



ASIC
Australian Securities &
Investments Commission

Explanatory Statement

ASIC Corporations (Electronic Disclosure) Instrument 2025/447 and ASIC Corporations (Amendment and Repeal) Instrument 2025/448

This is the Explanatory Statement for *ASIC Corporations (Electronic Disclosure) Instrument 2025/447 (Electronic Disclosure Instrument)* and *ASIC Corporations (Amendment and Repeal) Instrument 2025/448 (Amendment and Repeal Instrument)*.

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

Summary

1. The Electronic Disclosure Instrument modifies the *Corporations Act 2001 (Corporations Act)* and *Corporations Regulations 2001 (Corporations Regulations)* to facilitate electronic delivery of financial services disclosures.
2. This is done by modifying sections and regulations in the second column of Table 1 to enable the financial services disclosures listed in the first column to be delivered electronically, including without client consent, in more circumstances if conditions are met.

Table 1: Relevant financial services disclosures

Disclosure	Modified provisions
Financial Services Guides (FSGs) and Supplementary FSGs	s9, 940C; reg 7.7.01
Statements of Advice (SOAs)	
Cash Settlement Fact Sheets	
Product Disclosure Statements (PDSs), Supplementary PDSs and Replacement PDSs	s9, 1015C; reg 7.9.02A
Information statements for CGS depository interests (CGS Depository Interest Information Statement)	s9, 1020AK
Additional information sought on request under section 1017A of the Corporations Act (Additional Information)	s9, 1017A

Periodic statements under section 1017D of the Corporations Act (<i>Periodic Statements</i>)	s9; reg 7.9.75A
Ongoing disclosure of material changes and significant events under section 1017B of the Corporations Act (<i>Significant Event Notices</i>)	
Fund information under section 1017DA of the Corporations Act (<i>Fund Information</i>)	

3. The Electronic Disclosure Instrument modifies shorter product disclosure statement (***Shorter PDS***) requirements so that:
 - (a) their page length limitations are applicable only to the extent that the Shorter PDS can be printed; and
 - (b) the requirement to give a Shorter PDS upon request for Shorter PDSs in an electronic form does not apply if some or all of the material in the PDS is not capable of printing, provided conditions are met.
4. The Electronic Disclosure Instrument also modifies the provisions in the second column of Table 2 so that the requirements for the titles of disclosures listed in the first column of Table 2 to be on the disclosure cover or at or near the front, are amended to permit disclosure at the ‘beginning’ of the disclosure.

Table 2: Relevant financial services disclosures

Disclosure	Modified provisions
FSGs	s942A(1); reg 7.7.03(6)(a) and 7.7.06(6)(a)
FSGs made up of 2 or more separate documents	s942D(2) and 942D(4)
Supplementary FSGs	s943B(1)
SOAs	s947A(1)
Cash Settlement Fact Sheets	s948E(1)
PDSs	s1013B(1); reg 7.9.11E(3)(c)(ii), 7.9.11P(3)(c)(ii), 7.9.11X(3)(c)(ii) and 7.9.11.ZF(3)(c)(ii)
PDSs made up of 2 or more separate documents	s1013L(2) and 1013L(4)
Supplementary PDSs	s1014B(1)

Replacement PDSs	s1014K(2)
Short-Form PDSs	notional 1017J(1), reg item 3.1, Pt 3, Sch 10BA
Supplementary Short-Form PDSs	notional 1017M(1), reg item 3.1, Pt 3, Sch 10BA
Combined FSG and PDSs	reg 7.7.08A(2)(c) and 7.7.08A(3)(d)

5. The Electronic Disclosure Instrument continues relief formerly provided in *ASIC Corporations (Facilitating Electronic Delivery of Financial Services Disclosure) Instrument 2015/647 (LI 2015/647)* and *ASIC Corporations (Removing Barriers to Electronic Disclosure) Instrument 2015/649 (LI 2015/649)* which would have otherwise sunsetted under section 50 of the *Legislation Act 2003* on 1 October 2025.
6. The Amendment and Repeal Instrument inserts references to the Electronic Disclosure Instrument in place of LI 2015/647 in the following instruments:
 - (a) *ASIC Corporations (31-day Notice Term Deposits) Instrument 2025/172*
 - (b) *ASIC Corporations (Application Form Requirements) Instrument 2017/241*
 - (c) *ASIC Corporations (Share and Interest Sale Facilities) Instrument 2018/99*
7. The Amendment and Repeal Instrument replaces references to section 761A of the Corporations Act with section 9 as the location for the notional ‘nominated electronic means’ definition that the Electronic Disclosure Instrument inserts. This is because the Electronic Disclosure Instrument inserts the notional definition into section 9 rather than section 761A.

Purpose of the instruments

8. The purpose of the Electronic Disclosure Instrument is to modify the Corporations Act and Corporations Regulations to include further circumstances in which electronic financial services disclosures can be provided. Affected disclosures include PDSs, FSGs, SOAs, Cash Settlement Fact Sheets, Periodic statements, Significant Event Notices, Fund Information and Additional Information.
9. The Electronic Disclosure Instrument permits affected financial services disclosures to be made available to a person, or the person’s agent, by a ‘nominated electronic means’ and inserts a notional ‘nominated electronic means’ definition into section 9 of the Corporations Act.

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10. This definition includes conditions that must be met before a disclosure will be considered to have been made available by nominated electronic means. These conditions are safeguards designed to ensure investors and consumers do not miss the opportunity to choose an alternative method of delivery.
 11. The Electronic Disclosure Instrument also modifies the Corporations Act and Corporations Regulations to provide relief for electronic disclosures from requirements that would otherwise apply but be impractical. These requirements relate to page length of Shorter PDSs, a requirement to provide copies of electronic disclosure documents on request and requirements to place particular words on the cover, or at or near the front, of disclosure documents.
 12. The Corporations Act and Corporations Regulations do not require all products to have a disclosure document that is able to be printed. This is a decision that each provider will have to make in the context of their clients' preferences and their overriding obligations to provide clear, concise and effective disclosure.
 13. The Electronic Disclosure Instrument maintains the policy settings under LI 2015/647 and LI 2015/649. It extends the relief formerly in LI 2015/649 from the requirements for titles to appear on the cover of, or at or near the front of, relevant disclosures to Cash Settlement Fact Sheets.
 14. The purpose of the Amendment and Repeal Instrument is to make consequential amendments to ASIC instruments that cite LI 2015/547 so that the Electronic Disclosure Instrument is referenced, and to repeal LI 2015/547 and LI 2015/549.

Consultation

15. ASIC consulted on its proposal to remake the relief formerly in LI 2015/647 and LI 2015/649 for a period of five years. On 9 July 2025, ASIC issued a news item announcing its proposal to remake the relief and seeking comment. ASIC noted that it had assessed that the instruments were operating effectively and efficiently and continued to form a necessary and useful part of the legislative framework.
16. ASIC received five submissions that provided feedback on our proposal to remake the relief and none opposed our proposal. Submissions called for incorporation of the relief into the primary law and for like relief from obligations under the *Insurance Contracts Act 1984*. There was also feedback advocating for simpler relief and further guidance about which products or services the relief applies to and its interactions. In response, we have included further guidance about those topics in this explanatory statement (see in the Summary above). The suggestions for further reform have been raised with the Treasury.
17. ASIC did not consult on the Amendment and Repeal Instrument on the basis that it only makes simple consequential amendments to ASIC instruments and repeals ASIC instruments that were due to expire.

Operation of the instrument

Electronic Disclosure Instrument

Part 1 – Preliminary

18. Section 1 of the Electronic Disclosure Instrument specifies its name.
19. Section 2 of the Electronic Disclosure Instrument provides that it commences on the day after it is registered on the Federal Register of Legislation. The Electronic Disclosure Instrument does not have retrospective application.
20. Section 3 of the Electronic Disclosure Instrument provides that it is made under paragraphs 951B(1)(c) and 1020F(1)(c) of the Corporations Act.
21. Section 4 of the Electronic Disclosure Instrument provides a simplified outline for the Electronic Disclosure Instrument to aid understanding. However, the outline is not intended to be comprehensive, and readers should rely on the substantive provisions of the Electronic Disclosure Instrument when considering its effect.
22. Section 5 of the Electronic Disclosure Instrument sets out its definitions.

Part 2 – Declarations facilitating electronic delivery

23. Section 6 of the Electronic Disclosure Instrument contains a simplified outline for Part 2 of the instrument which provides relief formerly in LI 2015/647.
24. Section 7 of the Electronic Disclosure Instrument modifies the Corporations Act and Corporations Regulations to permit electronic delivery of financial services disclosures in more circumstances if conditions are met. These conditions are part of a ‘nominated electronic means’ definition that subsection 6(1) of the Electronic Disclosure Instrument inserts into section 9 of the Corporations Act. Subsection 6(1) also inserts an ‘ETF’ definition into section 9, which is relevant to understanding the ‘nominated electronic means’ definition as ‘ETF’ is a term that it uses.
25. The conditions in the ‘nominated electronic means’ definition that must be met include a requirement to notify clients of an intention to make a disclosure available by the nominated electronic means if the investor has not agreed that relevant disclosures can be made available in this way. The definition provides a period must have elapsed before an investor is taken to have elected to receive disclosures by nominated electronic means and specifies ways that notification must be given.
26. Subsection 7(2) of the Electronic Disclosure Instrument modifies section 940C of the Corporations Act to provide that a provider may make available an FSG, Supplementary FSG or SOA to a client, or a client’s agent, by a nominated electronic means, as an additional option for delivery.

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27. Subsection 7(3) of the Electronic Disclosure Instrument modifies regulation 7.7.01 of the Corporations Regulations to include a Supplementary FSG in addition to an FSG. It also provides that sub-regulation 7.7.01(2) does not apply if an FSG, Supplementary FSG or SOA is made available to a person by a nominated electronic means.
 28. Subsection 7(4) of the Electronic Disclosure Instrument modifies subsection 1015C(1) of the Corporations Act to provide that a provider may make available a PDS, Supplementary PDS or Replacement PDS to a client, or a client's agent, by a nominated electronic means.
 29. Subsection 7(5) of the Electronic Disclosure Instrument provides that sub-regulation 7.9.02A(1), which specifies how PDSs, Supplementary PDSs and Replacement PDSs may be given, does not apply to such disclosures made available to a person, or their agent, by a nominated electronic means.
 30. Subsection 7(6) of the Electronic Disclosure Instrument modifies subsection 1020AK(1) of the Corporations Act to provide that a provider may make available a CGS Depository Interest Information Statement to a client, or their agent, by nominated electronic means. Subsection 7(6) also allows the Statement to be given by any way that is agreed that allows the regulated person to be satisfied on reasonable grounds that the Statement has been received. This aligns the treatment of CGS Depository Interest Information Statements with other disclosures.
 31. Subsection 7(7) of the Electronic Disclosure Instrument modifies subsection 1017A(4) of the Corporations Act to provide that a provider may make available further information about a product on request by nominated electronic means.
 32. Subsection 7(8) of the Electronic Disclosure Instrument modifies regulation 7.9.75A of the Corporations Regulations to provide that a product issuer may make ongoing disclosure of material changes and significant events in relation to a product by nominated electronic means. Periodic Statements and Fund Information may also be made available to a client or a client's agent by nominated electronic means.
 33. Subsection 7(9) of the Electronic Disclosure Instrument modifies sections 1015C, 1017B and 1017D of the Corporations Act, and inserts notional subsections 1017DA(3D)-(3E) into Part 14.4 of Schedule 10A of the Corporations Regulations, to provide that a trustee of a standard employee sponsored superannuation fund may send disclosures to an electronic address provided by a fund member's (client's) employer, provided all of the following are satisfied:
 - (a) the employer provided the electronic address to the trustee as part of providing contact details for the client in relation to membership of the superannuation fund;
 - (b) the trustee gives the client reasonable opportunity to request an alternative method of receiving the PDS; and

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- (c) the trustee has no reasonable grounds to believe that the address is not a current address and has no reason to form that such a view within 14 days of sending the notice.

Part 3 – Declarations removing barriers to electronic disclosure

34. Section 8 of the Electronic Disclosure Instrument contains a simplified outline for Part 3 of the instrument which provides relief formerly in LI 2015/649.
35. Section 9 of the Electronic Disclosure Instrument modifies subsections of the Corporations Act, notional subsections of the Corporations Act inserted by item 3.1 of Part 3 of Schedule 10BA of the Corporations Regulations and paragraphs and sub-paragraphs of the Corporations Regulations so that titles required to be used on the cover of, or at or near the front of, relevant disclosures can be at the ‘beginning’ of the disclosure.
36. The modifications include a modification of subsection 948E(1) of the Corporations Act so that the title of a Cash Settlement Fact Sheet, which would otherwise have to be on the cover of, or at or near the front of, the Sheet can be in its ‘beginning’. This modification was not in the relief in former section 7 of LI 2015/649 and has been included so that the relief in section 9 of the Electronic Disclosure Instrument applies consistently to Cash Settlement Fact Sheets and other financial services disclosures.
37. Section 10 of the Electronic Disclosure Instrument amends Schedules 10C, 10D, 10E and 10F of the Corporations Regulations to provide that their Shorter PDS page length limits they impose only apply to the extent that material in a Shorter PDS can be printed.
38. Section 11 of the Electronic Disclosure Instrument amends section 1015C of the Corporations Act and Schedules 10C, 10D, 10E and 10F of the Corporations Regulations to relieve providers from requirements to provide a copy of a PDS upon request that would otherwise apply if some or all of the PDS is in an electronic form and not able to be printed, and the provider meets conditions.

Part 3 - Repeal

39. Section 12 of the Electronic Disclosure Instrument it at the start of 1 October 2030.

Amendment and Repeal Instrument

Part 1 – Preliminary

40. Section 1 of the Amendment and Repeal Instrument provides that its name is *ASIC Corporations (Amendment and Repeal) Instrument 2025/448*.
41. Section 2 of the Amendment and Repeal Instrument provides that it commences on the day after it is registered on the Federal Register of Legislation.

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42. Section 3 of the Amendment and Repeal Instrument provides the instrument is made under subsections 601QA(1), 741(1), 926A(2), 951B(1) and 1020F(2) of the Corporations Act.
 43. Section 4 of the Amendment and Repeal Instrument sets out that each instrument specified in the Schedule is amended, repealed, or has effect according to the applicable items in the Schedule.

Schedule 1 – Amendments

44. Item 1 of Schedule 1 of the Amendment and Repeal Instrument amends the note to notional subsection 1012D(7AJ)(b) of the Corporations Act that section 6 of *ASIC Corporations (31-day Notice Term Deposits) Instrument 2025/172* inserts to replace a reference to LI 2015/647 and section 761A with a reference to the Electronic Disclosure Instrument and section 9.
45. Item 2 of Schedule 1 of the Amendment and Repeal Instrument amends the definition of ‘nominated electronic means’ in section 4 of *ASIC Corporations (Application Form Requirements) Instrument 2017/241* to replace a reference to LI 2015/647 and section 761A with a reference to the Electronic Disclosure Instrument and section 9. Item 3 of Schedule 1 of the Amendment and Repeal Instrument makes a like amendment to the note to notional paragraph 1016A(2B)(a) of the Corporations Act in section 9 of *ASIC Corporations (Application Form Requirements) Instrument 2017/241*.
46. Item 4 of Schedule 1 of the Amendment and Repeal Instrument amends the ‘nominated electronic means’ definition in section 4 of *ASIC Corporations (Share and Interest Sale Facilities) Instrument 2018/99* to replace references to LI 2015/647 and section 761A with references to the Electronic Disclosure Instrument and section 9.

Schedule 2 – Repeals

47. Item 1 of Schedule 2 of the Amendment and Repeal Instrument repeals LI 2015/647. Item 2 of Schedule 2 repeals LI 2015/649.

Legislative instrument and primary legislation

48. The subject matter and policy implemented by the Instrument is more appropriate for a legislative instrument, rather than primary legislation. This is because the Instrument provides relief where strict compliance with the primary legislation would produce anomalous outcomes inconsistent with the intent of the primary law.
49. The Instrument is made under powers specifically delegated to ASIC to modify or affect the operation of the Corporations Act to provide a tailored and flexible regulatory environment that is fit for purpose.
50. It will be a matter for the Government and for Parliament as to whether the Corporations Act or Corporations Regulations may be amended in future to include the relief in the Electronic Disclosure Instrument.

Duration of the instrument

51. The Electronic Disclosure Instrument is repealed at the start of 1 October 2030. This period is appropriate to provide certainty for industry while the Government decides whether to amend the primary legislation.

Legislative authority

52. The Electronic Disclosure Instrument is made under paragraphs 951B(1)(c) and 1020F(1)(c) of the Corporations Act.
53. The Amendment and Repeal Instrument is made under subsections 601QA(1), 741(1), 926A(2), 951B(1) and 1020F(1) of the Corporations Act.
54. Under subsection 33(3) of the *Acts Interpretation Act 1901*, 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 repeal, rescind, revoke, amend or vary any such instrument.
55. The Electronic Disclosure Instrument and Amendment and Repeal Instrument are disallowable legislative instruments under the *Legislation Act 2003*.

Statement of Compatibility with Human Rights

56. 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 (Electronic Disclosure) Instrument 2025/447 and ASIC Corporations (Amendment and Repeal) Instrument 2025/448

Overview

1. The *ASIC Corporations (Electronic Disclosures) Instrument 2025/447 (Electronic Disclosure Instrument)* modifies the *Corporations Act 2001* and *Corporations Regulations 2001* to facilitate electronic delivery of financial services disclosures. This is done by enabling financial services disclosures to be delivered electronically in more circumstances if conditions are met, modifying shorter product disclosure statement (***Shorter PDS***) requirements for electronic Shorter PDSs, and modifying requirements for titles of disclosure documents to be on the cover of, or at or near the front of, the disclosure.
2. The Electronic Disclosure Instrument consolidates relief formerly in *ASIC Corporations (Facilitating Electronic Delivery of Financial Services Disclosure) Instrument 2015/647 (LI 2015/647)* and *ASIC Corporations (Removing Barriers to Electronic Disclosure) Instrument 2015/649 (LI 2015/649)* into a single instrument. It remakes the relief until 1 October 2030 and extends the relief from including words on the cover of, or at or near the front of, disclosures to Cash Settlement Fact Sheets.
3. *ASIC Corporations (Amendment and Repeal) Instrument 2025/448 (Amendment and Repeal Instrument)* repeals LI 2015/647 and LI 2015/649, which were due to expire on 1 October 2025. It amends three legislative instruments to replace references to LI 2015/647 and updates section 761A references as the location for the ‘nominated economic means’ definition that the Electronic Disclosure Instrument inserts to section 9.

Assessment of human rights implications

4. The Electronic Disclosure Instrument and Amendment and Repeal Instrument do not engage any of the applicable rights or freedoms.

Conclusion

5. The Electronic Disclosure Instrument and Amendment and Repeal Instrument are 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*.