



ASIC
Australian Securities &
Investments Commission

Explanatory Statement

ASIC Corporations (Takeover Bids) Instrument 2023/683

This is the Explanatory Statement for ASIC Corporations (Takeover Bids) Instrument 2023/683 (**Instrument**).

The Explanatory Statement is approved by the Australian Securities and Investments Commission (**ASIC**).

Summary

1. Chapter 6 of the Corporations Act 2001 (the **Act**) relates to takeovers. Parts 6.3–6.9 of Chapter 6 set out the rules and procedures applying to a takeover bid. As well as providing a mechanical framework for the takeover process, these rules and procedures are designed to promote the principles underlying the takeover provisions in Chapter 6 which are set out in section 602 of the Act.
2. The takeover provisions were substantially rewritten by the *Corporate Law Economic Reform Program Act 1999* (the **CLERP Act**).
3. Since the implementation of the CLERP Act, ASIC has made a number of exemptions from, and modifications to, the takeover provisions by class order with a view to:
 - (a) improving the operation of the provisions in light of developments and innovations observed in the market over time; and
 - (b) addressing technical issues and anomalies identified in the course of ASIC’s administration of the provisions.
4. ASIC recently reviewed the policy underlying its class orders relating to the takeover provisions in Chapters 6–6C, including [Class Order \[CO 13/521\]](#) *Takeover bids* (**[CO 13/521]**). Class Order [CO 13/521] incorporated and consolidated the relief previously provided in [CO 00/343], [CO 01/1543] and [CO 03/633]. ASIC considers that the relief provided in [CO 13/521] is still both necessary and appropriate. ASIC has decided to reissue the relief underlying [CO 13/521] in the Instrument.
5. The *Legislative Instruments Act 2003* (the **LIA**) provides for the periodic expiry of legislative instruments (‘sunsetting’) to ensure that they are kept up to date and only remain in force for so long as they are needed. [CO 13/521] is a legislative instrument and was scheduled to eventually expire under the

sunsetting provisions of the LIA. ASIC's reissuing of the relief underlying [CO 13/521] has given ASIC the opportunity to deal with its eventual expiry. The modifications in the Instrument are generally similar in nature to those in [CO 13/521].

6. Further, the Instrument incorporates some new modifications proposed and consulted on in Consultation Paper 365 (**CP 365**), including a modification to subsection 617(2) to permit a bidder to extend its offer to derivatives that become securities that come to be in the bid class securities and a modification to subsection 620(2) to enable bidders to promise to provide bid consideration at an earlier date than required by subsection 620(2). These new modifications are similarly designed to address technical issues and improve the operation of the takeover, compulsory acquisition and substantial holding provisions in Chapters 6, 6A and 6C.
7. [CO 13/521] is repealed by *ASIC Corporations, Credit and Superannuation (Amendment and Repeal) Instrument 2023/699*.

Purpose of the instrument

8. The purpose of the Instrument is to provide exemptions from, and modifications to, the takeover provisions in Chapter 6 of the Act in relation to the rules and procedures applying to a takeover bid, to promote the principles underlying the takeover provisions in Chapter 6 which are set out in section 602 of the Act.
9. The modifications in the Instrument generally operate independently of each other. The specific purpose of each modification is explained below under the heading Operation of the instrument.

Consultation

10. On 30 November 2022, ASIC released CP 365 seeking feedback on proposals to remake nine class orders relating to takeovers, compulsory acquisitions and relevant interests (including [CO 12/1209], [CO 13/519], [CO 13/520], [CO 13/521], [CO 13/522], [CO 13/524], [CO 13/525], [CO 13/526], and [CO 13/528]). The consultation period closed on 23 January 2023.
11. CP 365 invited feedback as to whether [CO 13/521] was operating effectively and efficiently, or whether there were issues or improvements that should be considered to improve its operation.
12. ASIC received 4 submissions in response to CP 365, two of which addressed [CO 13/521]. We took those submissions into account in making the Instrument. Details of the submissions received are contained in REP 773 Response to submissions on CP 365 which is available on ASIC's website at www.asic.gov.au.

Operation of the instrument

Exercise or conversion before the offer period begins

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13. A takeover bid may only be made for securities within a particular class: subsections 605(1) and section 617(1). Under subsection 617(2), off-market bids must relate to securities that exist, or will exist, as at the date set by the bidder under subsection 633(2). This is the date for determining to whom offers will be sent.
 14. A bid may extend to securities that come to be in the bid class during the offer period because of the conversion, or the exercise of rights attached to ‘other securities’: subsection 617(2).
 15. Paragraph 5(a) of the Instrument modifies subsection 617(2) so that the bid extends to bid class securities issued on conversion or exercise from the date set by the bidder under subsection 633(2) until the end of the offer period. In effect, this extends the operation of subsection 617(2) to bid class securities that come into existence before the beginning of the offer period. This instrument also makes a corresponding modification to paragraph 636(1)(j).
 16. Paragraph 5(a) also expressly extends the scope of subsection 617(2) to derivatives. This modification addresses an ambiguity where certain performance rights may not otherwise meet the definition of ‘securities’ under subsection 92(3) and therefore fall outside the scope of subsection 617(2). The purpose of this change is to ensure performance rights that would otherwise not meet the definition of securities or derivatives, are covered by subsection 617(2), where those derivatives confer rights to be issued securities in the bid class. The relief allows a bidder to choose to extend its offer to securities that come to be in the bid class due to a conversion or exercise of rights of a derivative. Consequential amendments have also been made to sections 633(2), 636(1)(j), 641(1)-(1A), 648B, 648C, 650D(1)(c)(ii), 650D(3), 661A(4)(c), 661B(1)(c)(ii)—and 633(1) items 6 and 12 as modified by *ASIC Corporations (Replacement Bidder’s and Target’s Statements) Instrument 2023/688*—to ensure those sections operate in respect of derivatives in the same manner as they operate over securities under subsection 617(2).

Share splitting in proportional bids and small parcels

17. Where a bidder makes an off-market bid for a specified proportion of the securities in the bid class, the proportion must be the same for all holders of securities in the bid class (proportional bid): paragraph 618(1)(b). If accepting a proportional bid would leave a shareholder with a small parcel, subsection 618(2) provides that the offer extends to the whole parcel.
18. Subsection 5(b) modifies subsection 618(2) so that it does not apply to parcels of securities that have come into existence, or increased in size, because of a transaction entered into after the proportional bid was publicly proposed. This prevents target security holders from abusing subsection 618(2), while preserving its operation in the case of holders who have not modified their holdings in response to the bid.

Acceptances by trustees and nominees

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19. Subsection 5(b) also applies to restrict reliance on subsection 618(2) when there is a change to a parcel for which an offer is deemed to have been made under subsection 653B(1)(b)—for example, increases or transfers of a person’s beneficial interests in securities that form part of a larger registered holding (see new subsection 618(2B)). In this way, this Instrument also seeks to deter target holders from taking advantage of subsection 618(2) by splitting holdings through the creation of trusts or similar arrangements.

Meaning of minimum parcel and small parcels

20. Subsection 5(c) also clarifies that the small parcel exception applies when the residual parcel is less than a ‘marketable’ or ‘minimum’ parcel (or, if neither term is defined in the rules of the relevant prescribed financial market, a parcel of at least \$500 in value) using:
- (a) if, on the most recent day before the date of acceptance that bid class securities were traded on a prescribed financial market, the securities were only traded on one prescribed financial market—the closing price of the securities on that prescribed financial market on that day; or
 - (b) if bid class securities were traded on more than one prescribed financial market on that day—the closing price of the securities on any of the prescribed financial markets on that day.

Foreign holders

21. As far as practicable, all offers under a takeover bid must be the same because holders should have an equal opportunity to participate in the benefits of the bid: subsections 619(1) and 602(c). However, where the bid consideration includes securities, the bidder may be constrained by foreign laws and regulations from making an offer of securities to a foreign holder. Alternatively, it may be highly impractical to comply with foreign regulations.
22. Subsection 619(3) allows the bidder to include terms in its bid that establish a ‘nominee procedure’ so that foreign holders can receive cash instead of the securities offered under the bid. Subsection 619(3) may be read to require that, if a bidder uses the nominee procedure, it must use it for all foreign holders. This Instrument modifies subsection 619(3) to clarify that the bidder may specify in the bidder’s statement the foreign holders to whom the nominee procedure applies.

Small parcels offered as consideration under a bid

23. When a bidder offers quoted scrip as consideration in an off-market bid, the number of securities they are required to provide to some target holders may be less than a ‘marketable parcel’ or a ‘minimum parcel’ as defined in the rules of the market on which they are quoted or a related clearing and settlement facility. In some cases, these rules restrict the creation of new parcels through securities that are not ‘marketable parcels’ or ‘minimum parcels’.

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24. Subsection 5(c) inserts a new subsection 619(4) to allow a bidder to deal with offers of small parcels in the following ways:
- (a) if a nominee is appointed under subsection 619(3) for foreign holders—the nominee may also be a nominee for other holders and sell the small parcel of securities offered as consideration and distribute the proceeds to the holders in accordance with that provision; or
 - (b) in other circumstances—the bidder may offer cash (based on the highest closing price of the securities during a specified reference period) to the holders.
25. If a bidder intends to appoint a nominee and use the procedure in subsection 619(3) for foreign holders, this procedure must also be used when dealing with small parcels.

Timing of payment in conditional offers

26. Each offer that a bidder makes must set out when the bidder will make payment under the takeover contract. Under subsection 620(2), the period for a bidder to pay consideration runs from the time that the necessary transfer documents are given to the bidder.
27. Subsection 5(d) modifies subsection 620(2)(b) so that the bidder must provide in its offer that, if the bidder is given the necessary transfer documents after acceptance by the holder and before the end of the bid period, the bidder is to pay the consideration:
- (a) if the offer is subject to a defeating condition when the bidder is given the necessary transfer documents—by the earlier of one month after the takeover contract becomes unconditional or 21 days after the end of the offer period; and
 - (b) if the offer is unconditional—by the earlier of one month after the bidder is given the necessary transfer documents or 21 days after the end of the offer period.
28. Subsection 5(d) also modifies subsection 620(2)(c) so that the bidder is to pay the consideration within 21 days after the takeover becomes unconditional if:
- (a) the bidder is given the necessary transfer documents after both the acceptance of the offer and the end of the offer period; and
 - (b) when the bidder is given the necessary transfer documents, the offer is subject to a condition that relates to the occurrence of an event referred to in subsections 652(1) or (2).

Shortening time of payment of offer consideration

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29. In certain bids, a bidder may wish to include in the offer terms a shorter period for payment of the bid consideration than that required by section 620. Generally, the bidder's rationale for reducing this time period is to make accepting the bid more attractive to shareholders who will receive the bid consideration sooner. Following submissions in response to CP 365 ASIC has decided to insert new subsection 620(2A) to expressly provide that a bidder may nominate a shorter time period for payment than is otherwise required by subsection 620(2).

Collateral benefits in market bids

30. Section 623(1) prohibits certain collateral benefits being offered or given to target holders outside the bid process.
31. Subsection 5(d) modifies subsection 623(1) so that, for a market bid, the prohibition applies during the 'bid period' rather than the 'offer period'. This modification has been made because, without it, there would be a gap between the time at which the minimum bid price principle (in subsections 621(3)–(5)) stops applying and the time that the prohibition on collateral benefits starts applying.
32. We consider that this extension is appropriate because the collateral benefits prohibition in subsection 623 is intended to pick up where the minimum bid price principle leaves off. Both extend the equality principle in subsection 602(c) beyond the consideration that the bidder offers under the takeover bid.

Closing time for automatic extensions of the offer period

33. Under subsection 624(2), an offer period is automatically extended if, during the final seven days of the offer period, the bidder's voting power in the target increases to more than 50%, or in an off-market bid, the offers under the bid are varied to improve the consideration offered. If either of these events occurs, the offer period is extended so that it ends 14 days after the triggering event.
34. Subsection 5(g) provides relief so that an automatically extended offer period for an off-market bid is not required to remain open until midnight on the closing day. The relief reduces the potential that confusion may arise because of the operation of this provision and ensures that the bid will still close at a time of day that is commercially suitable for the bidder.

Treatment of acceptances in an acceptance facility

35. This Instrument modifies subsection 624 so that, where a bidder has established an acceptance facility, it may elect, for the purposes of subsection 624(2)(b) only, to be taken to obtain the voting power in securities that are the subject of the facility as soon as it gives the notice triggering the release of the acceptances and instructions by the facility agent. Our modification in this Instrument improves certainty associated with operating an acceptance facility by clarifying when the bid will be extended, where the bidder satisfies the conditions for release of acceptances from an acceptance facility before the close of an offer,

and its voting power in the target will increase to above 50% once the bidder receives actual acceptances for the securities tendered into the facility.

Admission to quotation condition

36. Subsection 625(3) imposes a statutory condition on off-market bids. If the consideration offered under such a bid is, or includes, securities, and the offer or the bidder's statement states or implies that the securities are to be quoted on a financial market (in Australia or elsewhere), the offer is subject to a condition that:
- (a) an application for admission to quotation will be made within seven days after the start of the bid period; and
 - (b) permission for admission to quotation will be granted no later than seven days after the end of the bid period.
37. Subsection 5(i) modifies subsection 625(3) to clarify that the condition it imposes is a statutory condition and not a 'defeating condition' within the meaning of that term in section 9. This technical modification recognises that the mandatory condition differs from other conditions the bidder may choose to apply to its bid and overcomes potential anomalies that may otherwise result.

Giving a notice on the status of conditions

38. Subsection 630(4) requires a bidder, in circumstances where a condition of the offer is fulfilled during the bid period but before the date for publishing the notice on status of the condition, to publish as soon as practicable a notice that states a defeating condition has been fulfilled.
39. Subsection 5(j) modifies subsection 630(4) to remove the references to 'publishing' and 'publish' and replace them with references to 'giving' and 'give'. The modification serves to clarify the operation of the provision and ensure consistency with the language adopted in other parts of section 630 (see subsections 630(1) and (2)).

Information required in the bidder's statement lodged with ASIC

40. In many cases a bidder will need to lodge the bidder's statement with ASIC some time before dispatch: see items 2 and 6 of subsection 633(1). This Instrument modifies section 633 so that in the copies of the bidder's statement that the bidder lodges with ASIC, sends to the target and sends to any relevant financial market operator, the bidder may omit or provide modified disclosure in relation to the following:
- (a) the holders' name and address;
 - (b) bid timing;
 - (c) particulars of the purchases made and benefits given by the bidder and its associates in the four months before the date of the bid; and

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- (d) the bidder's relevant interest in bid class securities and voting power in the target.

41. The modification is necessary because a bidder should not be required to disclose information at the time of lodgement if the information is not available or the information is not critical until the start of the offer period. However, this Instrument requires the updated disclosure in the bidder's statement dispatched to holders to be current as at the date that offers are first made.

Bidder must disclose prospectus or PDS information about non-controlled issuer

42. Section 636(1)(g) and (ga) require a bidder to include in the bidder's statement prospectus information and PDS information, about the securities offered under a takeover bid if the bidder is the issuer or the bidder controls the issuer of the scrip consideration.
43. Subsection 6(b) modifies paragraphs 636(1)(g) and (ga) so that a bidder that offers securities or managed investment products as consideration under a bid must also disclose prospectus or PDS information in the bidder's statement where the bidder is not the issuer and does not control the issuer. We have extended the operation of paragraphs 636(1)(g) and (ga) because, when a bidder offers securities or managed investment products, target holders and directors should be given prospectus or PDS information to enable them to assess the merits of the bid.

Exercise or conversion before the offer period begins

44. Subsection 6(d) amends paragraph 636(1)(j) so that if the bid is to extend to securities issued during the offer period under subsection 617(2), because of the conversion or exercise of rights attached to other securities or derivatives, the bidder's statement must include a statement to this effect.

Consent to use a lodged statement

45. If a bidder or target wishes to include a statement by another person in the bidder's statement or the target's statement, they must obtain the person's consent: subsections 636(3) and 638(5). However, it may be difficult to obtain a person's consent to include in a bidder's or target's statement a public statement they have made in a lodged document.
46. Subsection 6(e) modifies subsections 636(3) and 638(5) so that the bidder's or target's statement may include a statement by a person without the person's consent, if the statement was made in a document that has been lodged with ASIC or the operator of a prescribed financial market.
47. This modification has been made because, if a person makes a statement in a document lodged with a securities exchange under the listing rules or with ASIC, they do so in a regulated context for the purpose of informing holders and the market.

Clarification of paragraph 650B(1)(h)

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48. Section 650B sets a number of ways that the bidder may vary offers to improve the consideration offered—including by offering an ‘additional alternative form of consideration’: see paragraph 650B(1)(h). Subsection 7(a) clarifies that this provision is not intended to operate only when there is already more than one form of consideration on offer under the bid—by omitting ‘or’ between ‘additional’ and ‘alternative’.

Clarification of operation of section 650C(2)

49. Section 650C(2) enables the bidder to extend the offer period after ‘publication’ of a notice about the status of the defeating condition. Subsection 7(b) also modifies subsection 650C(2) to omit the references to ‘publication’ of the notice and replace them with references to ‘giving’ the notice.

Notices of variation of offers

50. If the bidder varies offers under an off-market bid, they must send a notice of the variation to everyone to whom offers were made under the bid: subparagraph 650D(1)(c)(ii). However, at the time of the variation, some persons to whom offers were made may no longer hold bid class securities because they have disposed of their holding.
51. Subsection 7(c) modifies subparagraph 650D(1)(c)(ii) so that the bidder must send the notices of variation to those persons shown on the most recent copy of the register obtained by the bidder and any other person who has accepted the offer under the bid.
52. Subsection 5(g) also modifies subsection 624(2) to align the persons to whom the bidder must dispatch a written notice that an automatic extension has occurred with the modified requirements in paragraph 650D(1)(c), excepting persons who have accepted the offer.
53. These modifications recognise that bidders will commonly obtain copies of the target register throughout the bid period. It seeks to ensure that the bidder’s notices regarding variation of its offers are, as far as practicable, sent to persons for whom the variation is likely to be relevant, based on the most-up-to date information available to the bidder.

Signing a notice of variation

54. A notice of variation of an offer under an off-market bid must be signed by the relevant person or persons: subsection 650D(3). Subsection 7(d) modifies section 650D by inserting new subsection 650D(3A) which removes the signing requirement as long as the notice has been approved by the bidder.
55. We have provided this relief because it is appropriate for a bidder to have the option of approving a notice of variation in the same way as a bidder’s statement rather than signing the notice.

Clarification of paragraph 650F(1)(a)

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56. Section 650F(1)(a) provides for conditions on which a bidder may ‘withdraw’ unaccepted offers if an event or circumstances referred to in subsections 652C(1) or (2) occurs. This may cause confusion because a defeating condition does not allow a bidder to withdraw unaccepted offers. Offers may only be withdrawn with ASIC’s written consent: see section 652B. Subsection 7(e) modifies paragraph 650F(1)(a) to refer instead to the happening of an event or circumstance referred to in subsections 652C(1) or (2).

Clarification of subsection 650G(b)

57. Section 650G(b) provides that all takeover contracts and acceptances for an off market bid that is subject to a defeating condition are void if the bidder has not declared the offers to be free from the condition within the period before the date applicable under subsections 630(1) or (2). The reference to subsections 630(1) and (2) is incorrect because offers are permitted to be freed of certain conditions under subsection 650F(1) later than the date applicable under subsections 630(1) or (2): see paragraph 650F(1)(a). The Instrument modifies paragraph 650G(b) to correct this error and insert a reference to the date applicable under subsection 650F(1).

Acceptances received by the bidder for securities registered in a clearing and settlement facility

58. Under section 653A and reg 6.8.01 of the Corporations Regulations 2001 (Corporations Regulations) an acceptance of a takeover offer for quoted securities to which the operating rules of a clearing and settlement facility apply is only effective if made in the way specified in those rules.
59. Section 8 modifies the Act so that, for the purposes of Ch 6 and 6C, an offer is taken to have been accepted in respect of securities registered in a clearing and settlement facility when:
- (a) the bidder has received a written instruction or authority (or both) from a holder entitled to accept the offer (or a person with a right to be registered as holder); and
 - (b) the instruction or authority is given for the purpose, and has the effect, of enabling the bidder to instruct another person through the relevant clearing and settlement facility to effect acceptance of the offer.
60. The purpose of the modification is to improve certainty for bidders and holders by clarifying the application of Ch 6 and 6C where a holder seeks to accept a takeover offer for securities registered in a clearing and settlement facility by returning a completed acceptance form to the bidder or its representative. The modification seeks to align the operation of Ch 6 with the expectations of target holders that once they have delivered the bidder a completed acceptance form, they have accepted the offer.

Legislative instrument and primary legislation

61. The subject matter and policy implemented by the Instrument is more appropriate for a legislative instrument rather than primary legislation because it provides administrative relief in circumstances where strict compliance with the primary legislation produces an unintended or unforeseen result.
62. It will be a matter for the Government and for Parliament as to whether the Act or Regulations may be amended in future to include the relief in the Instrument.

Duration of the Instrument

63. The Instrument expires after 5 years. This allows sufficient time for the Government and for Parliament to determine whether to amend the primary legislation or regulations to include the relief.

Legislative authority

64. This Instrument is made under sections 655A, 669(1) and 673(1) of the *Corporations Act 2001*. Paragraphs 655A(1)(b), 669(1)(b) and 673(1)(b) provide that ASIC may declare that Chapter 6 of the Act apply as if specified provisions were omitted, modified or varied as specified in the declaration.
65. The Instrument commences on the day after it is registered on the Federal Register of Legislation and continues in force for 5 years until 1 October 2028.
66. Under subsection 33(3) of the Acts Interpretation Act 1901 (as in force as at 1 January 2005 and as applicable to the relevant powers because of section 5C of the Act), where an Act confers a power to make any instrument, the power is to be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to amend any such instrument.
67. As a legislative instrument, the Instrument is disallowable under section 42 of the Legislation Act 2003.

Statement of Compatibility with Human Rights

68. The Explanatory Statement for a disallowable legislative instrument must contain a Statement of Compatibility with Human Rights under subsection 9(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A Statement of Compatibility with Human Rights is in the [Attachment](#).

Statement of Compatibility with Human Rights

This Statement of Compatibility with Human Rights is prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

ASIC Corporations (Takeover Bids) Instrument 2023/682

Overview

1. This Instrument makes modifications to Chapter 6 and 6C of the Corporations Act 2001 (the Act) in the following areas:
 - (a) Extension of a bid to bid class securities that come into existence on the conversion of securities or derivatives in certain circumstances;
 - (b) Preventing artificial share splitting in proportional bids including in the situation where trustees or nominees are involved;
 - (c) Removing uncertainty related to the meaning of a ‘marketable parcel’;
 - (d) Where bid consideration includes scrip (e.g. securities), clarification of how:
 - (i) a nominee procedure applies to foreign holders that enables them to receive cash instead; and
 - (ii) the bidder can deal with ‘small parcels’ of securities;
 - (e) The timing of payment of consideration by the bidder where conditional offers are involved;
 - (f) The prohibition on a bidder giving collateral benefits to target holders;
 - (g) Clarifying timing issues related to the closing time for offer periods that are automatically extended under the Act;
 - (h) Relevant interests acquired by a bidder in respect of acceptances received in an acceptance facility established by the bidder in connection with the takeover bid;
 - (i) Clarification that a certain condition imposed on off-market bids under the Act relating to admission to quotation is not a defeating condition;

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- (j) The requirement that the bidder give a notice about the status of a defeating condition near the end of the offer period;
 - (k) Information that need not be included in the bidder's statement lodged with ASIC;
 - (l) Extension of a requirement relating to the bidder disclosing prospectus or Product Disclosure Statement information about an issuer of securities or the responsible entity of a scheme even where the bidder does not control the issuer or the responsible entity;
 - (m) A statement that must be included in the bidder's statement if the bid is extended to bid class securities issued on the conversion of other securities or derivatives;
 - (n) Consent not required to be obtained by a bidder or target where they wish to include a statement made by another person in a document lodged with ASIC or the operator of a prescribed financial market by a listed body in the bidder's statement or the target's statement;
 - (o) Clarification of notice requirements relating to the extension of the offer period where a bid is subject to a defeating condition;
 - (p) Persons to whom a bidder must send notices of variation when it varies offers under an off-market bid;
 - (q) Requirement relating to a bidder signing of notices of variation;
 - (r) Clarifying the operation of a provision relating to a bidder seeking to free an off-market bid from defeating conditions; and
 - (s) Clarification of the treatment, for the purpose of considering the application of Chapter 6 and 6C of the Act in relation to paper acceptances received by the holders of securities registered in a clearing and settlement facility before the acceptances are processed.

Assessment of human rights implications

2. This instrument does not engage any of the applicable rights or freedoms.

Conclusion

3. This instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.