



**ASIC**

Australian Securities & Investments Commission

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## **ASIC Corporations (Dematerialised Securities: Austraclear) Instrument 2016/841**

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

Date            19 September 2016

Grant Moodie

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## Part 1—Preliminary

### 1 Name of legislative instrument

This is the *ASIC Corporations (Dematerialised Securities: Austraclear) Instrument 2016/841*.

### 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 subsections 283GA(1), 601QA(1), 741(1) and 1075A(1) of the *Corporations Act 2001*.

### 4 Definitions

In this instrument:

*Act* means the *Corporations Act 2001*.

**dematerialised security**, in relation to the clearing and settlement facility operated by Austraclear Limited, means any of the following which are acceptable for deposit in the facility:

- (a) electronically recorded single party debt obligations under which the rights as between the maker or issuer and any participant of the clearing and settlement facility who deals in them will be equivalent to the rights which would arise under a certificate of deposit issued by a bank;
- (b) electronically recorded two party debt obligations under which the rights as between the drawer, acceptor, any indorser and any participant of the clearing and settlement facility who deals in them will be equivalent to the rights which would arise under a bill of exchange accepted by a bank;
- (c) electronically recorded single party debt obligations under which the rights as between the maker or issuer and any participant of the clearing and settlement facility who deals in them will be equivalent to the rights which would arise under a certificate of deposit issued by a person other than a bank or a promissory note.

**non-participant** means any person who satisfies both of the following:

- (a) is a drawer of a security of the kind mentioned in paragraph (b) of the definition of ***dematerialised security***;
- (b) is not a participant of the clearing and settlement facility operated by Austraclear Limited.

***participant*** means a participant of the clearing and settlement facility operated by Austraclear Limited.

## Part 2—Exemption

### 5 Dematerialised securities

- (1) This section applies to the extent that a dematerialised security is a debenture in circumstances where the bill of exchange, certificate of deposit or promissory note to which the dematerialised security relates is not a debenture.
- (2) Austraclear Limited, participants and non-participants do not have to comply with Chapter 2L and Parts 6D.2 and 6D.3 of the Act in relation to any offer of dematerialised securities for issue or sale, and any issue or sale of dematerialised securities, that occurs in the course of:
  - (a) the trading by participants in dematerialised securities that are deposited into the clearing and settlement facility operated by Austraclear Limited;
  - (b) the drawing by non-participants of dematerialised securities of the kind mentioned in paragraph (b) of the definition of *dematerialised security* that are deposited into the clearing and settlement facility operated by Austraclear Limited and accepted by members of Austraclear Limited.
- (3) Dematerialised securities are exempt from Divisions 2 and 3 of Part 7.11 of the Act.

### 6 Operation of a clearing and settlement facility for dematerialised securities

To avoid doubt, Austraclear Limited does not have to comply with Chapter 5C of the Act in relation to the operation of the clearing and settlement facility for dematerialised securities in accordance with the operating rules of the facility.