

ASIC Credit (Updated details for prescribed disclosure) Instrument

2016/200

EXPLANATORY STATEMENT

Prepared by the Australian Securities and Investments Commission

National Consumer Credit Protection Act 2009

The Australian Securities and Investments Commission (ASIC) makes:

- the *ASIC Credit (Updated details for prescribed disclosure) Instrument 2016/200* under paragraph 163(3)(d) of the *National Consumer Credit Protection Act 2009* (the National Credit Act). Paragraph 163(3)(d) provides that ASIC may declare that provisions to which Part 3-7 of the National Credit Act applies apply in relation to a class of persons as if specified provisions were modified or varied.

1. Background

Treasury has requested that ASIC exercise its modification powers under the National Credit Act to update information required to be contained in certain consumer warnings and disclosure information that is no longer correct. Treasury has indicated that it is unlikely to be able to prepare regulations to update this information in the near future.

Out of date information contained in Reverse Mortgage Information Statements

Credit licensees that provide credit assistance in relation to, or enter into, reverse mortgages are required to give to consumers, and make available on the licensee's website, a Reverse Mortgage Information Statement in the form prescribed in Schedule 5A of the National Consumer Credit Protection Regulations 2010 (the Regulations).

Schedule 5A includes a requirement to provide information about an information service provided by the National Information Centre on Retirement Investments (NICRI). NICRI no longer exists, and accordingly this information should no longer be required.

Out of date information contained in warnings in relation to small amount credit contracts (SACCs)

Credit licensees that provide credit assistance in relation to, or enter into, SACCs are required to give to consumers a warning in relation to SACCs that is in the form prescribed in Schedule 7 of the Regulations (for warnings required to be displayed as the licensee's premises) or Schedule 9 of the Regulations (for warnings to be made available from the licensee's website).

Schedules 7 and 9 include a requirement to include the following statement: "If you are on government benefits, ask for an advance payment from Centrelink: 13 17 94". This telephone number has been disconnected, and accordingly the contact information in the warning needs to be updated.

2. Purpose of the instrument

The purpose of the *ASIC Credit (Updated details for prescribed disclosure) Instrument 2016/200* is to modify the form of the Reverse Mortgage Information Statement and SACC warnings prescribed in Schedules 5A, 7 and 9 of the Regulations to correct the out of date information.

3. Operation of the instrument

Section 5 of the *ASIC Credit (Updated details for prescribed disclosure) Instrument 2016/200* will make the following modifications:

- To the Reverse Mortgage Information Statement – omit the information in Schedule 5A that refers to NICRI and the information service provided by NICRI; and
- To the SACC warnings – omit the telephone number for Centrelink that is specified in Schedules 7 and 9, and replace it with the URL for the Centrelink website page that contains information about advance payments, how to apply and current contact details, including the current telephone number.

4. Consultation

Before making the legislative instruments, ASIC consulted with the affected licensees, and the industry association for SACC lenders – the National Credit Providers Association. ASIC also consulted with Centrelink on the method of ensuring current contact details are available to consumers.

Treasury has requested that ASIC use its modification powers for this purpose, as it is unlikely to be able to prepare regulations to update the out of date information in the near future.

The Office of Best Practice Regulation advised that a RIS is not required in order to make the legislative instrument.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

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ASIC Credit (Updated details for prescribed disclosure) Instrument 2016/200 is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview

ASIC Credit (Updating Details in Prescribed Disclosure Material) Instrument 2016/200 modifies the form of the Reverse Mortgage Information Statement prescribed in Schedule 5A of the Regulations, and the form of warnings relating to small amount credit contracts prescribed in Schedules 7 and 9 of the Regulations to correct out of date information.

Human rights implications

This legislative instrument does not engage any of the applicable rights or freedoms.

Conclusion

This legislative instrument is compatible with human rights as it does not raise any human rights issues.