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**ASIC**

Australian Securities & Investments Commission

## **ASIC Corporations (Financial Product Advice - Exempt Documents) Instrument 2016/356**

### **About this compilation**

#### **Compilation No. 1**

This is a compilation of *ASIC Corporations (Financial Product Advice - Exempt Documents) Instrument 2016/356* as in force on 27 September 2016. It includes any commenced amendment affecting the legislative instrument to that date.

This compilation was prepared by the Australian Securities and Investments Commission.

The notes at the end of this compilation (the **endnotes**) include information about amending instruments and the amendment history of each amended provision.

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### **Part 1—Preliminary**

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

This is the *ASIC Corporations (Financial Product Advice - Exempt Documents) Instrument 2016/356*.

#### **Authority**

This instrument is made under paragraphs 926A(2)(a) and 951B(1)(a) of the *Corporations Act 2001*.

#### **Definitions**

In this instrument:

**Act** means the *Corporations Act 2001*.

## 2—Exemption

### **Requirement to hold an Australian financial services licence**

A person providing general advice in a document that complies with section 6 does not have to comply with:

- (1) the requirement in subsection 911A(1) to hold an Australian financial services licence for the provision of financial product advice; or
- (2) where the person is a financial services licensee or an authorised representative of such a licensee—Divisions 2 and 3 of Part 7.7 of the Act in relation to that advice.

### **Documents to which the relief applies**

A document complies with this section if it is:

- (1) prepared in accordance with a requirement of the Act, another Act or a disallowable legislative instrument made under an Act and is not:
  - (a) an exempt document or statement as defined in subsection 766B(9); or
  - (b) a document or statement of the kind referred to in paragraphs (a)(i) or (ii) of that definition; or
  - (c) a recommendation or statement of opinion made by an outside expert or a report of such a recommendation or statement of opinion as referred to in subsection 766B(1B); or
- (2) an explanatory statement (however described) about a compromise or arrangement:
  - (a) between a foreign company and its members or any of them;  
and
  - (b) that is regulated by or under a law that is in force in part of one of the following:
    - (i) Hong Kong;
    - (ii) Malaysia;
    - (iii) New Zealand;
    - (iv) Singapore;
    - (v) South Africa;
    - (vi) United Kingdom;where the statement has been prepared because it is required by or under a law; or
- (3) an offer document (however described) or a document responding to the offer document in relation to a transaction involving the acquisition of control or potential control of, or the acquisition of a substantial interest in:

- (a) an issuer of securities; or
- (b) a managed investment scheme;

where the offer:

- (c) is regulated by or under a law or other rules (however described) that:
  - (i) apply to the acquisition of:
    - (A) the control or potential control of an entity;
    - (B) a substantial interest in an entity; and
  - (ii) are in force or apply in or in a part of one of the following:
    - (A) Canada;
    - (B) France;
    - (C) Germany;
    - (D) Hong Kong;
    - (E) Italy;
    - (F) Japan;
    - (G) Malaysia;
    - (H) The Netherlands;
    - (I) New Zealand;
    - (J) Singapore;
    - (K) South Africa;
    - (L) Switzerland;
    - (M) United Kingdom;
    - (N) United States of America; and
- (d) involves offers being made to acquire all or some of securities or interests in a managed investment scheme (as applicable) forming all or a part of the class or class (**bid class**) of securities or interests being bid for, held or to be held by
  - (i) all holders of securities or interests in the bid class or
  - (ii) all such holders other than the person making the offers, that person and their associates or any other person to whom, under the regulatory requirements applicable to the transaction, the offers do not have to be made,

where the document has been prepared because it is required by or under the law or the other rules.

## 7 Self-dealers who provide general advice about own securities

An entity to which subsection 766C(4) of the Act applies does not have to comply with the requirement in subsection 91(1) of the Act to hold an Australian financial services licence for the provision to wholesale clients of general advice that relates to securities, debentures, stocks or bonds of the entity and contained in a document offering those securities, debentures

stocks or bonds for issue.

Notes

Note 1—Instrument history

Instrument number	Date of FRL registration	Date of commencement	Application, saving or transitional provisions
2016/356	6/6/2016 (see FF2016L00998)	8/6/2016	
2016/895	23/9/2016 (see F2016L01486)	27/9/2016	-

Note 2—Amendment history

ad. = added or inserted    am. = amended    LA = *Legislation Act 2003*    rep. = repealed  
= repealed and substituted

Provision affected	How affected
Section 2	rep. s48D LA
Section 7	ad. 2016/895