

---

**EXPLANATORY STATEMENT for**  
**ASIC Corporations and Credit (Repeal) Instrument 2017/791**

Prepared by the Australian Securities and Investments Commission

*Corporations Act 2001*

*National Consumer Credit Protection Act 2009*

The Australian Securities and Investments Commission (**ASIC**) makes *ASIC Corporations and Credit (Repeal) Instrument 2017/791* (**the Repeal instrument**) under paragraph 911A(2)(l) of the *Corporations Act 2001* and paragraphs 109(3)(a) and (d) of the *National Consumer Credit Protection Act 2009* (**National Credit Act**).

Paragraph 911A(2)(l) provides that ASIC may exempt a person from the requirement to hold an Australian financial services licence.

Paragraph 109(3)(a) provides that ASIC may exempt a person or class of persons from all or specified provisions to which Part 2–6 of the National Credit Act applies.

Paragraph 109(3)(d) provides that ASIC may declare that provisions to which Part 2–6 of the National Credit Act applies apply in relation to a class of person as if specified provision were omitted, modified or varied as specified in the declaration

Under subsection 33(3) of the Acts Interpretation Act 1901 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**

Under the *Legislation Act 2003*, instrument such as ASIC Class Order [CO 03/1063], ASIC Class Order [CO 11/926] and *ASIC Credit (Financial Counselling Agencies) Instrument 2015/992* (**Instrument 2015/992**) automatically cease to have effect, or ‘sunset’ after 10 years.

[CO 03/1063] was due to sunset on 1 October 2017. To continue the effect of the relief it provided, it is being remade in *ASIC Corporations (Financial Counselling Agencies) Instrument 2017/792*.

---

[CO 11/926] and Instrument 2015/992 were due to sunset on 1 April 2022 and 1 April 2026 respectively. To continue the effect of the relief they provided, they are being remade in *ASIC Credit (Financial Counselling Agencies) Instrument 2017/793*.

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

The Repeal Instrument is made to repeal the relief provided by:

- [CO 03/1063];
- [CO 11/926]; and
- Instrument 2015/992.

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

Section 4 provides that each instrument specific in a Schedule to the instrument is repealed at set out in the items in the Schedule.

Schedule 1 repeals:

- ASIC Class Order [CO 03/1063];
- ASIC Class Order [CO 11/926]; and
- *ASIC Credit (Financial Counselling Agencies) Instrument 2015/992*.

## **4. Consultation**

ASIC consulted publicly on its proposal to remake the exemptions in [CO 03/1063], [CO 11/926] and *ASIC Credit (Financial Counselling Agencies) Instrument 2015/992* via [Consultation Paper 282 Remaking ASIC class orders on financial counselling licensing relief](#). ASIC received 10 responses which supported the proposal.

---

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

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

### **ASIC Corporations and Credit (Repeal) Instrument 2017/791**

*ASIC Corporations and Credit (Repeal) Instrument 2017/791 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 and Credit (Repeal) Instrument 2017/791 repeals the relief provided in ASIC Class Order [CO 03/1063], ASIC Class Order [CO 11/926] and ASIC Credit (Financial Counselling Agencies) Instrument 2015/992. The repealed instruments are being remade in ASIC Corporations (Financial Counselling Agencies) Instrument 2017/792 and ASIC Credit (Financial Counselling Agencies) Instrument 2017/793.*

#### **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**