



ASIC
Australian Securities &
Investments Commission

ASIC Corporations (Facilitating Electronic Delivery of Financial Services Disclosure) Instrument 2015/647

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

Compilation No. 2

Compilation date: 1 August 2024

Includes amendments: F2024L00951

About this compilation

This compilation

This is a compilation of the *ASIC Corporations (Facilitating Electronic Delivery of Financial Services Disclosure) Instrument 2015/647* that shows the text of the law as amended and in force on 1 August 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If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes

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Part 1—Preliminary

1 Name of legislative instrument

This is the ASIC *Corporations (Facilitating Electronic Delivery of Financial Services Disclosure) Instrument 2015/647*.

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*.

ASX means ASX Limited ACN 008 624 691.

Cboe means Cboe Australia Pty Ltd ACN 129 584 667.

Regulations means the *Corporations Regulations 2001*.

responsible person for a Product Disclosure Statement has the same meaning as in subsection 1013A(3) of the Act.

RSA provider has the same meaning as in the *Retirement Savings Accounts Act 1997*.

Part 2—Declaration

5 Facilitating electronic delivery of financial services disclosures

Definition of ETF and nominated electronic means

- (1) 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, a financial product in relation to which a Product Disclosure Statement, a Supplementary Product Disclosure Statement or a Replacement Product Disclosure Statement is required or prepared, a CGS depository interest, a responsible person for a Product Disclosure Statement, an issuer of a financial product, a trustee of a superannuation entity and an RSA provider as if section 761A were modified or varied by inserting:

“**ETF** (short for exchange traded fund) means a registered scheme or a sub-fund of a CCIV in relation to which all of the following are satisfied:

- (a) interests in the scheme or shares in the sub-fund are in a class that is able to be traded on a financial market operated by ASX or Cboe, but the scheme or sub-fund is not listed on either of those markets;
- (b) the responsible entity or CCIV has the power and approval to issue interests or shares in that class on any day that those interests or shares are able to be traded on the relevant financial market; and
- (c) the responsible entity or CCIV allows applications for, and redemptions of, interests or shares in that class on any day that those interests or shares are able to be traded on the relevant financial market.

nominated electronic means: a document, information, statement or notification (each a **relevant communication**) is made available by a person (**providing person**) to another person (**receiving person**) by a **nominated electronic means** if and only if the following are satisfied:

- (a) the providing person makes the relevant communication available by an electronic means and:
 - (i) if subparagraph (b)(i) or (ii) applies—notifies the receiving person orally or by giving the receiving person a notice in printed or electronic form:
 - (A) that the providing person has made the relevant communication available by the electronic means; and

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- (B) how the receiving person can obtain the relevant communications through, or by using, the electronic means; and
 - (ii) if subparagraph (b)(iii) applies to a relevant communication that is a periodic statement—a notification that the relevant communication is available is included on the website identified in the notice referred to in sub-subparagraph (b)(iii)(A);

Note: A notification under subparagraph (a)(i) or (ii) must be made each time a relevant communication is made by a nominated electronic means. A standing notice may be given for the purposes of subparagraph (b)(ii) and sub-subparagraph (b)(iii)(A).

- (b) any of the following is satisfied:
 - (i) the receiving person and the providing person have agreed that the relevant communication, or relevant communications of that type, could be made available to the receiving person by the electronic means;
 - (ii) the providing person has given the receiving person a notice in printed or electronic form that states that:
 - (A) the providing person may use the electronic means to make the relevant communication, or relevant communications of that type, available to the receiving person unless the receiving person elects, by a means reasonably specified in the notice, not to receive relevant communications by the electronic means; and
 - (B) an election referred to in sub-subparagraph (A) will apply to relevant communications made after the election; and
 - (C) if the receiving person makes the election within 7 days after the providing person has given the notice, the election will also apply to any relevant communications made in the period between the notice being given and the election being made, provided that the notice need not include such a statement if the providing person has no reasonable grounds for believing that it will make a notification referred to in paragraph (a) in the period of 7 days from the time it gives the notice;
 - (iii) if the providing person is an issuer of interests or shares in an ETF, or of quoted ED securities, and the relevant communication is a periodic statement:

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- (A) the providing person has given the receiving person a notice in printed or electronic form that explains how the receiving person can access their periodic statements by the electronic means and that states that, after the date of the notice, notifications of when a periodic statement becomes available will be made on (as applicable) the website for market announcements operated by ASX or Cboe (as applicable), the issuer's website or the website of the registry service provider for the issuer; and
- (B) unless the receiving person has subsequently notified the providing person that they wish to access their periodic statements by the electronic means and to be notified by way of an announcement on the website referred to in the notice under sub-subparagraph (A) when a periodic statement is available—the receiving person has not notified the providing person before 30 November 2024 that they wish to receive periodic statements in hard copy form;
- (c) if subparagraph (b)(ii) applies—the receiving person has not made an election referred to in subparagraph (b)(ii) as at the later of:
- (i) the time the providing person gives the notice referred to in paragraph (a);
 - (ii) 7 days after the providing person gives the notice referred to in subparagraph (b)(ii);

Note: This means that if subparagraph (b)(ii) applies, it can only be determined whether a relevant communication has been given by a nominated electronic means as at the later of these times.

- (d) if the providing person gives a notice referred to in paragraph (a) or subparagraph (b)(ii) or (iii) in printed or electronic form, the providing person gives the notice to the receiving person:
- (i) personally; or
 - (ii) by sending the notice to the receiving person at an address (including an electronic address) or fax number nominated by the receiving person; or
 - (iii) by making the notice available to the receiving person in any way that is agreed to by the receiving person; or

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- (iv) if the providing person is a trustee of a standard employer-sponsored fund (**relevant fund**) within the meaning of the *Superannuation Industry (Supervision) Act 1993*—by sending the notice to an electronic address provided to the providing person or another trustee of a standard employer-sponsored fund by the receiving person’s employer (as at the time the address was provided) if the following are satisfied:
- (A) section 1015C, 1017B, 1017D or 1017DA applies to the giving of the relevant communication;
 - (B) the employer contributes, or has contributed, to the relevant fund for the benefit of the receiving person in the absence of there being a chosen fund (within the meaning of the *Superannuation Guarantee (Administration) Act 1992*) for the receiving person;
 - (C) the employer provided the electronic address as part of providing contact details for the receiving person;
 - (D) the notice is accompanied by a statement that, if requested, the providing person will send the notice and other communications to another electronic or postal address nominated by the receiving person;
 - (E) the receiving person has not requested that the providing person send the notice to another electronic or postal address;
 - (F) the providing person has no reasonable grounds for believing that the electronic address is not a current electronic address for the receiving person.”.

Financial Services Guides and Statements of Advice

- (2) Part 7.7 of the Act applies in relation to a financial services licensee and an authorised representative of a financial services licensee as if section 940C were modified or varied as follows:
- (a) after subparagraph (1)(a)(ii) insert:

“(iia) made available to the client, or the client’s agent, by a nominated electronic means; or”; and
 - (b) after subparagraph (2)(b)(ii) insert:

“(iib) made available to the client, or the client’s agent, by a nominated electronic means; or”.

(3) Part 7.7 of the Act applies in relation to a financial services licensee and an authorised representative of a financial services licensee as if regulation 7.7.01 of the Regulations were modified or varied as follows:

(a) in subregulation (2) omit “Financial Services Guide”, substitute “Financial Services Guide, a Supplementary Financial Services Guide”;

(b) after subregulation (2) insert:

“(2A) Subregulation (2) does not apply to a Financial Services Guide, a Supplementary Financial Services Guide or a Statement of Advice that is made available to a person, or a person’s agent, by a nominated electronic means.”.

Product Disclosure Statements

(4) Part 7.9 of the Act applies in relation to a financial product in relation to which a Product Disclosure Statement, Supplementary Product Disclosure Statement or Replacement Product Disclosure Statement is required or prepared as if subsection 1015C(1) were modified or varied as follows:

(a) in subparagraph (a)(ii) omit “and”, substitute “or”;

(b) after subparagraph (a)(ii) insert:

“(iii) made available to the person, or the person’s agent, by a nominated electronic means; and”.

(5) Part 7.9 of the Act applies in relation to a financial product in relation to which a Product Disclosure Statement, Supplementary Product Disclosure Statement or Replacement Product Disclosure Statement is required or prepared as if regulation 7.9.02A of the Regulations were modified or varied by, after subregulation (1), inserting:

“(1A) For the avoidance of doubt, subregulation (1) does not apply to a Statement that is made available to a person, or a person’s agent, by a nominated electronic means.”.

CGS depository interest statements

(6) Part 7.9 of the Act applies in relation to a CGS depository interest as if subsection 1020AK(1) were modified or varied as follows:

(a) in subparagraph (a)(ii) omit “and”, substitute “or”;

(b) after subparagraph (a)(ii) insert:

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- “(iii) made available to the person, or the person’s agent, by a nominated electronic means; or
 - (iv) made available to the person in any other way that:
 - (A) is agreed to by the person; and
 - (B) allows the regulated person to be satisfied, on reasonable grounds, that the person has received the information statement; or
 - (v) made available to the person’s agent in any other way that:
 - (A) is agreed to by the agent; and
 - (B) allows the regulated person to be satisfied, on reasonable grounds, that the agent has received the information statement; and”.

Additional information on request

- (7) Part 7.9 of the Act applies in relation to a responsible person for a Product Disclosure Statement as if subsection 1017A(4) were modified or varied as follows:
 - (a) in paragraph (b) omit “.”, substitute “; or”;
 - (b) after paragraph (b) insert:
 - “(c) by making the information available to the person making the request by a nominated electronic means.”.

Ongoing disclosures, periodic statements and additional information

- (8) Part 7.9 of the Act applies in relation to an issuer of a financial product, a trustee of a superannuation entity and an RSA provider as if regulation 7.9.75A of the Regulations were modified or varied as follows:
 - (a) in subregulation (1) omit “a responsible person”, substitute “an issuer”;
 - (b) in paragraph (1)(b) omit “.”, substitute “;”;
 - (c) after paragraph (1)(b) insert:
 - “(c) making the notification available to the holder, or the holder’s agent, by a nominated electronic means.”;
 - (d) in paragraph (2)(b) omit “.”, substitute “;”;
 - (e) after paragraph (2)(b) insert:

“(c) making the periodic statement available to the holder, or the holder’s agent, by a nominated electronic means.”;

(f) in paragraph 3(e) omit “.”, substitute “;”;

(g) after paragraph (3)(e) insert:

“(f) making information available to the person, or the person’s agent, by a nominated electronic means.”.

Electronic addresses supplied by employers to trustees of standard employer-sponsored superannuation funds

(9) Part 7.9 of the Act applies in relation to a trustee of a standard employer-sponsored fund (within the meaning of the *Superannuation Industry (Supervision) Act 1993*) as if:

(a) section 1015C were modified or varied by, after subsection (4), inserting:

“(4A) If the regulated person is a trustee of a standard employer-sponsored fund (**relevant fund**) within the meaning of the *Superannuation Industry (Supervision) Act 1993*, the regulated person may instead send the Statement to an electronic address provided to the regulated person or another trustee of a standard employer-sponsored fund by the person’s employer (as at the time the address was provided) if:

(a) the employer contributes, or has contributed, to the relevant fund for the benefit of the person in the absence of there being a chosen fund (within the meaning of the *Superannuation Guarantee (Administration) Act 1992*) for the person; and

(b) the employer provided the electronic address as part of providing contact details for the person; and

(c) the Statement is accompanied by a statement that, if requested, the regulated person will send the Statement and other communications to another electronic or postal address nominated by the person; and

(d) the person has not requested that the issuer send the Statement to another electronic or postal address; and

(e) the regulated person has no reasonable grounds for believing that the electronic address is not a current electronic address for the person.

(4B) If, within 14 days after sending:

- (a) a Statement to a person at an electronic address in accordance with subsection (4A); or
- (b) a notice to a person at an electronic address in accordance with subparagraph (d)(iv) of the definition of *nominated electronic means* in section 761A in the course of making a Statement available to the person by a nominated electronic means;

a trustee of a standard employer-sponsored fund has reasonable grounds for believing that the electronic address is not a current electronic address for the person, the trustee must give the Statement to the person:

- (c) within 14 days after having the reasonable grounds; and
- (d) in accordance with this section.”; and

(b) section 1017B were modified or varied by, after subsection (3), inserting:

“(3A) If the issuer is a trustee of a standard employer-sponsored fund (*relevant fund*) within the meaning of the *Superannuation Industry (Supervision) Act 1993*, the issuer may instead notify the holder by sending the notice to an electronic address provided to the issuer or another trustee of a standard employer-sponsored fund by the holder’s employer (as at the time the address was provided) if:

- (a) the employer contributes, or has contributed, to the relevant fund for the benefit of the holder in the absence of there being a chosen fund (within the meaning of the *Superannuation Guarantee (Administration) Act 1992*) for the holder; and
- (b) the employer provided the electronic address as part of providing contact details for the holder; and
- (c) the notice is accompanied by a statement that, if requested, the issuer will send the notice and other

communications to another electronic or postal address nominated by the holder; and

- (d) the holder has not requested that the issuer send the notice to another electronic or postal address; and
- (e) the issuer has no reasonable grounds for believing that the electronic address is not a current electronic address for the holder.

(3B) If, within 14 days after sending:

- (a) a notice (***first notice***) to a person at an electronic address in accordance with subsection (3A); or
- (b) a notice (***second notice***) to a person at an electronic address in accordance with subparagraph (d)(iv) of the definition of ***nominated electronic means*** in section 761A in the course of making a notice (***first notice***) available to the person by a nominated electronic means in accordance with the regulations;

a trustee of a standard employer-sponsored fund has reasonable grounds for believing that the electronic address is not a current electronic address for the person, the trustee must give the first notice to the person:

- (c) within 14 days after having the reasonable grounds; and
- (d) in accordance with subsection (3).”;

(c) section 1017D were modified or varied by, after subsection (6), inserting:

“(6A) If the issuer is a trustee of a standard employer-sponsored fund (***relevant fund***) within the meaning of the *Superannuation Industry (Supervision) Act 1993*, the issuer may instead give the periodic statement by sending it to an electronic address provided to the issuer or another trustee of a standard employer-sponsored fund by the holder’s employer (as at the time the address was provided) if:

- (a) the employer contributes, or has contributed, to the relevant fund for the benefit of the holder in the absence of there being a chosen fund (within the

meaning of the *Superannuation Guarantee (Administration) Act 1992*) for the holder; and

- (b) the employer provided the electronic address as part of providing contact details for the holder; and
- (c) the periodic statement is accompanied by a statement that, if requested, the issuer will send the periodic statement and other communications to another electronic or postal address nominated by the holder; and
- (d) the holder has not requested that the issuer send the periodic statement to another electronic or postal address; and
- (e) the issuer has no reasonable grounds for believing that the electronic address is not a current electronic address for the holder.

(6B) If, within 14 days after sending:

- (a) a periodic statement to a person at an electronic address in accordance with subsection (6A); or
- (b) a notice to a person at an electronic address in accordance with subparagraph (d)(iv) of the definition of nominated electronic means in section 761A in the course of making a periodic statement available to the person by a nominated electronic means in accordance with the regulations;

a trustee of a standard employer-sponsored fund has reasonable grounds for believing that the electronic address is not a current electronic address for the person, the trustee must give the periodic statement to the person:

- (c) within 14 days after having the reasonable grounds; and
- (d) in accordance with subsection (6).”; and

(d) section 1017DA were modified or varied by, after subsection (3C) (as notionally inserted by regulation 7.9.60A and Part 14 of Schedule 10A to the Regulations), inserting:

“(3D) If a trustee of a standard employer-sponsored fund (**relevant fund**) within the meaning of the *Superannuation Industry (Supervision) Act 1993* is required to provide information to a person in accordance with regulations dealing with how the information is to be provided, the trustee may instead send

the information to an electronic address provided to the trustee or another trustee of a standard employer-sponsored fund by the person's employer (as at the time the address was provided) if:

- (a) the employer contributes, or has contributed, to the relevant fund for the benefit of the person in the absence of there being a chosen fund (within the meaning of the *Superannuation Guarantee (Administration) Act 1992*) for the person; and
- (b) the employer provided the electronic address as part of providing contact details for the person; and
- (c) the notification is accompanied by a statement that, if requested, the trustee will send the information and other communications to another electronic or postal address nominated by the person; and
- (d) the person has not requested that the trustee send the information to another electronic or postal address; and
- (e) the trustee has no reasonable grounds for believing that the electronic address is not a current electronic address for the person.

(3E) If, within 14 days after sending:

- (a) information to a person at an electronic address in accordance with subsection (3D); or
- (b) a notice to a person at an electronic address in accordance with subparagraph (d)(iv) of the definition of nominated electronic means in section 761A in the course of making information available to the person by a nominated electronic means in accordance with the regulations;

a trustee of a standard employer-sponsored fund has reasonable grounds for believing that the electronic address is not a current electronic address for the person, the trustee must provide the information to the person:

- (c) within 14 days after having the reasonable grounds; and
- (d) in accordance with regulations dealing with how the information is to be provided.”.

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
2015/647	27 July 2015 (F2015L01185)	28 July 2015	-
2016/103	18 Feb 2016 (F2016L00121)	19 Feb 2016	-
2024/630	31 July 2024 (F2024L00951)	1 Aug 2024	-

Endnote 4—Amendment history

Provision affected	How affected
s 2	rep s48D LA
s 4 – def of <i>ASX</i> and <i>Cboe</i>	ad 2024/630
s 5(1)	am. 2016/103
s 5(1) - heading	am 2024/630
s 5(1) - new notional def of <i>ETF</i>	ad 2024/630
s 5(1) - par (a) of the notional def of <i>nominated electronic means</i>	rs 2024/630
s 5(1) - par (b) of the notional def of <i>nominated electronic means</i>	am 2024/630
s 5(1) - par (b)(i) of the notional def of <i>nominated electronic means</i>	am 2024/630
s 5(1) - new notional par (b)(iii) of the notional def of <i>nominated electronic means</i>	ad 2024/630
s 5(1) - par (d) of the notional def of <i>nominated electronic means</i>	am 2024/630
par 5(8)(f)	am 2024/630
par 5(8)(g)	rs 2024/630
par 5(9)(a)	am. 2016/103
par 5(9)(b)	am. 2016/103
par 5(9)(c)	am. 2016/103
par 5(9)(d)	am. 2016/103