



**ASIC**

Australian Securities & Investments Commission

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## **ASIC Corporations (Removing Barriers to Electronic Disclosure) Instrument 2015/649**

I, Stephen Yen PSM, delegate of the Australian Securities and Investments Commission, make the following legislative instrument.

Dated            23 July 2015

Stephen Yen

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## Part 1—Preliminary

### 1 Name of legislative instrument

This instrument is the *ASIC Corporations (Removing Barriers to Electronic Disclosure) Instrument 2015/649*.

### 2 Commencement

This instrument commences on the day after it is registered on the Federal Register of Legislative Instruments.

Note: The register may be accessed at <http://www.comlaw.gov.au>.

### 3 Authority

This instrument is made under paragraphs 951B(1)(c) and 1020F(1)(c) of the *Corporations Act 2001*.

### 4 Definitions

In this instrument:

*Act* means the *Corporations Act 2001*.

*margin loan* has the same meaning as in regulation 1.0.02 of the Regulations.

*Regulations* means the *Corporations Regulations 2001*.

*Short-Form PDS* has the same meaning as in section 761A of the Act (as affected by subregulation 7.9.61AA(1) of the Regulations for Parts 7.7, 7.8 and 7.9 of the Act).

*simple managed investment scheme* has the same meaning as in regulation 1.0.02 of the Regulations.

*Supplementary Short-Form PDS* has the same meaning as in section 761A of the Act (as affected by subregulation 7.9.61AA(2) of the Regulations for Parts 7.7, 7.8 and 7.9 of the Act).

## Part 2—Declaration

### 5 Page length for electronic PDSs

Part 7.9 of the Act applies in relation to a margin loan, a superannuation product to which Subdivision 4.2B of Division 4 of Part 7.9 of the Regulations applies and a simple managed investment scheme to which Subdivision 4.2C of Division 4 of Part 7.9 of the Regulations applies as if Schedules 10C, 10D and 10E to the Regulations were modified or varied by inserting after subclause 1(2) in each of those Schedules:

“(3) The requirement in subclause 1(1) only applies to the extent that material contained in the Statement is of a kind that is able to be printed.”.

### 6 Giving a copy of an electronic PDS

Part 7.9 of the Act applies in relation to a margin loan, a superannuation product to which Subdivision 4.2B of Division 4 of Part 7.9 of the Regulations applies and a simple managed investment scheme to which Subdivision 4.2C of Division 4 of Part 7.9 of the Regulations applies as if:

(a) section 1015C were modified or varied by, after subsection (5), inserting:

“(5A)If:

- (a) a Statement for a financial product is in an electronic form and some or all of the material contained in the Statement is of a kind that is not able to be printed; and
- (b) a request by a person for a copy of the Product Disclosure Statement does not nominate a relevant electronic means for the person to receive a copy of the Statement;

then:

- (c) paragraphs 7.9.11G(2)(a), 7.9.11R(2)(a) and 7.9.11Z(2)(a) of the *Corporations Regulations 2011* do not apply in relation to that request; and
- (d) within 8 business days, the responsible person for the Statement must notify the person who made the request:
  - (i) of each relevant electronic means and that the person must nominate one of those electronic means in order to receive a copy of the Statement; and

- (ii) if there is another Statement for the financial product that is in use and is able to be printed—a statement that that is the case and that the person may request a copy of that Statement.
- (5B) In this section, *relevant electronic means* in relation to a Statement for a financial product means an electronic means which the responsible person for the Statement uses to make the Statement available to persons who acquire the financial product.”; and
- (b) Schedule 10C to the Regulations were modified or varied as follows:
  - (i) in paragraph 2(2)(b) omit “.”, substitute “; and”;
  - (ii) after paragraph 2(2)(b) insert:
    - “(c) if the Statement is in an electronic form and some or all of the Statement is of a kind that is not able to be printed:
      - (i) a description of the electronic means by which the responsible person for the Statement makes the Statement available; and
      - (ii) a statement that a person who requests a copy of the Statement must nominate one of those electronic means in order to receive a copy of the Statement; and
      - (iii) if there is another Product Disclosure Statement for the margin loan that is in use and is able to be printed, a statement that that is the case and that a person may request a copy of that Statement.”; and
- (c) Schedule 10D to the Regulations were modified or varied as follows:
  - (i) in paragraph 2(3)(b) omit “.”, substitute “; and”;
  - (ii) after paragraph 2(3)(b) insert:
    - “(c) if the Statement is in an electronic form and some or all of the Statement is of a kind that is not able to be printed:
      - (i) a description of the electronic means by which the responsible person for the Statement makes the Statement available; and

- (ii) a statement that a person who requests a copy of the Statement must nominate one of those electronic means in order to receive a copy of the Statement; and
  - (iii) if there is another Product Disclosure Statement for the superannuation product that is in use and is able to be printed, a statement that that is the case and that a person may request a copy of that Statement.”; and
- (d) Schedule 10E to the Regulations were modified or varied as follows:
- (i) in paragraph 2(2)(b) omit “.”, substitute “; and”;
  - (ii) after paragraph 2(2)(b) insert:
    - “(c) if the Statement is in an electronic form and some or all of the Statement is of a kind that is not able to be printed:
      - (i) a description of the electronic means by which the responsible person for the Statement makes the Statement available; and
      - (ii) a statement that a person who requests a copy of the Statement must nominate one of those electronic means in order to receive a copy of the Statement; and
      - (iii) if there is another Product Disclosure Statement for the simple managed investment scheme that is in use and is able to be printed, a statement that that is the case and that a person may request a copy of that Statement.”.

## **7 Words required to be used on the cover of, or at or near the front of, a disclosure**

Parts 7.7 and 7.9 of the Act apply in relation to a financial services licensee, an authorised representative of a financial services licensee and a financial product in relation to which a Product Disclosure Statement, a Supplementary Product Disclosure Statement, a Replacement Product Disclosure Statement, a Short-Form PDS or a Supplementary Short-Form PDS is required or prepared as if the following provisions:

- (a) subsections 942A(1), 942D(2), 942D(4), 943B(1), 947A(1), 1013B(1), 1013L(2), 1013L(4), 1014B(1) and 1014K(2) of the Act;
- (b) item 3.1 of Part 3 of Schedule 10BA to the Regulations, in notional subsections 1017J(1) and 1017M(1) of the Act;

- (c) paragraphs 7.7.03(6)(a), 7.7.06(6)(a), 7.7.08A(2)(c) and 7.7.08A(3)(d) and subparagraphs 7.9.11E(3)(c)(ii), 7.9.11P(3)(c)(ii) and 7.9.11X(3)(c)(ii) of the Regulations;

were modified or varied by after “the front”, inserting “or beginning”.