

Attachment 3 to CP 255: Draft instrument



ASIC

Australian Securities & Investments Commission

ASIC Corporations (Updated Product Disclosure Statements) Instrument 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 *ASIC Corporations (Updated Product Disclosure Statements) Instrument 2016/XX*.

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.

3 Authority

This instrument is made under paragraph 1020F(1)(b) of the *Corporations Act 2001*.

4 Definitions

In this instrument:

Act means the *Corporations Act 2001*.

materially adverse information means information of a kind the inclusion of which in, or the omission of which from, a Statement would render the Statement defective within the meaning of section 1021B.

regulated person has the meaning given by section 1011B.

responsible person has the meaning given by subsection 1013A(3).

Regulations means the *Corporations Regulations 2001*.

Part 2—Exemption

5 Updated information in Product Disclosure Statements

The following persons do not have to comply with section 1012J to the extent that that section has the effect that the Statement must include information (the *updated information*) in addition to or in substitution for any information the Statement contained at the time when it is given:

- (a) a responsible person for a financial product who prepares a Product Disclosure Statement (the *Statement*) for the product; and
- (b) a regulated person who gives the Statement to another person in accordance with sections 1012A, 1012B, 1012C or 1017H.

6 Where exemption applies

The exemption applies where all of the following are satisfied:

- (a) the Statement was up to date at the time when it was prepared;
- (b) the updated information includes no materially adverse information;
- (c) the responsible person takes reasonable steps to:
 - (i) ensure that the Statement clearly and prominently:
 - A. explains that information that is not materially adverse information is subject to change from time to time and may be updated by means described in the Statement;
 - B. explains how that updated information can be found out at any time;
 - C. states that a copy of any updated information will be made available to a person without charge on request;
 - (ii) establish and maintain means by which a person may find out any updated information, being means that are simple and involve no charge and little inconvenience to the person, having regard to the kinds of persons likely to consider acquiring the financial product to which the Statement relates (including arrangements whereby a person is given access to an electronic copy of the updated information without charge on request);
 - (iii) make available any updated information as soon as practicable to each regulated person to whom the Statement has been provided for further distribution; and

- (iv) cause a copy of the updated information prepared for the purposes of this paragraph 6 to be kept for 7 years after it is prepared.

Note: The information contained in a Statement includes any information contained in a Supplementary Product Disclosure Statement or Supplementary Short-Form PDS given at the same time as the Statement or later: sections 1014D and 1017O.