B(5), omit “and 1014E”, substitute “, 1012GB and 1014E”;
  - (c) before section 1012H, insert the following:  
  
**“1012GB Product Disclosure Statement may sometimes be provided later in relation to offers and issues of debit cards**
- (1) This section applies in relation to a recommendation situation and an issue situation in relation to an eligible product where:
- (a) the regulated person is an ADI that is the issuer of the eligible product; and
  - (b) the client in relation to the recommendation situation or issue situation is an eligible account holder; and
  - (c) in the case of a recommendation situation—the recommendation includes a recommendation that the

eligible account holder acquire a debit card that is able to be used in relation to the eligible product; and

- (d) in the case of an issue situation that is an offer to issue the eligible product—the offer includes an offer to issue a debit card that is able to be used in relation to the eligible product; and
- (e) in the case of an issue situation that is the issue of the eligible product—the ADI also issues to the eligible account holder a debit card that is able to be used in relation to the eligible product; and
- (f) the regulated person is required to give the client a Product Disclosure Statement for the eligible product.

Note: The regulated person will not have to give the client a Product Disclosure Statement if subsection 1012D(7A) (as notionally inserted by regulation 7.9.07FA of the *Corporations Regulations 2001*) applies.

- (2) The regulated person need not give the client a Product Disclosure Statement for the eligible product at or before the time when it would otherwise be required to be given.

The regulated person must comply with subsection (3) instead.

- (3) If the regulated person issues the eligible product to the client, the regulated person must give the client a Product Disclosure Statement not later than:
  - (a) if the client is given a debit card that is able to be used in relation to the eligible product—the time the client is given the debit card; and
  - (b) otherwise—the time the eligible product is issued to the client.”.

Note: A Product Disclosure Statement could be provided for a facility for making non-cash payments that is related to either a new basic deposit product or an existing basic deposit product.

- (4) In this section:

**ADI** (short for authorised deposit-taking institution) has the meaning given in section 5 of the *Banking Act 1959*.

**debit card** has the meaning given in subsection 12DL(5) of the ASIC Act.

**eligible account holder** means, in relation to an ADI, a person who holds a basic deposit product issued by the ADI, but who does not have a debit card issued by the ADI.

***eligible product*** means:

- (a) a basic deposit product; or
- (b) a facility for making non-cash payments that is related to a basic deposit product.”.



## Endnotes

### Endnote 1—Instrument history

Instrument number	Date of FRL registration	Date of commencement	Application, saving or transitional provisions
2020/401	24/4/2020 ( <i>see</i> F2020L00478)	25/4/2020	
2020/885	28/9/2020 ( <i>see</i> F2020L01235)	29/9/2020	-

### Endnote 2—Amendment history

ad. = added or inserted   am. = amended   LA = *Legislation Act 2003*   rep. = repealed   rs. = repealed and substituted

Provision affected	How affected
Section 2	rep. s48D LA
Section 3	am. 2020/885