



ASIC

Australian Securities & Investments Commission

ASIC Corporations (Financial Services Guides) Instrument 2015/541

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

Date 18 August 2015

Grant Moodie

Contents

Part 1—Preliminary	3
1 Name of legislative instrument	3
2 Commencement	3
3 Authority	3
4 Definitions	3
Part 2—Exemption	4
5 Financial Services Guides—secondary services.....	4

Part 1—Preliminary

1 Name of legislative instrument

This instrument is *ASIC Corporations (Financial Services Guides) Instrument 2015/541*.

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 951B of the *Corporations Act 2001*.

4 Definitions

In this instrument:

Act means the *Corporations Act 2001*.

intermediary authorisation has the same meaning as in paragraph 911A(2)(b) of the Act.

Part 2—Exemption

5 Financial Services Guides—secondary services

- (1) This section applies in relation to a Financial Services Guide that a person must give in relation to the provision of a financial service to the extent the Financial Services Guide:
 - (a) must be given in the way required by section 940C of the Act; and
 - (b) must be given at the time required by subsection 941D(1) of the Act; and
 - (c) must have a title in accordance with subsection 942A(1) of the Act; and
 - (d) must not be combined with a Product Disclosure Statement in contravention of subsection 942DA(3) of the Act.

Expert reports

- (2) A financial services licensee (the *expert*) or an authorised representative (the *expert*) of a financial services licensee that, acting in their capacity as an expert, provides general advice in a report or statement (the *expert's report*) that is included in a document (the *principal document*) prepared by or on behalf of another person (the *principal*) does not have to comply with subsection 941A(1) or 941B(1) of the Act in relation to a Financial Services Guide that the expert must give in relation to the provision of the advice, provided all of the following are satisfied:
 - (a) the expert is neither:
 - (i) the person who prepared the principal document; or
 - (ii) an employee or a director of the principal;
 - (b) the expert's report:
 - (i) forms a separate and clearly identifiable part of the principal document; and
 - (ii) bears an expression at or near the front of the report that makes it clear that it is both an expert's report and a Financial Services Guide;
 - (c) the Financial Services Guide forms a separate and clearly identifiable part of the expert's report;

- (d) the principal document prominently discloses the following information:
 - (i) the respective names of:
 - (A) the expert;
 - (B) the principal; and
 - (C) the person for whom, or on whose behalf, the expert's report was prepared;

Note: The person for whom, or on whose behalf, the expert's report was prepared may or may not be the principal.

- (ii) the nature of the relationship between the expert and:
 - (A) the principal; and
 - (B) the person for whom, or on whose behalf, the expert's report was prepared;
- (iii) the extent of the liability of the expert in relation to the principal document and the expert's report.

Arrangers acting under intermediary authorisations

- (3) A financial services licensee (the **intermediary**) or an authorised representative (the **intermediary**) of a financial services licensee that provides a financial service consisting of arranging for the issue of a financial product by a person (the **product provider**) under an intermediary authorisation does not have to comply with subsection 941A(1) or 941B(1) of the Act in relation to a Financial Services Guide that the intermediary must give in relation to the provision of the financial service, provided both of the following are satisfied:
 - (a) the Financial Services Guide:
 - (i) forms a separate and clearly identifiable part of the Product Disclosure Statement for the financial product; and
 - (ii) bears the expression "Financial Services Guide" at or near the front of the part of the Product Disclosure Statement that is the Financial Services Guide;
 - (b) the Financial Services Guide prominently discloses the following information:
 - (i) the respective names of:
 - (A) the intermediary;
 - (B) the product provider;

- (C) where the intermediary is an authorised representative—
the financial services licensee on whose behalf the
intermediary acts in relation to the intermediary
authorisation;
- (ii) the nature of the relationship between the product provider
and:
 - (A) the intermediary; and
 - (B) where the intermediary is an authorised representative—
the financial services licensee on whose behalf the
intermediary acts in relation to the intermediary
authorisation.