

Attachment to CP 251: Draft instrument



ASIC

Australian Securities & Investments Commission

ASIC Corporations (Financial Product Advice — Exempt Documents) 2016/XX

I, <insert name>, delegate of the Australian Securities and Investments Commission, make the following legislative instrument.

Dated 2016

<signature>

<insert name>

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Part 1—Preliminary

1 Name of legislative instrument

This instrument is the *ASIC Corporations (Financial Product Advice — Exempt Documents) Instrument 2016/XX*.

2 Commencement

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

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

3 Authority

This instrument is made under section 926A of the Act.

4 Definitions

In this instrument:

Act means the *Corporations Act 2001*.

Part 2—Exemption

5 Requirement to hold an Australian financial services licence

A person providing general advice does not have to comply with the requirement in subsection 911A(1) to hold an Australian financial services licence for the provision of financial product advice where that advice is contained in a document that is:

- (1) prepared in accordance with a requirement of the Act, any other Act or a disallowable legislative instrument made under an Act and is not:
 - (a) an exempt document or statement as defined in subsection 766B(9); or
 - (b) a document or statement of the kind referred to in paragraphs (a)(i) or (ii) of that definition; or
 - (c) a recommendation or statement of opinion made by an outside expert or a report of such a recommendation or statement of opinion as referred to in subsection 766B(1B); or
- (2) an explanatory statement (however described) about a compromise or arrangement:
 - (a) between a foreign company and its members or any class of them; and
 - (b) that is regulated by or under a law that is in force in or part of one of the following:
 - (i) Hong Kong;
 - (ii) Malaysia;
 - (iii) New Zealand;
 - (iv) Singapore;
 - (v) South Africa;
 - (vi) United Kingdom;where the statement has been prepared because it is required by or under a law; or
- (3) an offer document (however described) or a document responding to the offer document in relation to a transaction involving the acquisition of control or potential control of, or the acquisition of a substantial interest in:

- (a) an issuer of securities; or
- (b) a managed investment scheme;

where the offer:

- (c) is regulated by or under a law or other rules (however described) that:
 - (i) apply to the acquisition of:
 - (A) the control or potential control of an entity; or
 - (B) a substantial interest in an entity; and
 - (ii) are in force or apply in or in a part of one of the following:
 - (A) Canada;
 - (B) France;
 - (C) Germany;
 - (D) Hong Kong;
 - (E) Italy;
 - (F) Japan;
 - (G) Malaysia;
 - (H) The Netherlands;
 - (I) New Zealand;
 - (J) Singapore;
 - (K) South Africa;
 - (L) Switzerland;
 - (M) United Kingdom; and
 - (N) United States of America; and
- (d) involves offers being made to acquire all or some of the securities or interests in a managed investment scheme (as applicable) forming all or a part of the class or classes (*bid class*) of securities or interests being bid for, held by:
 - (i) all holders of securities or interests in the bid class; or

- (ii) all such holders other than the person making the offers, that person and their associates or any other person to whom, under the regulatory requirements applicable to the transaction, the offers do not have to be made,

where the document has been prepared because it is required by or under the law or the other rules.