



ASIC
Australian Securities &
Investments Commission

ASIC Corporations (COVID-19—Advice-related Relief) Instrument 2021/268

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

Date 13 April 2021

Grant Moodie

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Part 1—Preliminary

1 Name of legislative instrument

This is the *ASIC Corporations (COVID-19—Advice-related Relief) Instrument 2021/268*.

2 Commencement

This instrument commences on the later of:

- (a) 15 April 2021; and
- (b) the day after it is registered on the Federal Register of Legislation.

Note: The register may be accessed at www.legislation.gov.au.

3 Authority

This instrument is made under subsection 951B(1) of the *Corporations Act 2001*.

4 Definitions

In this instrument:

Act means the *Corporations Act 2001*.

providing entity has the same meaning as in section 944A of the Act.

Regulations means the *Corporations Regulations 2001*.

Part 2—Declaration

5 Situations in which Statement of Advice is not required

- (1) Part 7.7 of the Act applies in relation to providing entities as if regulation 7.7.10AE of the Regulations were modified or varied by, in notional section 946B of the Act, inserting the following subsections at the end of that notional section:

“Third situation: Advice required because of COVID-19

- (10) The providing entity does not have to give the client a Statement of Advice for the provision of particular advice (the **COVID-19 advice**) if subsection (11) applies.
- (11) This subsection applies where all of the following are satisfied:
- (a) the providing entity reasonably considers that the COVID-19 advice is required because of the adverse economic effects of the coronavirus known as COVID-19;
 - (b) either:
 - (i) the providing entity has previously given the client a Statement of Advice in relation to advice (the **previous advice**) that sets out the client’s relevant personal circumstances in relation to the previous advice about one or more classes of financial products set out in that Statement; or
 - (ii) an associated providing entity has previously given the client a Statement of Advice in relation to advice (the **previous advice**) that sets out the client’s relevant personal circumstances in relation to the previous advice about one or more classes of financial products set out in that Statement; and
 - (c) the COVID-19 advice is in relation to a class of financial products to which the previous advice related.

Note: Paragraphs 947B(2)(b) and 947C(2)(b) require a Statement of Advice to include information about the basis on which the advice is or was given, which may include the client’s relevant personal circumstances, in which case paragraph (b) of this subsection would be satisfied.

- (12) The providing entity must keep a record of the COVID-19 advice which sets out:
- (a) a brief explanation of the changes in the client’s relevant personal circumstances in relation to the COVID-19 advice

(determined having regard to the client's objectives, financial situation and needs as currently known to the providing entity); and

- (b) brief particulars of the recommendations made to the client and the basis on which the recommendations are made; and
- (c) brief particulars of the information that would be required by subsection 947D(2) if a Statement of Advice were given to the client; and
- (d) the statement that would be required by subsection 947D(3) if a Statement of Advice were given to the client.

Note: Failure to comply with this subsection is an offence (see subsection 1311(1)).

(13) The providing entity must:

- (a) at the applicable time, give the client a copy of the record of the COVID-19 advice; and
- (b) if a copy of the record of the COVID-19 advice is not given to the client when the COVID-19 advice is provided—when the COVID-19 advice is provided, give the client the information that would be required to be in a Statement of Advice by paragraphs 947B(2)(d) and (e), or 947C(2)(e) and (f), as the case requires, and by section 947D, if applicable.

(14) For the purposes of paragraph (13)(a), the *applicable time* to give the client a copy of the record of the COVID-19 advice is the time:

- (a) when, or as soon as practicable after, the COVID-19 advice is provided; and
- (b) in any event—before the providing entity provides the client with any further financial service arising out of, or connected with, the COVID-19 advice.

(15) In subsection (11):

associated providing entity, in relation to a providing entity, means:

- (a) where the providing entity is a financial services licensee—any person who is an authorised representative of the licensee;
- (b) where the providing entity is an authorised representative of a financial services licensee—the authorising licensee or any person who is an authorised representative of the licensee.”.

(2) Part 7.7 of the Act applies in relation to providing entities as if regulation 7.7.10AG of the Regulations were modified or varied by,

after “subsection 946B(3A)” (wherever occurring), inserting
“or subsection 946B(12)”.

Part 3—Repeal

6 Repeal

This instrument is repealed on 15 October 2021.