ASIC Corporations (Financial Requirements for Responsible Entities, IDPS Operators and Corporate Directors of Retail CCIVs) Instrument 2023/647

made under paragraph 926A(2)(c) of the *Corporations Act 2001*

Compilation No. 1

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About this compilation

This compilation

This is a compilation of the *ASIC Corporations (Financial Requirements for Responsible Entities, IDPS Operators and Corporate Directors of Retail CCIVs) Instrument 2023/647* that shows the text of the law as amended and in force on 07/07/2026 (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. The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. Any uncommenced amendments affecting the law are accessible on the Register (www.legislation.gov.au).

Application, saving and transitional provisions

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. Any modifications affecting the law are accessible on the Register.

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If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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Authorised Version F2026C00740 registered 03/08/2026

Contents

Part 1—Preliminary **4**

1 Name of legislative instrument 4

3 Authority 4

4 Definitions 4

Part 2—Declaration **5**

5 Adequate financial resources for responsible entities, IDPS operators and corporate directors of retail CCIVs 5

Part 3—Repeal **28**

6 Repeal 28

Endnotes **29**

Endnote 1—About the endnotes 29

Endnote 2—Abbreviation key 30

Endnote 3—Legislation history 31

Endnote 4—Amendment history 32

Authorised Version F2026C00740 registered 03/08/2026

Part 1—Preliminary

Part 1—Preliminary

1 Name of legislative instrument

This is the *ASIC Corporations (Financial Requirements for Responsible Entities, IDPS Operators and Corporate Directors of Retail CCIVs) Instrument 2023/647*.

3 Authority

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

4 Definitions

In this instrument:

Act means the *Corporations Act 2001*.

Authorised Version F2026C00740 registered 03/08/2026

Part 2—Declaration

5 Adequate financial resources for responsible entities, IDPS operators and corporate directors of retail CCIVs

Part 7.6 (other than Divisions 4 and 8) of the Act applies in relation to financial services licensees as if that Part were modified or varied by, in the appropriate position in Division 3 of that Part, inserting:

"**912AA Adequate financial resources for responsible entities, IDPS operators and corporate directors of retail CCIVs**

(1) This section applies to a financial services licensee that:

(a) holds an Australian financial services licence that authorises it to operate:

(i) a registered scheme; or

(ii) an IDPS; or

(iii) a retail CCIV; and

(b) is not:

(i) a body regulated by APRA that is not required to comply with paragraph 912A(1)(d); or

(ii) a market participant; or

(iii) a clearing participant.

(2) A financial services licensee covered by subsection (1) that complies with this section is taken to comply with conditions (if any) of its licence that relate to:

(a) a cash needs requirement; and

(b) net tangible assets that apply because it is a responsible entity or is authorised to operate an IDPS or retail CCIV; and

(c) the obligation to lodge an opinion by a registered company auditor on the financial requirements for licensees that are authorised to operate a registered scheme, an IDPS or retail CCIV to the extent the opinion is for a part of a financial year or other period during which the licensee was covered by subsection (1).

Note: The conditions on the licence may include other requirements in relation to having available adequate financial resources for the purposes of paragraph 912A(1)(d).

Authorised Version F2026C00740 registered 03/08/2026

(2A) This section applies to a financial services licensee (***manager***) that is covered by subsection (1) and holds an Australian financial services licence that:

(a) authorises the manager to provide wholesale equity financial services (within the meaning of the *ASIC Corporations (Wholesale Equity Scheme Trustees) Instrument 2017/849* (***ASIC Instrument***)); and

(b) contains conditions to the effect of the conditions referred to in subparagraph 6(a)(ii) of the ASIC Instrument);

as if the assets, liabilities, cash inflows and cash outflows of any eligible trustee were included in the assets, liabilities, cash inflows and cash outflows of the manager.

(2B) In subsection (2A), ***eligible trustee*** means a person who is both:

(a) an eligible trustee of a wholesale equity scheme (within the meaning of the ASIC Instrument);

(b) a related body corporate of the manager.

Tailored cash needs requirement

(3) The licensee must:

(a) prepare a projection of the licensee's cash flows over at least the next 12 months based on the licensee's reasonable estimate of what is likely to happen over this period; and

(b) have the projection approved at least once a quarter by the licensee's directors as satisfying the requirements of paragraph (a); and

(c) document the calculations and assumptions used in preparing the projection, and describe in writing why the assumptions are appropriate; and

(d) update the projection of the licensee's cash flows if:

(i) the projection ceases to cover at least the next 12 months; or

(ii) there is reason to suspect that an updated projection would differ materially from the current projection or show that the licensee was not

Authorised Version F2026C00740 registered 03/08/2026

meeting the requirements in subparagraphs (i) and (ii) of paragraph (e); and

(e) document whether, based on the projection of the licensee's cash flows, the licensee:

(i) will have access when needed to enough financial resources to meet its liabilities over the projected term of at least the next 12 months; and

(ii) will hold at all times during the period to which the projection relates in cash or cash equivalents, an amount equal to or greater than the current amount the licensee is required to hold in cash or cash equivalents under subsection (8).

Net tangible assets

(4) The licensee must hold at all times NTA of:

(a) if subsection (5) applies or the licensee does not operate any registered schemes, IDPSs or retail CCIVs—at least the greatest of the following:

(i) $150,000;

(ii) an amount of up to $5 million, being 0.5% of the average value of fund assets of the registered schemes, IDPSs and retail CCIVs operated by the licensee;

(iii) 10% of average revenue of the licensee; and

(b) otherwise—at least the greater of:

(i) $10 million; and

(ii) 10% of average revenue of the licensee.

(5) This subsection applies if at least one of the following is satisfied in relation to each registered scheme, IDPS and retail CCIV operated by the licensee:

(a) all of the fund assets of the registered scheme, IDPS or retail CCIV, including in the case of a registered scheme, property of the scheme not held by members, are held by:

(i) a custodian appointed by the licensee that:

Authorised Version F2026C00740 registered 03/08/2026

(A) is authorised to provide a custodial or depository service and that the licensee reasonably believes is not an incidental provider and complies with the requirements of section 912AC; and

Note: Section 912AC is notionally inserted by *ASIC Corporations (Financial Requirements for Custodians or Depository Service Providers) 2023/648*.

(B) otherwise—satisfies the requirements of subsection (7); or

(ii) a sub-custodian appointed by such a custodian; or

(iii) an eligible custodian; or

(b) in relation to a registered scheme or retail CCIV—all the fund assets of the registered scheme or retail CCIV, including in the case of a registered scheme, property of the scheme not held by members, are Tier $500,000 class assets held by:

(i) in the case of:

(A) a registered scheme—the licensee; and

(B) a retail CCIV—the retail CCIV; or

(ii) a custodian appointed by the licensee; or

(iii) a sub-custodian appointed by the custodian;

provided that:

(iv) where the person holding the fund assets is the licensee or the retail CCIV referred to in subparagraph (i), that person holds at least $500,000 NTA; or

(v) where the person holding the fund assets is a custodian or sub-custodian—the custodian:

(A) holds at least $500,000 NTA; or

(B) is an eligible custodian; or

(c) all fund assets of the registered scheme, IDPS or retail CCIV, including in the case of a registered scheme, property of the scheme not held by members, that are

Authorised Version F2026C00740 registered 03/08/2026

not held in accordance with paragraph (a) or (b) are special custody assets, each of which is held by:

(i) in the case of:

(A) a registered scheme or an IDPS—the licensee; and

(B) a retail CCIV—the retail CCIV; or

(ii) an eligible custodian; or

(iii) a custodian that holds at least the NTA that the licensee would be required to hold under paragraph (4)(a) or a sub-custodian appointed by such a custodian; or

(iv) a custodian or a sub-custodian appointed by the custodian if the only fund assets held are those mentioned in:

(A) paragraph (a), (c) or (f) of the definition of ***special custody assets*** in subsection (11); or

(B) paragraph (d) of the definition of ***special custody assets*** where the account is a regulated trust account.

(6) If the licensee or retail CCIV has obtained a written assurance within the preceding 13 months from a custodian that holds an Australian financial services licence authorising it to provide a custodial or depository service that, at the time the assurance is given, the custodian complies with the requirements of section 912AC and is not an incidental provider, the licensee or retail CCIV is taken to have the reasonable belief referred to in sub-subparagraph (5)(a)(i)(A) in relation to the custodian.

(7) A custodian satisfies the requirements of this subsection at a time (***relevant time***) if the licensee (in the case of a registered scheme or IDPS) or retail CCIV:

(a) has obtained a written assurance from the custodian within the preceding 13 months that, at the time the assurance is given, the custodian complies with the following requirements as if the custodian were a financial services licensee that was authorised to provide a custodial or depository service and was not an incidental provider:

(i) the requirements of subsections 912AC(3), (4) and (7) and paragraph 912AC(8)(a); and

Authorised Version F2026C00740 registered 03/08/2026

(ii) if the custodian would be required to lodge a report with ASIC under section 912DAA relating to a contravention of subsection 912AC(3), (4) or (7), it must immediately notify the licensee or retail CCIV; and

(b) subject to subsections (7A) and (7B), has obtained a copy of a report from a registered company auditor in respect of a period of at least 12 months ending no more than 16 months before the relevant time, that states that:

(i) in the auditor's opinion, the custodian complied with the requirements referred to in subparagraphs 912AC(10)(a)(i) to (iii); and

(ii) the auditor has no reason to believe the matters referred to in subparagraphs 912AC(10)(b)(i) to (v) apply in relation to the custodian;

other than to the extent that the requirements or matters deal with conditions of an Australian financial services licence that are not requirements under subsection 912AC(3), (4) or (7) or paragraph 912AC(8)(a), as if the custodian were a licensee authorised to provide custodial or depository services and was not an incidental provider;

(7A) Paragraph (7)(b) does not apply in relation to a custodian that has not previously provided a copy of a report to any person for the purposes of paragraph (7)(b) until the earlier of:

(a) 16 months after the date that the custodian first became a custodian of the scheme, IDPS or retail CCIV; and

(b) the date that the custodian first provides the licensee or any other person with a copy of a report for the purposes of paragraph (7)(b).

(7B) The first report obtained by a licensee or retail CCIV for the purposes of paragraph (7)(b) may cover a period of less than 12 months if it covers the period from the date that the custodian first provided a written assurance under paragraph (7)(a) to the licensee or any other person.

(8) The licensee must hold at all times:

(a) in cash or cash equivalents in an amount that is at least the greater of:

(i) $150,000; and

Authorised Version F2026C00740 registered 03/08/2026

(ii) 50% of the amount of NTA that it is required to hold under subsection (4); and

(b) liquid assets in an amount that is at least 100% of the required NTA.

Money that is in an account held by the licensee for the purposes of section 981B cannot be counted towards either requirement. Other cash or cash equivalents that are also liquid assets can be counted for both paragraph (a) and (b).

Audit opinion on financial requirements

(9) The licensee must lodge with ASIC a report (***audit opinion***) by a registered company auditor addressed to the licensee and ASIC for each financial year of the licensee that states whether:

(a) in the auditor's opinion, the licensee:

(i) complied with paragraph (3)(b) and subsections (4) and (8) and other financial requirements in conditions on its licence; and

(ii) had at all times a projection that purports to, and appears on its face to, comply with paragraph (3)(a); and

(iii) correctly calculated the projection in paragraph (3)(a) on the basis of the assumptions the licensee used for the projection; and

(b) the auditor has no reason to believe that:

(i) the licensee did not have adequate systems for managing the risk of having insufficient financial resources to comply with subsections (4) and (8) and other financial requirements in conditions on its licence; or

Note: Paragraph 912A(1)(h) requires a licensee (other than a body regulated by APRA) to have adequate risk management systems.

(ii) the licensee failed to comply with paragraph (3)(c); or

(iii) the licensee will not have access when needed to enough financial resources to meet its liabilities over the projected term of at least the next 12 months; or

Authorised Version F2026C00740 registered 03/08/2026

(iv) the licensee will not hold at all times during the period to which the projection relates in cash or cash equivalents, an amount equal to or greater than the current amount the licensee is required to hold in cash or cash equivalents under subsection (8); or

(v) the assumptions the licensee adopted for its projection in paragraph 3(a) were unreasonable.

(10) The audit opinion must be lodged:

(a) for each financial year of the licensee—with the balance sheet that the licensee is required to lodge under section 989B; and

(b) for any period of time that ASIC directs—by no later than the date ASIC directs in writing the audit opinion to be lodged.

(11) In this section:

adequately secured means, in relation to a financial services licensee:

(a) secured by an enforceable security interest over a financial product (other than a financial product issued by the licensee or its associates or issued by a retail CCIV operated by the licensee or its associates) if:

(i) the financial product is:

(A) regularly traded on:

(I) a financial market (as defined in subsection 767A(1) and disregarding subsection 767A(2)) operated by a market licensee or a financial services licensee; or

(II) an approved foreign market; or

(B) an interest in a registered scheme for which withdrawal prices are regularly quoted by the responsible entity of the scheme and the licensee believes on reasonable grounds that withdrawal may be effected within 5 business days;

(C) a share in a retail CCIV for which redemption prices are regularly quoted by the retail CCIV and the licensee believes on

Authorised Version F2026C00740 registered 03/08/2026

reasonable grounds that redemption may be effected within 5 business days; and

(ii) the market value of the financial product is:

(A) if the financial product is a debt instrument—at least 109% of the amount owing; or

(B) otherwise—at least 120% of the amount owing; or

(b) secured by a registered first mortgage over real estate that has a fair market valuation of at least 120% of the amount owing; or

(c) owing from an eligible provider; or

(d) secured by an enforceable security interest over amounts owing to another financial services licensee which themselves are adequately secured.

adjusted assets means, in relation to a financial services licensee, the value of total assets as they would appear on a balance sheet at the time of calculation made up for lodgement as part of a financial report under Chapter 2M if the licensee were a reporting entity:

(a) minus the value of excluded assets that would be included in the calculation; and

(b) minus the value of any receivable that would be included in the calculation, up to the amount that the licensee has excluded from adjusted liabilities on the basis that there is an enforceable right of set-off with that receivable; and

(c) minus the value of any assets that would be included in the calculation that are encumbered as a security against liability to a person that provides a security bond to ASIC up to the amount of the bond; and

(d) minus the value of any assets that would be included in the calculation that may be required to be applied to satisfy a liability under a credit facility that is made without recourse to the licensee up to the amount of that liability excluded from adjusted liabilities; and

(e) plus the amount of any eligible undertaking that is not an asset.

Authorised Version F2026C00740 registered 03/08/2026

adjusted liabilities means, in relation to a financial services licensee, the amount of total liabilities as they would appear on a balance sheet at the time of calculation made up for lodgement as part of a financial report under Chapter 2M if the licensee were a reporting entity:

(a) minus the amount of any liability under any subordinated debt approved by ASIC in writing; and

(b) minus the amount of any liability that is the subject of an enforceable right of set-off, if the corresponding receivable is excluded from adjusted assets; and

(c) minus the amount of any liability under a credit facility that is made without recourse to the licensee; and

(d) plus the value of any assets that are encumbered (other than assets that are encumbered merely to support a guarantee provided by the licensee) as a security against another person's liability where the licensee is not otherwise liable, but only up to the lower of:

  (i) the amount of that other person's liability; or

  (ii) the value of the assets encumbered; and

(e) plus the maximum potential liability of any guarantee provided by the licensee other than:

  (i) a guarantee limited to an amount recoverable out of any scheme property (and in the case of a scheme which is not registered, out of any contributions, money, property or income that would be scheme property if the scheme were registered) of a managed investment scheme operated by the licensee or out of any assets of a retail CCIV operated by the licensee; or

  (ii) a guarantee of the obligations of another member of a stapled group, except where:

    (A) the licensee is the responsible entity of a registered scheme that is not part of the stapled group; or

    (B) the licensee is the corporate director of a CCIV and a sub-fund of that CCIV is not part of the stapled group.

amount of an eligible undertaking means the amount that remains payable in accordance with the undertaking at the

Authorised Version F2026C00740 registered 03/08/2026

relevant time despite any amount previously paid under the undertaking less any amount that would be repayable as a liability by the licensee if money were paid.

approved foreign market has the meaning given by section 9.

Note: The definition of ***approved foreign market*** is notionally inserted by *ASIC Corporations (Definition of Approved Foreign Market) Instrument 2017/669*.

average revenue means:

(a) for a financial services licensee in its first financial year—the licensee's forecast of its revenue from the calculation date for the remainder of the first financial year pro-rated to a 12-month period; and

Note: ***revenue*** is defined below.

(b) for a financial services licensee in its second financial year—the aggregate of the licensee's:

(i) estimate of its revenue for the second financial year to date; and

(ii) forecast of its revenue for the remainder of the second financial year; and

(c) for a financial services licensee in its third financial year—the average of:

(i) the aggregate of the licensee's:

(A) estimate of its revenue for the third financial year to date; and

(B) forecast of its revenue for the remainder of the third financial year; and

(ii) the licensee's revenue for its second financial year; and

(d) for all subsequent financial years of a financial services licensee—the average of:

(i) the aggregate of the licensee's:

(A) estimate of its revenue for the current financial year to date; and

(B) forecast of its revenue for the remainder of the current financial year; and

Authorised Version F2026C00740 registered 03/08/2026

(ii) the licensee's revenue for the last preceding financial year; and

(iii) the licensee's revenue for the second preceding financial year.

average value of fund assets means, in relation to registered schemes and IDPSs and retail CCIVs operated by a licensee, the greater of:

(a) the current value of fund assets; and

Note: ***value of fund assets*** is defined below.

(b) the value of fund assets in the following circumstances:

(i) for a licensee in its first financial year—the average of:

(A) the value of fund assets at the end of each calendar month since the calculation date; and

(B) the forecast value of fund assets at the end of each calendar month for the remainder of the first financial year; and

(ii) for a licensee in its second financial year—the average of:

(A) the value of fund assets at the end of each calendar month since the calculation date; and

(B) the forecast value of fund assets at the end of each calendar month for the remainder of the second financial year; and

(iii) for all subsequent financial years of a licensee—the average of:

(A) the value of fund assets at the end of each calendar month since the beginning of the second preceding financial year; and

(B) the forecast value of fund assets at the end of each calendar month for the remainder of the current financial year.

calculation date means, in relation to a financial services licensee, the day on which the licensee is authorised to operate a registered scheme, IDPS or a retail CCIV.

Authorised Version F2026C00740 registered 03/08/2026

cash or cash equivalents means, in relation to a financial services licensee:

(a) assets of the licensee that are cash on hand, demand deposits and money deposited with an Australian ADI that is available for immediate withdrawal; and

(b) assets of the licensee that are short-term, highly liquid investments that are readily convertible to known amounts of cash that are subject to an insignificant risk of changes in value; and

(c) the value of any eligible undertaking provided by an eligible provider that is an asset of the licensee; and

(d) an asset of the licensee that is a commitment by an eligible provider to provide cash upon request within 5 business days:

(i) which will not expire within the next 6 months and which cannot be withdrawn by the provider without giving at least 6 months written notice to the person to whom the commitment is made; and

(ii) in relation to which any cash provided is not repayable for at least 6 months.

clearing participant means a participant (as defined in section 761A in relation to a clearing and settlement facility) in the licensed CS facility operated by ASX Clear Pty Limited ACN 001 314 503 (***ASX Clear***) that is required to comply with, and complies with, the operating rules of ASX Clear that impose financial requirements, taking into account any waiver of those requirements by ASX Clear.

eligible custodian means:

(a) an Australian ADI; or

(b) a market participant or a clearing participant; or

(c) a sub-custodian appointed by a person referred to in paragraph (a) or (b).

eligible provider means:

(a) an Australian ADI; or

(b) the government of the Commonwealth or of a State or Territory government or the government of a country that is a member of the Organisation for Economic Co-operation and Development or an agency or instrumentality of such a government; or

Authorised Version F2026C00740 registered 03/08/2026

(c) a foreign deposit-taking institution:

(i) that is regulated by a regulator approved in writing by ASIC for this purpose; or

(ii) approved in writing by ASIC for this purpose; or

(d) an Australian CS facility licensee within the meaning of section 761A; or

(e) an entity approved by ASIC in writing for the purpose of this paragraph.

eligible undertaking means in relation to a financial services licensee:

(a) an enforceable and unqualified undertaking by an eligible provider, expressed to be irrevocable without the written consent of ASIC, to pay, on written demand by the licensee, a certain amount (disregarding any part previously paid or any amount that would be repayable as a liability by the licensee if money were paid); or

(b) an undertaking approved in writing by ASIC as an eligible undertaking.

excluded assets means in relation to a financial services licensee:

(a) intangible assets (including, for the avoidance of doubt, a deferred tax asset) other than a right-of-use asset arising under a lease; and

(b) receivables from, or assets invested in, any person who:

(i) is an associate of the licensee; or

(ii) was an associate of the licensee at the time the liability was incurred or the investment was made; or

(iii) became liable to the licensee in connection with the acquisition of interests in a managed investment scheme operated by the licensee; and

(c) assets that are:

(i) held as a beneficial interest or an interest in a managed investment scheme; or

(ii) shares held in a CCIV; or

Authorised Version F2026C00740 registered 03/08/2026

(iii) invested in a superannuation product;

in respect of which the licensee or an associate may exercise any form of power or control; and

(d) receivables from a trustee of a trust in respect of which the licensee or an associate may exercise any form of power or control;

but, despite anything in the paragraphs above, does not include the following:

(e) a receivable mentioned in paragraph (b) or (d):

(i) to the extent that it is adequately secured; or

(ii) to which all of the following apply:

(A) it is receivable as a result of a transaction entered into by the licensee in the ordinary course of its business;

(B) no part of the consideration in relation to the transaction is, in substance, directly or indirectly invested in the licensee;

(C) the value of the receivable (before any discount is applied) is not more than 20% of the assets less liabilities of the licensee; or

(iii) to which both of the following apply:

(A) it is receivable from an insurance company that is a body regulated by APRA;

(B) the total value of the receivables under this subparagraph is not more than 60% of the adjusted liabilities of the licensee disregarding this subparagraph; or

(iv) to which ASIC has given its consent in writing to the licensee treating the receivable as not being an excluded asset; or

(v) to the extent that it is owing by way of fees from, or under rights of reimbursement for expenditure by the licensee out of property of or in relation to:

(A) a superannuation entity; or

(B) an IDPS; or

Authorised Version F2026C00740 registered 03/08/2026

(C) a registered scheme; or

(D) a retail CCIV,

to the extent that the receivable:

(E) exceeds amounts invested by the superannuation entity, IDPS, scheme or retail CCIV in, or lent (other than by way of a deposit with an Australian ADI in the ordinary course of its banking business) directly or indirectly by the superannuation entity, IDPS, scheme or retail CCIV to:

(I) the licensee; or

(II) a body corporate the licensee or the retail CCIV controls; or

(III) a body corporate that controls the licensee or the retail CCIV; or

(IV) a body corporate that the licensee's or the retail CCIV's controller controls; and

(F) if receivable by way of fees, represents no more than the amount of fees owing for the previous 3 months; and

(G) if receivable under rights of reimbursement for expenditure by the licensee, has not been receivable for more than 3 months; and

(f) an asset mentioned in paragraph (c) to the extent it is a managed investment product or shares in a CCIV unless any part of the amount invested is, in substance, directly or indirectly invested in the licensee.

first financial year means, in relation to a financial services licensee, the financial year in which the calculation date occurs.

fund assets means, in relation to a registered scheme, IDPS or retail CCIV, the scheme property of the registered scheme, IDPS property of the IDPS or the assets of the retail CCIV.

IDPS has the same meaning as in *ASIC Corporations (Platforms—IDPSs and IDPS-like Schemes) Instrument 2026/395*.

Authorised Version F2026C00740 registered 03/08/2026

IDPS property means, in relation to an IDPS, property acquired or held through the IDPS, other than property held by a client of the IDPS.

incidental provider has the same meaning as in section 912AC.

liquid assets means in relation to a financial services licensee:

(a) cash or cash equivalents other than a commitment of the kind referred to in paragraph (d) of the definition of ***cash or cash equivalents***; and

(b) assets of the licensee that the licensee can reasonably expect to realise for their market value within 6 months;

that are free from encumbrances and, in the case of receivables, free from any right of set-off.

market participant means a participant as defined in section 761A in relation to a financial market:

(a) where that market is operated by any of the following:

(i) ASX Limited ACN 008 624 691; or

(ii) Cboe Australia Pty Limited ACN 129 584 664; or

(iii) FEX Global Pty Ltd ACN 124 127 224 (***FEX market***); or

(iv) National Stock Exchange of Australia Limited ACN 000 902 063; or

(v) Australian Securities Exchange Limited ACN 000 943 3777 (***ASX 24 market***); or

(vi) Sydney Stock Exchange Limited ACN 080 399 220; and

(b) the participant:

(i) in all cases—is required to comply with, and complies with, the rules of the *ASIC Market Integrity Rules (Capital) 2021*, taking into account any waiver by ASIC; and

(ii) in the case of ASX 24 market—restricts its financial services business to participating in the ASX 24 market and incidental business; and

Authorised Version F2026C00740 registered 03/08/2026

(iii) in the case of FEX market—restricts its financial services business to participating in the FEX market and its incidental business.

NTA means adjusted assets minus adjusted liabilities.

operate means, in relation to a retail CCIV, to operate the business and conduct the affairs of the retail CCIV, as the corporate director of the retail CCIV.

regulated trust account means:

(a) a trust account maintained by a licensed trustee company within the meaning of Chapter 5D or the Public Trustee of a State or Territory; or

(b) a trust account maintained by a solicitor unless moneys in the account include moneys that are excluded from regulation as trust money under laws of the State or Territory relating to legal practitioners that are relevant to the operation of the trust account by the solicitor; or

(c) a trust account maintained by a real estate agent under the law of a State or Territory; or

(d) a trust account maintained by an entity other than the licensee and that provides protections similar to the accounts described in paragraphs (a) to (c), and is approved in writing by ASIC for this purpose.

revenue means, in relation to a financial services licensee:

(a) the licensee's revenue (within the meaning given by the accounting standards); and

(b) to the extent it is not the licensee's revenue (within the meaning of the accounting standards)—any amount paid or payable for the performance of the obligations imposed on the licensee in connection with operating a registered scheme, IDPS or retail CCIV, even if those obligations are performed by another entity.

second financial year means, in relation to a financial services licensee, the financial year immediately following the first financial year.

serviced strata scheme means a registered scheme that involves owners of strata title units, community title interests or similar real property interests at the one real property location, making their units or interests in real property

Authorised Version F2026C00740 registered 03/08/2026

available to a manager for use as part of a serviced apartment, hotel, motel or resort complex.

special custody assets means, in relation to a registered scheme, IDPS or retail CCIV operated by a financial services licensee, any of the following:

(a) for a serviced strata scheme, cash held in a regulated trust account; or

(b) currency and chattels (other than documents) that it would not be reasonably practicable for a person other than the licensee or retail CCIV to hold; or

(c) funds received from members of the scheme or the retail CCIV or clients of the IDPS within the previous 6 months held in a regulated trust account; or

(d) cash held for up to 3 months in an account with an Australian ADI styled as a trust account:

  (i) pending payment to members of the scheme or the retail CCIV or clients of the IDPS; or

  (ii) to meet expected expenses (not including investments) over a 3-month period; or

  (iii) pending application in acquiring a mortgage and paying any fees and costs incidental to the acquisition; or

(e) contractual, lease or licence rights that are not assignable except with the consent of the member or client or that it would not be reasonably practicable to assign and any documents evidencing those contractual, lease or licence rights; or

(f) for a registered time-sharing scheme:

  (i) cash held in an account with an Australian ADI styled as a trust account; and

  (ii) cash held in an account with a body (a ***foreign ADI***) formed or incorporated outside of Australia which is authorised to accept deposits and is prudentially regulated by a government or agency of a government styled as a trust account; and

  (iii) general insurance products relating to real property and other assets of a time-sharing scheme; and

(iv) interests in real property; and

(v) interests in other registered time-sharing schemes, time-sharing schemes that are exempt from complying with section 601ED and time-sharing schemes established outside this jurisdiction; or

(g) mortgages or documents of title held under a mortgage where:

(i) particular members or clients have a specific beneficial or legal interest in the mortgage; and

(ii) either:

(A) the mortgage was acquired on the specific direction of the relevant members or clients (at the time of acquisition of the interest); or

(B) the members or clients are able to withdraw from that mortgage for a period of 14 days after the date of disclosure of the mortgage terms to the members or clients; and

(iii) it is not reasonable to expect that the mortgage will be sold prior to its discharge; or

(h) a derivative and any contractual right (***margin repayment right***) for the payment of any balance owing to the licensee or the retail CCIV in relation to dealings in derivatives including margining those dealings through transactions in a deposit taking facility notified to the licensee or the retail CCIV if all of the following apply:

(i) the licensee or the retail CCIV has directed in writing the other party (***counterparty***) to the derivative or, in case of a derivative acquired through a financial market, the market participant acting for the licensee or the retail CCIV, that any amounts payable by the counterparty or market participant in connection with the derivative to or at the direction of the licensee or the retail CCIV are to be made only:

(A) to the deposit taking facility (if any); or

(B) to an eligible custodian (a ***Complying Custodian***) or a custodian (a ***Complying Custodian***) that meets the requirements under subparagraph (5)(a)(i) or a sub-

Authorised Version F2026C00740 registered 03/08/2026

custodian (a ***Complying Custodian***) appointed by such a custodian; or

(C) as the Complying Custodian directs;

(ii) if there is a margin repayment right held as scheme property or assets of the retail CCIV, the licensee or the retail CCIV has directed in writing that repayments are to be made only to a Complying Custodian or as directed by a Complying Custodian;

(iii) if the direction refers to a Complying Custodian, the Complying Custodian, is given a copy of each written direction given for the purposes of subparagraphs (i) and (ii) within one business day and is given authority to require the counterparty or market participant to provide reasonable access to information about all transactions relating to the derivative; or

(i) a security or interest in a managed investment scheme and any chose in action (***associated chose in action***) that is not a financial product related to the acquisition or holding of securities or interests in a managed investment scheme where all of the following apply:

(i) the security or interest is not of a class that is able to be traded on a financial market;

(ii) the security or interest or any associated chose in action may give rise to a liability for the holder under their terms;

(iii) the licensee reasonably considers that it is not reasonably practicable to ensure the exclusion of liability of the person holding the security or interest or any associated chose in action that may arise from that holding; or

(j) a deposit taking facility with an Australian ADI or a foreign ADI if the licensee reasonably considers that holding the deposit taking facility by another person would raise unreasonable operational difficulties or be impracticable; or

(k) a deposit taking facility with an Australian ADI or a foreign ADI where the issuer of the deposit taking facility is a Complying Custodian who holds other scheme property of the scheme, IDPS property of the IDPS or assets of the retail CCIV; or

Authorised Version F2026C00740 registered 03/08/2026

(l) any chose in action that:

(A) is not a financial product; and

(B) is not reasonably practicable to assign, other than to the relevant member or members of the scheme or retail CCIV or to the clients of the IDPS (as applicable) or together with other property that is covered by any of paragraphs (a) to (k).

stapled group means the group of entities consisting of:

(a) one or more stapled issuers who are issuers of securities or managed investment products that must be transferred together; and

(b) all wholly-owned entities of the stapled issuers.

stapled issuer means an entity a security or managed investment product of which under the terms on which it is traded on a prescribed financial market or under the constitution of the entity or under the terms of issue, must be transferred together with a security or managed investment product of one or more other entities.

third financial year means, in relation to a financial services licensee, the financial year immediately following the second financial year.

Tier $500,000 class assets means, in relation to a registered scheme or retail CCIV:

(a) real property (including mortgages or leases over or licences in relation to real property) that is intended to be kept for the whole duration of the scheme or relevant sub-fund or, the relevant mortgage; and

Note: The duration of a sub-fund is the time for which it is registered.

(b) physical assets which as a matter of reasonable practice can be held by a custodian (such as currency, valuables or precious metals); and

(c) funds held in a regulated trust account by the responsible entity or the retail CCIV which were received from members of the scheme or retail CCIV within the following periods:

(i) if held for the purposes of the initial investment by:

Authorised Version F2026C00740 registered 03/08/2026

(A) the responsible entity as part of the scheme; or

(B) the retail CCIV;

the previous 6 months; or

(ii) if held pending payment of expenses of the scheme or the retail CCIV—the previous 13 months; and

(d) special custody assets.

value of fund assets means, in relation to a financial services licensee at a time, the aggregate of:

(a) the value of the assets of the retail CCIVs operated by the licensee, excluding the value of any cross-invested shares, where the value is determined as follows:

(i) in the case of assets of the retail CCIV that would be recognised in preparing the balance sheets for the sub-funds of the retail CCIV under Chapter 2M—the value as if at that time such a balance sheet was being prepared; and

(ii) in the case of any other assets of the retail CCIV—the market value at that time; and

Note: The value of cross-invested shares is excluded to avoid double counting since the value of the assets underlying those shares is already included.

(b) the value of the scheme property and any other assets (including mortgages held by members of a mortgage scheme and managed as part of the scheme) of the registered schemes operated by the licensee as responsible entity, where the value is determined as follows:

(i) in the case of scheme property that would be recognised in preparing the balance sheets for the scheme to report to members under Chapter 2M—the value as if at that time such a balance sheet was being prepared; and

(ii) in the case of any other scheme property—the market value at that time; and

(c) the market value of the IDPS property of the IDPSs operated by the licensee.".

Authorised Version F2026C00740 registered 03/08/2026

Part 3—Repeal

6 Repeal

This instrument is repealed at the start of 1 October 2028.

Authorised Version F2026C00740 registered 03/08/2026

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.

Authorised Version F2026C00740 registered 03/08/2026

Endnote 2—Abbreviation key

ad = added or inserted
am = amended
amdt = amendment
C[x] = Compilation No. x
ch = Chapter(s)
cl = clause(s)
cont. = continued
def = definition(s)
Dict = Dictionary
disallowed = disallowed by Parliament
div = Division(s)
exp = expires/expired or ceases/ceased to have effect
gaz = gazette
LA = *Legislation Act 2003*
LIA = *Legislative Instruments Act 2003*
(md not incorp) = misdescribed amendment cannot be given effect
mod = modified/modification
No. = Number(s)
Ord = Ordinance
orig = original
p = page(s)
para = paragraph(s)/subparagraph(s)/sub-subparagraph(s)
pres = present
prev = previous
(prev…) = previously
pt = Part(s)
r = regulation(s)/Court rule(s)
reloc = relocated
renum = renumbered
rep = repealed
rs = repealed and substituted
s = section(s)/subsection(s)/rule(s)/subrule(s)/order(s)/suborder(s)
sch = Schedule(s)
SLI = Select Legislative Instrument
SR = Statutory Rules
sub ch = Sub-Chapter(s)
sub div = Subdivision(s)
sub pt = Subpart(s)
underlining = whole or part not commenced or to be commenced

Authorised Version F2026C00740 registered 03/08/2026

Endnote 3—Legislation history

Name	Registration	Commencement	Application, saving and transitional provisions
ASIC Corporations (Financial Requirements for Responsible Entities, IDPS Operators and Corporate Directors of Retail CCIVs) Instrument 2023/647	31/08/2023 (*see* F2023L01162)	01/09/2023	
ASIC Corporations (Amendment and Repeal) Instrument 2026/564	06/07/2026 (*see* F2026L00920)	07/07/2026	-

Authorised Version F2026C00740 registered 03/08/2026

Endnote 4—Amendment history

Provision affected	How affected
Section 2	rep. LA s 48D
Section 5 (notional subsection 912AA(11) definition of *IDPS*)	am. 2026/564

Authorised Version F2026C00740 registered 03/08/2026