

# Attachment to CP 316: Draft instrument



**ASIC**  
Australian Securities &  
Investments Commission

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## **ASIC Corporations (Product Intervention Order—Short Term Credit) Instrument 2019/XX**

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

Date                                      2019

**[DRAFT ONLY – NOT FOR SIGNATURE]**

<signature>

<insert name>

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## Part 1—Preliminary

### 1 Name of legislative instrument

This is the *ASIC Corporations (Product Intervention Order—Short Term Credit) Instrument 2019/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](http://www.legislation.gov.au).

### 3 Authority

This instrument is made under subsection 1023D(3) of the *Corporations Act 2001*.

### 4 Definitions

In this instrument:

*Act* means the *Corporations Act 2001*.

*associate*, in relation to a primary person that is a short term credit provider, has the meaning given by sections 11 and 15 of the Act.

*collateral fees and charges* means fees and charges imposed or provided for in relation to the provision of a collateral service.

*collateral service* means a service provided to a retail client in relation to an application by the retail client for the provision of credit by a short term credit provider under a short term credit facility.

*National Credit Code* has the same meaning as in subsection 5(1) of the *National Consumer Credit Protection Act 2009*.

*short term credit facility* means a financial product covered by both:

- (a) paragraph 12BAA(7)(k) of the ASIC Act; and
- (b) subsection 6(1) of the National Credit Code.

*short term credit provider* means a person who is purporting to rely on subsection 6(1) of the National Credit Code.

## Part 2—Order

### 5 Short term credit facilities

- (1) A short term credit provider must not provide credit to a retail client under a short term credit facility except in accordance with the condition in subsection (3).
- (2) A short term credit provider or an associate must not impose or provide for collateral fees and charges for the provision of a collateral service to a retail client except in accordance with the condition in subsection (3).

#### *Condition*

- (3) The imposition of or provision for collateral fees and charges by a short term credit provider or an associate for the provision of a collateral service to a retail client in addition to the credit fees and charges that may be imposed or provided for by the short term credit provider under the short term credit facility, must not exceed the maximum amount of credit fees and charges permitted under subsection 6(1) of the National Credit Code in relation to the provision of credit under the short term credit facility.