

**EXPLANATORY STATEMENT for**  
**ASIC CORPORATIONS (REPEAL) INSTRUMENT 2016/1053**

Prepared by the Australian Securities and Investments Commission

*Corporations Act 2001*

The Australian Securities and Investments Commission (**ASIC**) makes ASIC Corporations (Repeal) Instrument 2016/1053 under subsection 1020F(1) of the *Corporations Act 2001* (the **Act**).

Section 1020F(1) of the Act provides that ASIC may:

- (a) exempt a person or class of persons from all or specified provisions of Part 7.9 of the Act; or
- (b) exempt a financial product or a class of financial products from all or specified provisions of Part 7.9 of the Act; or
- (c) declare that Part 7.9 of the Act applies in relation to a person or a financial product, or a class of persons or financial products, as if specified provisions were omitted, modified or varied as specified in the declaration.

This legislative instrument repeals 3 class orders made by ASIC. Subsection 1020F(1) of the Act was the source of power for each of those class orders.

As this instrument is repealing those class orders, subsection 1020F(1) of the Act is also the source of power to make this legislative instrument. Under subsection 33(3) of the *Acts Interpretations Act 1901* (as applicable to the relevant powers because of section 5C of the Act), where an Act confers a power to make, grant or issue any instrument (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend or vary any such instrument.

## **1. Background**

ASIC has recently reviewed 3 class orders which relate primarily to the disclosure requirements in Chapter 7 of the Act. ASIC has decided to remake the relief found in each of those class orders, where that relief is considered to still be both necessary and appropriate.

The *Legislation Act 2003* (the **LA**) provides for the periodic expiry of legislative instruments ('sunsetting') to ensure that they are kept up to date and only remain in force for as long as they are needed. The 3 class orders reviewed, being legislative instruments, were scheduled to eventually expire under the sunsetting provisions of the LA.

ASIC's review of the policy underlying these class orders — and subsequent decision to reissue the relief — has provided an opportunity to deal with this imminent expiry and ensure that the relevant relief will continue to be available.

## **2. Purpose of the instrument**

The purpose of ASIC Corporations (Repeal) Instrument 2016/1053 is to repeal, in a single instrument, 3 class orders which relate primarily to the disclosure provisions in Chapter 7.

The relief found in all 3 class orders is remade in 3 new legislative instruments.

	<b>Repealed class order</b>	<b>New legislative instrument</b>
1.	[CO 02/1072] <i>Product Disclosure Statements: Top-up relief for managed investment schemes</i>	ASIC Corporations (Top-up Product Disclosure Statements Relief) Instrument 2016/1054
2.	[CO 03/237] <i>Updated information in Product Disclosure Statements</i>	ASIC Corporations (Updated Product Disclosure Statements) Instrument 2016/1055
3.	[CO 03/1092] <i>Further relief for joint Product Disclosure Statements</i>	ASIC Corporations (Joint Product Disclosure Statements) Instrument 2016/1056

## **3. Operation of the instrument**

ASIC Corporations (Repeal) Instrument 2016/1053 repeals the 3 class orders specified in the schedule to that instrument.

## **4. Consultation**

On 23 March 2016 ASIC released CP 255 Remaking ASIC class orders on financial services disclosure requirements, seeking feedback on proposals to remake, without significant changes 3 class orders relating to Chapter 7 of the Act. CP 255 referred to the expiry of class orders scheduled to eventually sunset under the LA and also sought feedback on proposals to reissue the legislative instruments. The consultation period closed on 26 April 2016.

The feedback received in response to CP 255 supported our proposals to remake the relevant class orders, without significant changes.

Following the consultation, ASIC decided to proceed to reissue the class orders as proposed by CP 255. Notwithstanding the consultation, ASIC considers that ASIC Corporations (Repeal) Instrument 2016/1053 is of a minor or machinery nature and, having regard to the contemporaneous reissuing of the class orders, does not substantially alter existing arrangements.

## **Statement of Compatibility with Human Rights**

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

### **ASIC Corporations (Repeal) Instrument 2016/1053**

ASIC Corporations (Repeal) Instrument 2016/1053 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 Corporations (Repeal) Instrument 2016/1053 repeals 3 class orders which relate to financial services disclosure requirements in Chapter 7 of the *Corporations Act 2001*

#### **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.

**Australian Securities and Investments Commission**