



**ASIC**

Australian Securities & Investments Commission

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## **ASIC Corporations (Amendment) Instrument 2016/1006**

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

Date            20 October 2016

Grant Moodie

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## Contents

<b>Part 1—Preliminary</b>	<b>3</b>
1 Name of legislative instrument .....	3
2 Commencement .....	3
3 Authority .....	3
4 Schedules .....	3
<b>Schedule 1—Amendments</b>	<b>4</b>
ASIC Class Order [CO 14/923] .....	4

## **Part 1—Preliminary**

### **1 Name of legislative instrument**

This is the *ASIC Corporations (Amendment) Instrument 2016/1006*.

### **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 paragraph 926A(2)(c) of the *Corporations Act 2001*.

### **4 Schedules**

Each instrument that is specified in the Schedule to this instrument is amended as set out in the applicable items in the Schedule.

## Schedule 1—Amendments

### ASIC Class Order [CO 14/923]

#### 1 Paragraph 4

Omit “all financial services licensees”, substitute “financial services licensees (and former financial services licensees) and authorised representatives (and former authorised representatives)”.

#### 2 Paragraph 4 (notional subsections 912G(3), (4) and (5))

Omit, substitute:

- (3) The financial services licensee must ensure the records required to be kept by this section:
  - (a) are kept for 7 years after the day the personal advice was provided to the client; and
  - (b) are accessible by the licensee at all times during that period in a way that enables the licensee to produce the records.

This obligation continues to apply even if the financial services licensee ceases to be a financial services licensee during the period that the records are required to be kept and accessible.

- (4) If the provider is an authorised representative of a financial services licensee and the records required to be kept by this section are kept by the authorised representative, the authorised representative:
  - (a) must give the records to the licensee if requested by the licensee, provided the request is made:
    - (i) in connection with the obligations imposed on the licensee under this Chapter; and
    - (ii) within 7 years after the day on which the personal advice was provided to the client; and
  - (b) unless the records have been given by the authorised representative to the licensee—must keep the records for a period of 7 years after the day on which the personal advice was provided to the client.

This obligation continues to apply even if the authorised representative ceases to be an authorised representative of the financial services licensee during the period that the records are required to be given or kept.

- (5) Nothing in subsection (4) limits the operation of subsections (2) and (3).
- (6) This section does not apply to the provision of personal advice given in relation to a financial product in circumstances where the provider satisfies the duty in subsection 961B(1) in relation to the advice given in relation to the financial product if the provider takes the steps mentioned in paragraphs 961B(2)(a), (b) and (c).
- (7) This section (other than paragraph (2)(d) and subsection (3) as it relates to that paragraph) does not apply to the provision of personal advice covered by either of the following circumstances:
  - (a) the provision of personal advice for which a Statement of Advice is not required to be given to the client;
  - (b) the provision of personal advice for which a record of the advice is kept in accordance with subsection 946B(3A).