



ASIC
Australian Securities &
Investments Commission

ASIC Corporations (Disclosure of Lack of Independence) Instrument 2021/125

made under subsections 942B(7A), 942C(7A) and 951B(1) of the *Corporations Act 2001*

Compilation No. 1

Compilation date: 10 July 2024

Includes amendments up to: F2024L00864

About this compilation

This compilation

This is a compilation of the *ASIC Corporations (Disclosure of Lack of Independence) Instrument 2021/125* that shows the text of the law as amended and in force on 10 July 2024 (the **compilation date**).

The notes at the end of this compilation (the **endnotes**) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

Contents

Part 1—Preliminary	4
1 Name of legislative instrument.....	4
3 Authority	4
4 Definitions	4
Part 2—Determination	5
5 Requirements for disclosure of lack of independence in a Financial Services Guide	5
6 Requirements for disclosure of lack of independence in website disclosure information	5
Endnotes	7
Endnote 1—About the endnotes.....	7
Endnote 2—Abbreviation key	8
Endnote 3—Legislation history.....	9
Endnote 4—Amendment history	10

Part 1—Preliminary

1 Name of legislative instrument

This is the *ASIC Corporations (Disclosure of Lack of Independence) Instrument 2021/125*.

3 Authority

This instrument is made under subsections 942B(7A), 942C(7A) and 951B(1) of the *Corporations Act 2001*.

4 Definitions

In this instrument:

(a) *Act* means the *Corporations Act 2001*

first substantive page, in relation to a Financial Services Guide, means the first page of the Financial Services Guide that is not a cover page or a blank page; and

(b) for the avoidance of doubt, a reference to a Financial Services Guide includes a reference to a Supplementary Financial Services Guide.

Part 2—Determination

5 Requirements for disclosure of lack of independence in a Financial Services Guide

- (1) The requirements in this section are specified for the purposes of subparagraphs 942B(2)(fa)(iii) and 942C(2)(ga)(iii) of the Act in relation to a statement in a Financial Services Guide that a providing entity is not independent, impartial or unbiased.
- (2) The statement:
 - (a) must appear on the first substantive page of the Financial Services Guide that contains the statement;
 - (b) must appear within a box under a bold heading that includes the phrase ‘**Not Independent**’, ‘**Lack of Independence**’, or another phrase of like import;
 - (c) must be in a font size that is at least the same font size as that predominantly used for other text (if any) in the Financial Services Guide; and
 - (d) must not appear in a footnote.

6 Requirements for disclosure of lack of independence in website disclosure information

Part 7.7 of the Act applies as if the provisions of that Part were modified or varied by:

- (a) in section 943J:
 - (i) after “by the licensee”, inserting “, provided that instead of meeting the requirements referred to in subparagraph 942B(2)(fa)(iii), a statement that would be required by paragraph 942B(2)(fa) must meet the requirements referred to in section 943JA”; and
 - (ii) after “by the authorised representative”, inserting “, provided that instead of meeting the requirements referred to in subparagraph 942C(2)(ga)(iii), a statement that would be required by paragraph 942C(2)(ga) must meet the requirements referred to in section 943JA”; and
- (b) after section 943J, inserting;

“943JA Lack of independence statements to be prominent

If this section applies to a statement that forms part of website disclosure information, the statement must:

-
- (a) be in a prominent position; and
 - (b) appear within a box under a bold heading that includes the phrase “**Not Independent**”, “**Lack of Independence**”, or another phrase of like import; and
 - (c) be in a font size that is at least the same font size as that predominantly used for other text in the website disclosure information; and
 - (d) not appear in a footnote.”.

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

- Endnote 1—About the endnotes
- Endnote 2—Abbreviation key
- Endnote 3—Legislation history
- Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe how an amendment is to be made. If, despite the misdescription, the amendment can be given effect as intended, then the misdescribed amendment can be incorporated through an editorial change made under section 15V of the *Legislation Act 2003*.

If a misdescribed amendment cannot be given effect as intended, the amendment is not incorporated and “(md not incorp)” is added to the amendment history.

Endnote 2—Abbreviation key

ad = added or inserted	orig = original
am = amended	par = paragraph(s)/subparagraph(s)
amdt = amendment	/sub-subparagraph(s)
c = clause(s)	pres = present
C[x] = Compilation No. x	prev = previous
Ch = Chapter(s)	(prev...) = previously
def = definition(s)	Pt = Part(s)
Dict = Dictionary	r = regulation(s)/rule(s)
disallowed = disallowed by Parliament	reloc = relocated
Div = Division(s)	renum = renumbered
exp = expires/expired or ceases/ceased to have Effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = Legislation Act 2003	Sch = Schedule(s)
LIA = Legislative Instruments Act 2003	Sdiv = Subdivision(s)
(md not incorp) = misdescribed amendment	SLI = Select Legislative Instrument
cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
o = order(s)	underlining = whole or part not commenced or to be commenced
Ord = Ordinance	

Endnote 3—Legislation history

Name	Registration	Commencement	Application, saving and transitional provisions
ASIC Corporations (Disclosure of Lack of Independence) Instrument 2021/125	24 March 2021 (<i>see</i> F2021L00300)	1/7/2021	-
ASIC Corporations (Amendment) Instrument 2024/554	5 July 2024 (<i>see</i> F2024LOO864)	10/7/2024	-

Endnote 4—Amendment history

Provision affected	How affected
Section 2	rep. s48D LA (s48D of the LA repeals a provision that provides solely for commencement)
Section 5	am. 2024/554
Section 6	ad. 2024/554