



**ASIC**  
Australian Securities &  
Investments Commission

## Explanatory Statement

### *ASIC Corporations (Foreign Small Scale Offers) Instrument 2025/614*

This is the Explanatory Statement for *ASIC Corporations (Foreign Small Scale Offers) Instrument 2025/614 (Instrument)*.

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

#### Summary

1. The Corporations Act 2001 (**Act**) generally requires a prospectus or a Product Disclosure Statement (**PDS**) for an offer of securities or financial products that is received in Australia (unless an exemption applies). Most of the disclosure exemptions available under the Act require the securities offered to be in a class of securities quoted on an Australian market. There is no specific exemption for offers of securities that are quoted on an approved foreign market.
2. The Instrument gives conditional relief from the prospectus and PDS requirements for a small number of personal offers by foreign companies that are listed on an approved foreign market.

#### Purpose of the instrument

3. The relief is similar to the small scale offer exemptions in subsection 708(1) and section 1012E but the securities or interests must be in a class that is quoted on an approved foreign market and there is no monetary limit on the amount raised.
4. A company may rely on both the relief given in the Instrument and the small scale offer exemptions in the Act.
5. The Instrument provides relief, on largely the same terms as *ASIC Corporations (Foreign Small-Scale Offers) Instrument 2015/362* which was scheduled to expire on 1 October 2025. However, the relief has been reworded for clarity.

#### Consultation

6. On 9 July 2025, ASIC published simple consultation CS 25 Proposed remake of disclosure relief for offers of foreign securities and interests to Australian investors (**CS 25**) on its website.

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7. On 9 July 2025, ASIC also published an accompanying news item ASIC proposes to remake disclosure relief for offers of foreign securities and interests to Australian investors.
  8. ASIC brought CS 25 to the attention of its external stakeholders through the Corporate Finance Update published July 2025.
  9. ASIC did not receive any submissions to CS 25 (which closed 15 August 2025).

### **Operation of the instrument**

10. The Instrument commences on the day after it is registered on the Federal Register of Legislation.
11. The Instrument provides a conditional disclosure exemption for personal offers of securities or interests in a managed investment scheme made by a foreign company if the company reasonably believes the offer is made in accordance with foreign regulatory requirements.
12. A personal offer is one that:
  - (a) may only be accepted by the person to whom it is made; and
  - (b) is made to a person who is likely to be interested in the offer having regard to previous contact between the company and that person, some professional or other connection or statements by the person indicating interest in offers of that kind.
13. To qualify for relief, the following conditions must be satisfied:
  - (a) the securities or interests must be in a class that is quoted on an approved foreign market and trading must not be suspended;
  - (b) the number of persons in Australia who are issued securities in reliance on the relief must be no more than 20 in any 12 month period;
  - (c) Australian offerees must be given any disclosure relating to the offer that would have been required to be given to them under the laws of the primary foreign jurisdiction; and
  - (d) the disclosure must be in English and contain a prescribed warning statement.
14. The Instrument does not give any relief from the Act's on-sale restrictions in subsections 707(3) and 1012C(6). This means that a person who received securities or interests under a foreign small scale personal offer without a prospectus or PDS is restricted from selling those securities or interests in Australia within 12 months of receiving them.

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## **Legislative instrument and primary legislation**

15. The subject matter and policy implemented by this Instrument is more appropriate for a legislative instrument rather than primary legislation because the matters contained in the Instrument are highly specific and only apply where a relatively small number of offers are made in Australia. The Instrument provides administrative relief in circumstances where strict compliance with the primary legislation produces anomalous outcomes that would be inconsistent with the intent of the primary law. 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.
16. 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**

17. The Instrument will expire after 5 years.
18. This allows sufficient time for the Government and for Parliament to determine whether to amend the Act or Regulations to include the relief.

## **Legislative authority**

19. ASIC makes the Instrument is made under subsections 741(1) and 1020F(1) of the Act.
20. Subsection 741(1) provides that ASIC may:
  - (a) exempt a person from a provision of Chapter 6D; or
  - (b) declare that Chapter 6D applies to a person as if specified provisions were omitted, modified or varied as specified in the declaration.
21. Subsection 1020F(1) provides that ASIC may:
  - (a) exempt a person or class of persons from all or specified provisions of Part 7.9; or
  - (b) exempt a financial product or a class of financial products from all or specified provisions of Part 7.9; or
  - (c) declare that Part 7.9 applies in relation to a person or a financial product, or a class of persons or financial products, as if specified provisions were omitted, modified or varied as specified in the declaration.
22. The Instrument is disallowable under section 42 of the Legislation Act 2003.

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## Statement of Compatibility with Human Rights

23. 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 (Foreign Small Scale offers) Instrument 2025/614***

#### Overview

1. This instrument gives conditional relief from the disclosure requirements in Ch 6D of the *Corporations Act 2001* (**Act**) and the Product Disclosure Statement (**PDS**) requirements in Part 7.9 of the Act for a small number of personal offers by companies that are listed on an approved foreign market.

#### 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*.