



**ASIC**

Australian Securities & Investments Commission

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## **ASIC Corporations (ASIC Close Down Period) Instrument 2018/1034**

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I, Anthony Graham, delegate of the Australian Securities and Investments Commission, make the following legislative instrument.

Date 7 December 2018

Anthony Graham

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## Part 1—Preliminary

### 1 Name of legislative instrument

This is the *ASIC Corporations (ASIC Close Down Period) Instrument 2018/1034*.

### 2 Commencement

This instrument commences on the day after it is registered on the Federal Register of Legislation.

Note: The register may be accessed at [www.legislation.gov.au](http://www.legislation.gov.au).

### 3 Authority

This instrument is made under subsections 601QA(1), 741(1) and 1020F(1) of the *Corporations Act 2001*.

### 4 Definitions

In this instrument:

*Act* means the *Corporations Act 2001*.

*responsible person* has the meaning given by subsection 1013A(3) of the Act.

## Part 2—Declaration

### 5 Registration of managed investment scheme

Chapter 5C of the Act applies to all persons as if section 601EB were modified or varied as follows:

- (a) after “14 days” insert “(or if subsection (1A) applies—21 days)”;  
(b) after subsection (1) insert:

“(1A) This subsection applies if the application is lodged during a period commencing at 5 pm on the last business day before 11 December of a calendar year and ending at 9 am on the first business day after 1 January of the next calendar year.

Note: A reference in this subsection to a time is a reference to the legal time in Sydney, New South Wales.”.

### 6 Exposure period—disclosure documents

Chapter 6D of the Act applies to all persons as if subsection 727(3) of the Act were omitted and substituted with the following subsection:

*“Non-quoted securities—waiting period after lodgment before processing applications for securities*

- (3) A person must not accept an application for, or issue or transfer, non-quoted securities offered under a disclosure document until whichever of the following periods is applicable has ended:
  - (a) if the disclosure document is lodged during a period commencing at 5 pm on the last business day before 18 December of a calendar year and ending at 9 am on the first business day after 1 January of the next calendar year—the period of 14 days after lodgment of the disclosure document; and
  - (b) otherwise—the period of 7 days after lodgment of the disclosure document.

ASIC may extend the period mentioned in paragraph (b) by notice in writing to the person offering the securities. The period as extended must end no more than 14 days after lodgment.

Note: A reference in this subsection to a time is a reference to the legal time in Sydney, New South Wales.”.

## 7 Exposure period—Product Disclosure Statements

Part 7.9 of the Act applies in relation to all responsible persons as if subsections 1016B(1) and (2) of the Act were omitted and substituted with the following subsections:

“(1) If:

- (a) a copy of a Product Disclosure Statement has been lodged with ASIC; and
- (b) the financial product to which the Statement relates is not able to be traded on any financial market (whether in Australia or elsewhere);

the responsible person must not issue or sell a financial product, pursuant to an application made in response to the Statement, until whichever of the following periods is applicable has ended:

- (c) if the Statement is lodged during a period commencing at 5 pm on the last business day before 18 December of a calendar year and ending at 9 am on the first business day after 1 January of the next calendar year—the period of 14 days after lodgment of the Statement; and
- (d) otherwise—the period of 7 days (or that period as extended under subsection (2)) after lodgment of the Statement.

Note 1: A reference in this subsection to a time is a reference to the legal time in Sydney, New South Wales.

Note 2: This subsection does not apply to an issue or sale pursuant to paragraph 1016E(2)(c) (see subsection 1016E(2C)).

Note 3: Failure to comply with this subsection is an offence (see subsection 1311(1)).

- (2) ASIC may extend the period mentioned in paragraph (1)(d) by notice in writing to the responsible person. The period as extended must end no more than 14 days after lodgment.”.