



ASIC
Australian Securities &
Investments Commission

**ASIC Corporations (COVID-19 Email
Lodgement Service—ASIC Corporations
(Wholly-owned Companies) Instrument
2016/785) Instrument 2021/722**

I, Claire LaBouchardiere, delegate of the Australian Securities and Investments Commission, make the following instrument.

Date 23 December 2021

A handwritten signature in blue ink, appearing to read 'Claire LaBouchardiere'.

Claire LaBouchardiere

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Part 1—Preliminary

1 Name of instrument

This is the *ASIC Corporations (COVID-19 Email Lodgement Service—ASIC Corporations (Wholly-owned Companies) Instrument 2016/785) Instrument 2021/722*.

2 Commencement

This instrument commences on the day it is signed.

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

3 Authority

This instrument is made under:

- (a) paragraph 352(1)(b) of the *Corporations Act 2001*; and
- (b) subsection 11(4) of the *Australian Securities and Investments Act 2001*.

4 Definitions

In this instrument:

ASIC Act means the *Australian Securities and Investments Act 2001*.

Corporations Act means the *Corporations Act 2001*.

copy or counterpart has the same meaning as in section 127 of the *Corporations Act*.

document that is in an electronic form means, in relation to a document, a form of the document that is produced by an electronic communication (within the meaning of the *Electronic Transactions Act 1999*) and includes a form of the document:

- (a) created using a word processor application on a computer or other device; or
- (b) created using an electronic document signing platform or uploaded onto an electronic signing platform; or
- (c) mentioned in paragraph (a) or (b) that has been converted into pdf format,

where the document:

- (d) includes the entire contents of the document but need not include the electronic signature of a person signing the document;
- (e) does not include a pdf scan of a document that is in a physical form or a pdf scan of a copy or counterpart of a document that is in a physical form.

electronic signature means a signature within the meaning of section 10 of the *Electronic Transactions Act 1999* that is used in relation to a document that is in an electronic form, and includes:

- (a) a digital image of an original signature of a person created by the person or by a person authorized by the person; and
- (b) a digital signature created by and applied directly to an electronic document by the signatory by electronic means for example, by using a finger, stylus or other implement to create a signature on an electronic document on a device such as a computer or notebook; and
- (c) an electronic signature that is created within or applied using an electronic document signing platform.

ELS means ASIC’s Email Lodgement Service.

ELS User Agreement means the ASIC Email Lodgement Service: User Agreement for *ASIC Corporations (Wholly-owned Companies) Instrument 2016/785*.

Note: The ELS User Agreement is available on ASIC’s website at www.asic.gov.au.

original signature means a handwritten wet signature.

Part 2—Approval

5 Approval of electronic lodgements of documents under ASIC Corporations (Wholly-owned Companies) Instrument 2016/785) via ELS

Approvals of electronic lodgements

- (1) To facilitate electronic lodgements of documents under ASIC Corporations (Wholly-owned Companies) Instrument 2016/785 via the ELS and for the purposes of paragraph 352(1)(b) of the Corporations Act, ASIC approves the electronic lodgement with ASIC of the documents set out in the Schedule through the ELS in accordance with the terms and conditions of the ELS User Agreement.
- (2) The method for electronically lodging with or submitting to ASIC through the ELS a document specified in the Schedule is lodging or submitting:
 - (a) a pdf scan of the document that is in a physical form, where the pdf scan includes the entire contents of the document; or
 - (b) a pdf scan of each copy or counterpart of the document that is in a physical form, where each pdf scan of each copy or counterpart includes the entire contents of the document; or
 - (c) the document that is in an electronic form; or
 - (d) each copy or counterpart of the document that is that is in an electronic form, where each copy or counterpart includes the entire contents of the document; or
 - (e) a combination of the documents referred to by paragraphs (b) or (d), where the document, or each copy or counterpart of the document, is signed in accordance with subsections (3) and (4).

Signatures

- (3) Where, in relation to a document specified in the Schedule:
 - (a) a company is executing a document or lodging a document with or submitting a document to ASIC; and
 - (b) the Corporations Act (or any regulations or other instruments made under or for the purposes of that Act) provides for or requires the document to be signed by a person in a particular capacity for the purposes of the company executing the document or lodging the document with or submitting the document to ASIC;

the person in that capacity may sign the document in accordance with a method specified in subsection (4) in relation to the specified type of document.

- (4) For the purposes of paragraph 352(1)(b) of the Corporations Act, the *ASIC Corporations (Wholly-owned Companies) Instrument 2016/785* and for all other purposes, the method for signing a document specified in the Schedule to be lodged or submitted to ASIC via the ELS is:
- (a) signing the document that is in a physical form by applying or inserting an original signature; or
 - (b) signing the document that is in an electronic form in accordance with subsection (5); or
 - (c) signing a copy or counterpart of the document in accordance with subsections 127(3A), (3B) and (3C) of the Corporations Act (as applicable).

Note: This instrument does not limit the ways in which a company may execute a document under section 127 of the Corporations Act.

- (5) For the purposes of subsection (4)(b), a person ***signs a document that is in an electronic form*** if:
- (a) the person applies or inserts their own electronic signature, or authorizes another person to apply their electronic signature, to the document; and
 - (b) a method is used to identify the person in the document that is in an electronic form and to indicate the person's intention in respect of the contents of the document; and
 - (c) the method referred to in paragraph (b) is:
 - (i) as reliable as appropriate for the purpose for which the company is executing, lodging or submitting the document, in light of all the circumstances, including any relevant agreement; or
 - (ii) proven in fact to have fulfilled the functions described in paragraph (b), by itself or together with further evidence.

Schedule 1—Approved documents

Documents under *ASIC Corporations (Wholly-owned Companies) Instrument 2016/785* that may be lodged or submitted to ASIC via ELS

Form code	Document
CF06	Deeds of cross guarantee and related documents (cover form)
351	Deed of cross guarantee - (Pro Forma 24) or deed of variation of a deed of cross guarantee
No form code	Certificate in respect of deed of cross guarantee or assumption deed
352	Assumption deed - (Pro Forma 27)
353	Notice of disposal - (Pro Forma 25)
No form code	Certificate for notice of disposal
355	Revocation deed - (Pro Forma 26)
389	Opt-in/change of holding entity notice by wholly-owned company relieved from financial reporting obligations
399	Opt-out notice by wholly-owned company relieved from financial reporting obligations
No form code	Email lodgement form and declaration