



**ASIC**  
Australian Securities &  
Investments Commission

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## **ASIC Corporations (Amendment) Instrument 2020/242**

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I, Nathan Bourne, delegate of the Australian Securities and Investments Commission, make the following legislative instrument.

Date            26 March 2020

Nathan Bourne

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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 Corporations (Derivative Transaction Reporting Exemption) Instrument 2015/844 .....	4

## **Part 1—Preliminary**

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

This is the *ASIC Corporations (Amendment) Instrument 2020/242*.

### **2 Commencement**

This instrument commences on the later of:

- (a) the day after it is registered on the Federal Register of Legislation;  
and
- (b) 1 April 2020.

Note: The register may be accessed at [www.legislation.gov.au](http://www.legislation.gov.au).

### **3 Authority**

This instrument is made under paragraph 907D(2)(a) of the *Corporations Act 2001*.

### **4 Schedules**

The instrument specified in Schedule 1 to this instrument is amended as set out in Schedule 1.

## Schedule 1—Amendments

### ASIC Corporations (Derivative Transaction Reporting Exemption) Instrument 2015/844

**1 Subsection 6(1)**

Repeal the subsection (not including the heading).

**2 Subsection 6(1C)**

Omit “(1),”.

**3 Subsection 6(2)**

Omit “(1),”.

**4 Subsection 6(3)**

Omit “It is a condition of the exemptions in subsections (1) and (1A)”, substitute “Subject to subsection (8), it is a condition of the exemption in subsection (1A)”.

**5 Subsection 6(3A)**

Omit “It”, substitute “Subject to subsection (8), it”.

**6 Subsection 6(7)**

Omit “The”, substitute “Subject to subsection (8), the”.

**7 After subsection 6(7)**

Insert:

*New Zealand registered banks*

- (8) The conditions in subsections (3) and (3A) and the exclusion in subsection (7) do not apply to a Reporting Entity if all the following are satisfied:
- (a) the Reporting Entity is a New Zealand registered bank within the meaning of the *Banking Act 1959*;
  - (b) the Relevant Entity is not an Australian entity;
  - (c) the Relevant Entity is not a covered counterparty within the meaning of *Prudential Standard CPS 226 Margining and risk mitigation for non-centrally cleared derivatives*;

Note: *Prudential Standard CPS 226 Margining and risk mitigation for non-centrally cleared derivatives* is the Schedule to *Banking, Insurance, Life Insurance and Superannuation (prudential standard) determination No. 1 of 2019*.

- (d) the Reporting Entity does not have a credit support annex (or other industry standard credit support documents) in place with the Relevant Entity.

## 8 Subsection 11(1)

Omit “31 March 2020”, substitute “30 September 2022”.

## 9 Subsection 11(2)

Omit paragraphs (a) to (c), substitute:

- (a) the trade identifier (if any) for the Reportable Transaction that the Reporting Entity is of the reasonable view would be required to be reported as a unique transaction identifier:
  - (i) under requirements (*CFTC rules*) issued by the Commodity Futures Trading Commission of the United States of America; and
  - (ii) on the assumption that neither the Rules nor this instrument require the Reporting Entity to report the Reportable Transaction; or

Note: The effect of subparagraph (ii) is that the Reporting Entity must form its reasonable view as to the requirements of the CFTC rules on the basis that the requirements of the CFTC rules are not affected by any Australian reporting requirements.

- (b) if paragraph (a) is not applicable—the trade identifier created by the Swap Execution Facility on which the Reportable Transaction was executed (if applicable); or
- (c) if paragraphs (a) and (b) are not applicable—the trade identifier created by the provider of any of the Confirmation Platforms on which the Reportable Transaction was confirmed (if applicable); or
- (d) if paragraphs (a) to (c) are not applicable—the internal trade identifier used by the Reporting Counterparty;