



ASIC
Australian Securities &
Investments Commission

Explanatory Statement

ASIC Corporations (Amendment) Instrument 2025/548

This is the Explanatory Statement for *ASIC Corporations (Amendment) Instrument 2025/548*.

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

Summary

1. *ASIC Corporations (Amendment) Instrument 2025/548* (the **amending instrument**) extends the relief in *ASIC Corporations (Hardship Withdrawals Relief) Instrument 2020/778* (the **principal instrument**) for 18 months by replacing the cessation provision in paragraph 8 of the principal instrument with a self-repealing provision that repeals the instrument at the end of 28 February 2027.

Purpose of the instrument

2. The purpose of the amending instrument is to extend the relief set out in the principal instrument ('hardship relief') for 18 months and to repeal the instrument at the end of that period.
3. Under paragraph 8 of the principal instrument, the hardship relief will cease to apply after 28 August 2025.
4. The purpose of extending the hardship relief is to maintain the status quo while ASIC considers whether it will re-make the principal instrument to maintain the hardship relief, with amendments to support responsible entities of registered managed investment schemes ('schemes') seeking to rely on hardship relief.
5. The principal instrument was made to facilitate withdrawals from schemes where the responsible entity has suspended withdrawals and ceased to allow the issue of new interests in the scheme ('frozen schemes') for members facing financial hardship during the COVID-19 pandemic.
6. The principal instrument allows responsible entities to grant hardship withdrawals to members at their discretion if the member meets at least one of the hardship criteria, including urgent financial hardship, unemployment, compassionate grounds and permanent incapacity.

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7. A responsible entity relying on the principal instrument must comply with the requirements of the relief, including notifying ASIC and scheme members of its intention to rely on the relief. To date, no responsible entities have notified ASIC of their intention to rely on the hardship relief in relation to a frozen scheme.
 8. The extension of the relief will allow responsible entities that intend to rely on the hardship relief available under the principal instrument to do so until 28 February 2027.

Consultation

9. Before making the amending instrument, ASIC undertook targeted consultation with key stakeholders including various financial services industry and consumer representative bodies in relation to whether the hardship relief should be continued after 28 August 2025.
10. Responses to the targeted consultation were mixed. Although some respondents supported allowing the hardship relief to lapse, other respondents considered that hardship relief should continue to be available through a legislative instrument, with amendments to make it more workable for responsible entities seeking to rely on the relief.
11. Following consultation, ASIC determined it will maintain the status quo of the existing hardship relief for 18 months, whilst further consideration is given to amending the relief available under the principal instrument and the requirements for responsible entities to rely on the relief.

Operation of the instrument

12. Section 4 of the amending instrument states that each instrument specified in a Schedule is amended as set out in the applicable items in the Schedule.
13. Item 1 of Schedule 1 to the amending instrument amends paragraph 8 of the principal instrument by repealing the existing cessation provision and replacing it with a self-repealing provision that repeals the principal instrument at the end of 28 February 2027.

Retrospective application

14. The amending instrument does not have retrospective application.

Legislative instrument and primary legislation

15. The subject matter and policy implemented by the amending instrument is more appropriate for a legislative instrument rather than primary legislation because the amending instrument amends the principal instrument, which is itself a legislative instrument.

Duration of the instrument

16. The amending instrument amends the repeal date of the principal instrument to the end of 28 February 2027.
17. The amending instrument will be repealed under section 48A of the *Legislation Act 2003*.

Legislative authority

18. The amending instrument is made under subsection 601QA(1) of the *Corporations Act 2001*, through the exercise of power as expressed in section 33(3) of the *Acts Interpretation Act 2001* (the *AI Act*).
19. Section 33(3) of the AI Act provides that 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.
20. The amending instrument is a disallowable legislative instrument.

Statement of Compatibility with Human Rights

21. 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 2025/548

Overview

1. The amending instrument amends the paragraph 8 of the principal instrument by replacing the existing cessation provision (which provided that the relief would cease “5 years after the date the principal instrument commenced”) with a self-repealing provision that repeals the principal instrument at the end of 28 February 2027.
2. The principal instrument was made to facilitate withdrawals from schemes where the responsible entity has suspended withdrawals and ceased to allow the issue of new interests in the scheme (‘frozen schemes’) for members facing financial hardship during the COVID-19 pandemic.

Assessment of human rights implications

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

Conclusion

4. 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*.