



ASIC
Australian Securities &
Investments Commission

Explanatory Statement

ASIC Corporations (Amendment) Instrument 2025/164

This is the Explanatory Statement for *ASIC Corporations (Amendment) Instrument 2025/164*.

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

Summary

1. *ASIC Corporations (Amendment) Instrument 2025/164 (Amendment Instrument)* amends *ASIC Corporations (Financial Reporting by Stapled Entities) Instrument 2023/673 (ASIC Instrument 2023/673)* to enable stapled entities relying on the relief in that instrument to prepare a sustainability report on behalf of the stapled group.
2. The Amendment Instrument also amends *ASIC Corporations (Electronic Lodgment of Financial Reports) Instrument 2016/181 (ASIC Instrument 2016/181)* to ensure the title of that instrument also refers to sustainability reports.
3. The amendments follow the enactment of *Treasury Laws Amendment (Financial Market Infrastructure and Other Measures) Act 2024* which amended the *Corporations Act 2001 (Corporations Act)* to include sustainability reporting requirements.
4. ASIC makes the Amendment Instrument under sections 341 and 352 of the Corporations Act.
5. Subsection 341(1) provides that ASIC may make an order in writing in respect of a specified class of companies, registered schemes, registrable superannuation entities or disclosing entities, relieving any of those entities, auditors of those entities or directors, from all or specified requirements of Part 2M.2, 2M.3 and 2M.4 (other than Division 4). Subsection 342(1) of the Corporations Act provides that, to make an order under section 341, ASIC must be satisfied that complying with the relevant requirement would make the financial report, sustainability report or other reports misleading; be inappropriate in the circumstances; or impose unreasonable burdens.

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6. Subsection 352(1) provides that a document may be lodged with ASIC electronically if ASIC has approved, in writing, the electronic lodgement of documents of that kind. Subsection 352(1A) provides that ASIC may approve documents in a particular class of documents.

Purpose of the instrument

7. The purpose of the Amendment Instrument is to extend the relief in ASIC Instrument 2023/673 and amend the title of ASIC Instrument 2016/181 in response to the introduction of new sustainability reporting requirements in the Corporations Act under *Treasury Laws Amendment (Financial Market Infrastructure and Other Measures) Act 2024*.
8. Some entities relying on relief in ASIC Instrument 2023/673 and ASIC Instrument 2016/181 will be required to prepare sustainability reports under s292A of the Corporations Act. The amendments to those instruments will:
 - a. permit a stapled entity relying on relief in 2023/673 to prepare a sustainability report in relation to the stapled group as if they were a single entity; and
 - b. reflect that 2016/181 has the effect of permitting electronic lodgment of sustainability reports.

Amendments to ASIC Instrument 2023/673

9. ASIC Instrument 2023/673 provides relief to allow stapled entities which are disclosing entities to prepare combined financial statements or consolidated financial statements of the stapled group. It also allows the stapled entities in a stapled group to present their respective financial statements together in a single financial report.
10. The amendments to ASIC Instrument 2023/673 enable stapled entities relying on the relief in that instrument to prepare a sustainability report in relation to itself and all the other members of the stapled group as if they were a single entity. Where one stapled entity has prepared a sustainability report for a financial year in relation to the stapled group, in reliance on relief under the instrument, the other members of the stapled group will not have to comply with the sustainability reporting requirement under s292A for that financial year.
11. The purpose of extending the relief in ASIC Instrument 2023/673 to the preparation of sustainability reports under s292A by stapled entities is to reduce regulatory burden for stapled entities relying on that instrument.
12. Compliance with s 292A would otherwise require each stapled entity that meets a sustainability reporting threshold under s292A(3), 292A(5) or s292A(6) to prepare a sustainability report in relation to that stapled entity. This would likely result in multiple standalone sustainability reports that disclose the same or similar climate-related risks and

opportunities that affect each entity in the stapled group, with each stapled entity meeting a threshold under s292A bearing the cost of preparing and auditing a separate sustainability report.

13. ASIC is satisfied that compliance with s292A would impose an unreasonable burden on stapled entities relying on financial reporting relief under ASIC Instrument 2023/673.
14. The relief provided under the amendments to ASIC Instrument 2023/673 will reduce regulatory burden by instead allowing the preparation of one sustainability report that relates to the entire stapled group, by a stapled entity relying on relief in that Instrument. Other entities in the stapled group will not have to prepare a sustainability report under s 292A of the Corporations Act.
15. Investors in stapled entities relying on ASIC Instrument 2023/673 and other users of the sustainability report will benefit from a sustainability report prepared on behalf of the entire stapled group, which would reflect the interrelationships between stapled entities, and provide useful and meaningful information in respect of the overall stapled group.
16. Consistent with the existing financial reporting relief under ASIC Instrument 2023/673, the amendments will allow the presentation of climate-related financial information about the stapled group in a single sustainability report.

Amendments to ASIC Instrument 2016/181

17. The amendments to ASIC Instrument 2016/181 ensures that the title of that instrument reflects that electronic lodgment of sustainability reports is permitted under the instrument.
18. The definition of ‘eligible report’ in section 4 of that instrument is a report that a listed disclosing entity has to prepare or obtain under Division 1 or 2 of Part 2M.3 of the Corporations Act. This definition will capture any sustainability report that a listed disclosing entity is required to prepare under s292A of the Corporations Act.

Consultation

19. In November 2024, ASIC consulted on the proposal to extend the relief in ASIC Instrument 2023/673 in Consultation Paper 380: *Sustainability Reporting (CP 380)*. We received eight responses in relation to the proposal and all were supportive of our proposal to extend the relief in ASIC Instrument 2023/673.
20. A summary of the submissions and ASIC’s response is summarised in Report 809: *Response to submissions on CP 380*, and all non-confidential submissions in response to CP380 are available on ASIC’s website at www.asic.gov.au.

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21. ASIC did not undertake a public consultation process in relation to the amendment to ASIC Instrument 2016/181 given the minor and technical nature of this amendment, which is limited to the title of the instrument.

Operation of the instrument

22. Section 4 of the Amendment Instrument states that each instrument specified in a Schedule is amended as set out in the applicable items in the Schedule.
23. Item 1 of Schedule 1 to the Amendment Instrument amends the title of ASIC Instrument 2023/673 in section 1, to omit “Financial” so that the title refers to “Reporting by Stapled Entities”.
24. Item 2 of Schedule 1 to the Amendment Instrument inserts the definition of “other group members” and “relevant entity” into ASIC Instrument 2023/673.
25. Item 3 of Schedule 1 to the Amendment Instrument inserts new section 6A in ASIC Instrument 2023/673. The effect of subsection 6A(1) is to provide relief to enable a stapled entity relying on the relief in ASIC Instrument 2023/673 to prepare a sustainability report on behalf of the stapled group as if the entity and all the other members of the stapled group were a single entity. Subsection 6A(3) also relieves the other group members from complying with the sustainability reporting requirement under s292A for that financial year, where a sustainability report has been prepared in reliance on the relief in subsection (1).
26. Subsection 6A(2) provides that the sustainability reporting relief in 6A(1) is only available where the stapled entity or one of the other group members of the stapled group relies on the financial reporting relief under Instrument 2023/673 and where the sustainability report discloses that it was prepared in relief under the instrument.
27. Item 4 of Schedule 1 to the Amendment Instrument amends the title of ASIC Instrument 2016/181 in section 1, to insert “and Sustainability” so that the title refers to “Electronic Lodgment of Financial and Sustainability Reports”.
28. The Amendment Instrument commences on the day after it is registered on the Federal Register of Legislation.

Legislative instrument and primary legislation

11. The subject matter and policy implemented by this instrument is more appropriate for a legislative instrument rather than primary legislation because the instrument provides administrative relief in circumstances where strict compliance with the primary legislation produces an unintended or unforeseen result. If the matters in the instrument were to be inserted into the primary legislation, they would insert, into an already complex statutory framework, a set of specific provisions that would apply only to a relatively small group of

entities. This would result in additional cost and unnecessary complexity for other users of the primary legislation.

Duration of the instrument

14. The amendments made by the Amendment Instrument will cease to have effect on expiry of the principal instruments, i.e. ASIC Instrument 2023/673 and ASIC Instrument 2016/181. ASIC will review the instruments ahead of their sunset dates and consult on options for amending or remaking them as appropriate.

Legislative authority

16. The Amendment Instrument is made under subsection 341(1) and 352 of the Corporations Act.
17. Under subsection 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.
36. The Amendment Instrument is a disallowable legislative instrument.

Statement of Compatibility with Human Rights

20. 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 (Amendment) Instrument 2025/164

Overview

1. *ASIC Corporations (Amendment) Instrument 2025/164* (***Amendment Instrument***) amends *ASIC Corporations (Financial Reporting by Stapled Entities) Instrument 2023/673* to enable stapled entities relying on the relief in that instrument to prepare a sustainability report on behalf of the stapled group.
2. The Amendment Instrument also amends *ASIC Corporations (Electronic Lodgment of Financial Reports) Instrument 2016/181* to ensure the title of that instrument also refers to sustainability reports.
3. The amendments follow the enactment of *Treasury Laws Amendment (Financial Market Infrastructure and Other Measures) Act 2024* which amended the *Corporations Act 2001* to introduce sustainability reporting requirements.

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*.