

Attachment 1 to CP 230: Draft instrument



ASIC

Australian Securities & Investments Commission

ASIC Corporations (Distribution of Basic Deposit and General Insurance Products) Instrument 2015/XX

I, <insert name>, delegate of the Australian Securities and Investments Commission, make the following legislative instrument.

Dated 2015

<signature>

<insert name>

Delegate of the Australian Securities and Investments Commission

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Part 1—Preliminary

1 Name of legislative instrument

This instrument is *ASIC Corporations (Distribution of Basic Deposit and General Insurance Products) Instrument 2015*.

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 www.comlaw.gov.au.

3 Authority

This instrument is made under paragraph 926A(2)(c) of the *Corporations Act 2001* (the *Act*).

4 Definitions

In this instrument:

bundled consumer credit insurance product means a facility that:

- (a) is a consumer credit insurance product as defined by regulation 7.1.15 of the Corporations Regulations 2001; and
- (b) constitutes both:
 - (i) a general insurance product; and
 - (ii) a life risk insurance product.

general insurance product means a financial product described in paragraph 764A(1)(d) of the Act.

Part 2—Declaration

5 Distribution of certain banking and insurance products

(1) Part 7.6 (other than Divisions 4 and 8) of the Act applies in relation to a financial services licensee (*licensee*) and a person (the *distributor*) authorised to provide financial services on behalf of the licensee as if provisions of that Part were modified or varied as follows:

(a) in section 910A, before the definition of representative, insert:

“*product distributor* means, in relation to a financial services licensee:

- (a) a person (the *principal distributor*) the licensee has authorised in writing to provide financial services on its behalf in relation to:
 - (i) a basic deposit product; or
 - (ii) a risk insurance product; and
- (b) an individual who has been authorised in writing to provide those financial services on behalf of the licensee where:
 - (i) the authorisation has been provided by a principal distributor (with the written consent of the licensee); and
 - (ii) the principal distributor is not an individual.

Note: The licensee may give written consent to the principal distributor to authorise individuals in respect of either a specified individual or a specified class of individuals (the membership of which may change from time to time).”; and

(b) in section 910A, in the definition of representative, insert after subparagraph (a)(iii):

“(iiia) a product distributor of the licensee; or”; and

(c) after paragraph 911B(1)(a), insert:

“(aa) these conditions are satisfied:

- (i) the principal holds an Australian financial services licence covering the provision of the service; and
- (ii) the service is dealing in a basic deposit product or risk insurance product; and

- (iii) the provider is:
 - (A) a product distributor of the principal; or
 - (B) if the service is dealing in a basic deposit product, an employee of a product distributor of the principal;”.

Where declaration applies

- (2) The declaration applies where each of the following are satisfied:
 - (a) the distributor is not an authorised representative of the licensee;
 - (b) the financial service provided by the distributor on behalf of the licensee is dealing in any of the following:
 - (i) a basic deposit product;
 - (ii) a general insurance product; or
 - (iii) a bundled consumer credit insurance product;
 - (c) the licensee has taken reasonable steps to ensure that, when the distributor provides the financial service to another person (the **client**) as a retail client:
 - (i) the distributor specifically draws the client’s attention to the availability of a dispute resolution system of the licensee that covers complaints by the client in relation to the financial service and how that system may be accessed; and
 - (ii) if the distributor is dealing in a general insurance product or a bundled consumer credit insurance product, the client is given information in writing about:
 - (A) who the distributor acts for when providing the financial service; and
 - (B) any remuneration (including commission) or other benefits that the distributor, or an associate of the distributor, may receive in respect of, or that is attributable to, the provision of the financial service.