



ASIC

Australian Securities & Investments Commission

**ASIC Corporations (COVID-19 Email
Lodgment Service —ASIC Corporations
(Wholly-owned Companies) Instrument
2016/785) Instrument 2021/152**

I, Claire La Bouchardiere, delegate of the Australian Securities and Investments Commission, make the following instrument.

Dated 24 March 2021

Claire La Bouchardiere

Part 1—Preliminary

1 Name of instrument

This is *ASIC Corporations (COVID-19 Email Lodgment Service—ASIC Corporations (Wholly-owned Companies) Instrument 2016/785) Instrument 2021/152*.

2 Commencement

This instrument commences on the date it is signed.

3 Authority

The Australian Securities and Investments Commission (**ASIC**) makes this approval instrument for the purposes of:

- (a) paragraph 352(1)(b) of the *Corporations Act 2001* (the **Corporations Act**); and
- (b) subsection 11(4) of the *Australian Securities and Investments Commission Act 2001* (the **ASIC Act**) in respect of ASIC's power to do whatever is necessary for or in connection with, or reasonably incidental to, the performance of its functions.

Part 2—Approval

5 Approval of electronic lodgments of documents under *ASIC Corporations (Wholly-owned Companies) Instrument 2016/785* via ASIC's Email Lodgement Service

Approvals of electronic lodgments

- (1) To facilitate electronic lodgments of documents under *ASIC Corporations (Wholly-owned Companies) Instrument 2016/785* via ASIC's Email Lodgement Service (the **ELS**) and for the purposes of paragraph 352(1)(b) of the Corporations Act, ASIC approves the electronic lodgment with ASIC of the documents set out in the Schedule through the ELS in accordance with the terms and conditions of the ASIC Email Lodgement Service: User Agreement for *ASIC Corporations (Wholly-owned Companies) Instrument 2016/785 (ELS User Agreement - LI 2016/785)* and, for all other purposes, the method for electronically lodging or submitting a document specified in the Schedule to ASIC via the ELS is:
 - (a) for a document that is a deed of cross guarantee, assumption deed or revocation deed (each within the meaning of *ASIC Corporations (Wholly-owned Companies) Instrument 2016/785*)—lodging or submitting a pdf scan of an original signed paper version of the document; and
 - (b) for a document that is a Form 389—389 *Opt-in/change of holding entity notice by wholly-owned company relieved from financial reporting obligations*, Form 399—399 *Opt-out notice by wholly-owned company relieved from financial reporting obligations* or a notice of disposal (within the meaning of *ASIC Corporations (Wholly-owned Companies) Instrument 2016/785*)—lodging or submitting either:
 - (i) a pdf scan of an original signed paper version of the document; or
 - (ii) an electronic version of the document signed electronically in accordance with subsection 5(2) and paragraph 5(3)(b); and
 - (c) for a document that is a certificate (within the meaning of *ASIC Corporations (Wholly-owned Companies) Instrument 2016/785*), Form CF06—CF06 *Deeds of cross guarantee and related documents - ASIC Corporations (Wholly-owned companies) Instrument 2016/785* or an Email Lodgement Form (within the meaning of the ELS User Agreement – LI 2016/785)—lodging or submitting either:
 - (i) a pdf scan of an original signed paper version of the document;
or
 - (ii) an electronic version of the document signed electronically in accordance with subsection 5(2) and paragraph 5(3)(c).

Signatures

(2) Where, in relation to a document specified in the Schedule:

- (a) a company is executing a document or lodging or submitting a document with ASIC; and
- (b) the Corporations Act (or any regulations or other instruments made under or for the purposes of that Act) provides for or requires the document to be signed by a person in a particular capacity for the purposes of the company executing the document or lodging or submitting the document with ASIC;

the person in that capacity may sign the document in accordance with a method specified in subsection (3) in relation to the specified type of document.

(3) For the purposes of paragraph 352(1)(b) of the Corporations Act, the *ASIC Corporations (Wholly-owned Companies) Instrument 2016/785* and for all other purposes, the method for signing a document specified in the Schedule to be lodged or submitted to ASIC via the ELS is:

- (a) for a document that is a deed of cross guarantee, assumption deed or revocation deed (each within the meaning of *ASIC Corporations (Wholly-owned Companies) Instrument 2016/785*)—the persons referred to in paragraph 127(1)(a), (b) or (c) or paragraph 127(2)(a), (b) or (c) of the Corporations Act (as applicable) applying or inserting their own original signature to a paper version of the document;
- (b) for a document that is a Form 389—*389 Opt-in/change of holding entity notice by wholly-owned company relieved from financial reporting obligations*, Form 399—*399 Opt-out notice by wholly-owned company relieved from financial reporting obligations* or a notice of disposal (within the meaning of *ASIC Corporations (Wholly-owned Companies) Instrument 2016/785*) and that is required to be signed by a person in a particular capacity—the person in that capacity applying or inserting either:
 - (i) their own original signature to a paper version of the document; or
 - (ii) their own electronic signature to an electronic version of the document in accordance with subsection (4); or
- (c) for a document that is a certificate (within the meaning of *ASIC Corporations (Wholly-owned Companies) Instrument 2016/785*), Form CF06—*CF06 Deeds of cross guarantee and related documents - ASIC Corporations (Wholly-owned companies) Instrument 2016/785* or an Email Lodgement Form (within the meaning of the ELS User Agreement – LI 2016/785) and that is required to be signed by a

person in a particular capacity—the person applying or inserting either:

- (i) their own original signature to a paper version of the document; or
 - (ii) their own electronic signature to an electronic version of the document in accordance with subsection (4).
- (4) For the purposes of subsection (3), a person applies or inserts their own electronic signature to an electronic version of a document if:
- (a) a method is used to identify the person in the electronic version of the document and to indicate the person's intention in respect of the contents of the document; and
 - (b) the method referred to in paragraph (a) is:
 - (i) as reliable as appropriate for the purpose for which the company is executing, lodging or submitting the document, in light of all the circumstances, including any relevant agreement; or
 - (ii) is proven in fact to have fulfilled the functions described in paragraph (a), by itself or together with further evidence.

6 Interpretation

In this instrument:

electronic signature means a signature within the meaning of section 10 of the *Electronic Transactions Act 1999* that is used in relation to an electronic version of a document and includes:

- (a) a digital image of an original signature of a person created by the person or by a person authorized by the person; and
- (b) a digital signature created by and applied directly to an electronic document by the signatory by electronic means for example, by using a finger, stylus or other implement to create a signature on an electronic document on a device such as a computer or notebook; and
- (c) an electronic signature that is created within or applied using an electronic document signing platform.

electronic version of a document means, in relation to a document (***first document***), a version of the first document that is produced by an electronic communication (within the meaning of the *Electronic Transactions Act 1999*) and includes:

- (a) a version of the first document created using a word processor application on computer or other device that is to be signed using an electronic signature; or
- (b) a version of the first document created and that is to be signed using an electronic document signing platform or uploaded into an electronic signing platform;

where the version of the first document includes the entire contents of the first document but need not include the signature of a person signing the document nor any material included in the document because of paragraphs 5(4)(a) or (b).

original signature means a handwritten signature that is not an electronic signature.

Schedule

Documents under ASIC Corporations (Wholly-owned Companies) Instrument 2016/785 that may be lodged or submitted to ASIC via ASIC's Email Lodgement Service for *ASIC Corporations (Wholly-owned Companies) Instrument 2016/785*.

Form code	Document
CF06	CF06 Deeds of cross guarantee and related documents (cover form)
351	Deed of cross guarantee - (Pro Forma 24) or deed of variation of a deed of cross guarantee
No form code	Certificate in respect of deed of cross guarantee or assumption deed
352	Assumption deed - (Pro Forma 27)
353	Notice of disposal – (Pro Forma 25)
No form code	Certificate for Notice of disposal
355	Revocation deed – (Pro Forma 26)
389	Opt-in/change of holding entity notice by wholly-owned company relieved from financial reporting obligations
399	Opt-out notice by wholly-owned company relieved from financial reporting obligations
No form code	Email lodgement form and declaration