



ASIC
Australian Securities &
Investments Commission

Explanatory Statement

ASIC Corporations (Externally-Administered Bodies) Instrument 2025/584

This is the Explanatory Statement for *ASIC Corporations (Externally-Administered Bodies) Instrument 2025/584*.

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

Summary

1. *ASIC Corporations (Externally-Administered Bodies) Instrument 2025/584* (the **instrument**) temporarily relieves entities under external administration from certain financial reporting and annual general meeting (**AGM**) obligations imposed by the *Corporations Act 2001* (the **Act**). The instrument also provides more extensive financial reporting relief for entities that are being wound-up.

Background

2. Companies, registered managed investment schemes and other entities have financial reporting obligations under Part 2M.3 of the Act, and public companies must hold annual general meetings. Companies that are Australian financial services (**AFS**) licensees, including responsible entities of registered schemes, also have AFS financial reporting obligations under Part 7.8 of the Act. These obligations would ordinarily apply even if an entity is under external administration or a registered scheme is being wound-up.
3. Compliance with financial reporting and AGM obligations may be an unreasonable burden in circumstances where the entity is in external administration or being wound-up, when balanced against the cost to creditors and members in complying with these obligations and the availability of information to creditors and members under Chapter 5 of the Act.
4. The instrument therefore provides exemptions from financial reporting and AGM obligations consistent with the policy in Regulatory Guide 174 *Relief for externally administered companies and registered schemes being wound up* (**RG 174**). The instrument replaces *ASIC Corporations (Externally-Administered Bodies) Instrument 2015/251* (**ASIC Instrument 2015/251**), which was repealed by *ASIC Corporations (Repeal) Instrument 2025/440*.

Purpose of the instrument

5. The instrument's purpose is to reduce the regulatory burden on financially distressed entities that are under a form of external administration by providing relief from certain obligations imposed by the Act. Some of the types of relief this instrument grants include:
 - (a) for a company that has a liquidator appointed—an exemption from annual and half-yearly financial reporting requirements under Part 2M.3 of the Act and from the requirement in section 250N of the Act to hold an annual general meeting. These exemptions do not apply to financial services licensees and certain other companies;
 - (b) for a company that is under other forms of external administration—a temporary exemption from annual and half-yearly financial reporting requirements under Part 2M.3 of the Act and from the requirement in section 250N of the Act to hold an annual general meeting;
 - (c) for registered schemes, notified passport funds and CCIVs that are being wound up and that have passed insolvency resolutions—from annual and half-yearly financial reporting requirements under Part 2M.3 of the Act and, in the case of a registered scheme, an exemption from compliance plan audit requirements under section 601HG of the Act;
 - (d) for a company that has ceased to hold an Australian financial services licence and that has a liquidator appointed—an exemption from the financial reporting requirements in Subdivision C of Division 6 of Part 7.8 of the Act;
 - (e) for a company that is a financial services licensee that is under certain forms of external administration—a temporary exemption from the requirement to lodge reports with ASIC under Subdivision C of Division 6 of Part 7.8 of the Act.
6. The exemptions are subject to various requirements to ensure that adequate information is available to members and creditors.

Consultation

7. On 7 July 2025, ASIC consulted publicly on our proposal to remake the relief formerly in ASIC Instrument 2015/251 through CS 24 *Proposed remake of financial reporting-related legislative instruments*.
8. We received one submission. The submission suggested extending the exemptions provided by ASIC Instrument 2015/251 to cover entities being voluntarily deregistered on the basis that these companies will have minimal assets or liabilities. The submission argued that financial reporting was unwarranted on cost-benefit grounds in these circumstances. We decided not to extend the relief to include companies that are in the process of voluntary deregistration under section 601AA of the Act. We considered that extending the relief in this way would involve different policy considerations to the relief under ASIC Instrument 2015/521 which focuses on relieving the regulatory burden on entities under external administration. The instrument has therefore

been remade substantively in the same form as ASIC Instrument 2015/251 with only minor drafting changes.

Operation of the instrument

9. Section 4 of the instrument provides a simplified outline for the instrument. Its purpose is to assist readers in understanding the substantive provisions. However, the outline is not intended to be comprehensive and readers should rely on the substantive provisions when considering the instrument's effect.

Section 6 Companies being wound up

10. The exemption in paragraph 6(1)(a) of the instrument means that a company that has a liquidator appointed is not required to comply with financial reporting obligations in Part 2M.3 for each financial year during which a liquidator is appointed. The exemption is prospective i.e. it applies to the company's financial reporting obligations that arise after the date of the appointment of the liquidator. The exemption applies where a liquidator is appointed as at the day that the company would otherwise have been required to lodge a report.
11. The exemption in paragraph 6(1)(b) of the instrument means that a company in liquidation is not required to comply with any outstanding financial reporting obligations that were due before the liquidator's appointment. This exemption only applies to the company's continuing obligation from the date the liquidator is appointed. It does affect any liability of the company or its directors for contraventions of Part 2M.3 before the appointment of the liquidator.
12. The exemptions in section 6 are conditional on the company having adequate arrangements in place to answer a member's reasonable questions about the winding up: see subsection 6(2) of the instrument.

Exclusions

13. The exemption in subsection (6)(1) of the instrument does not apply to a company that has an administrator appointed to it under Part 5.3A of the Act or is subject to a deed of company arrangement: subsection 6(3). This is because the winding-up is suspended if a voluntary administrator is appointed by the liquidator or while the company is subject to a deed of company arrangement.
14. The exemption in subsection 6(1) of the instrument also does not apply if the company holds an AFS licence. The obligation under paragraph 912A(1)(d) for an AFS licensee to have available adequate financial resources to provide the financial services covered by the AFS licence and to carry out supervisory arrangements continue to apply for so long as the AFS licence is held by the AFS licensee. We consider that it would be inconsistent to grant a broad exemption from the financial reporting obligations in Part 2M.3 while the company continues to hold an AFS licence.

Section 7 Public companies being wound up: AGMs

15. A public company that is exempt from financial reporting requirements under paragraph 6(1)(a) of the instrument is also exempt from the requirement under section 250N of the Act to hold an AGM: subsection 7(1).
16. For public companies that have a liquidator appointed, the safeguard function served by the AGM in ordinary circumstances is diminished when a company enters into liquidation. The business ordinarily conducted at an AGM—including the appointment and replacement of directors, and the presentation of financial reports to members—will no longer be relevant and the AGM will be an unnecessary expense.

Section 8 Deferral of Pt 2M.3 financial reporting obligations for certain companies

17. Subsection 8(1) of the instrument provides a conditional, temporary exemption from financial reporting obligations in Part 2M.3 of the Act to companies in external administration. The relief expires at the end of the deferral period.
18. The length of the deferral period depends on how long the external administration lasts. If an external administration ends within 6 months, the deferral period is from the date the external administrator is appointed to 6 months after that date. If the company is still under administration after 6 months, the deferral period is from the date the external administrator is appointed until the earliest of the following:
 - (a) 24 months after the appointment;
 - (b) where a deed administrator is appointed – the day a director regains management powers under a deed of company arrangement or consent of the deed administrator; and
 - (c) the day the external administration ends.

Conditions

19. The exemptions in subsection 8(1) and (2) of the instrument are conditional on:
 - (a) the company complying with the relevant obligations by the last day of the deferral period;
 - (b) the company having adequate arrangements in place to answer members' questions about the relevant external administration during the deferral period;
 - (c) the company publishing a notice of the company's intention to rely on the exemption on the company's website, the external administrator's website and if the company is listed on a prescribed financial market – on a website maintained by the financial market operator. This notice must be published before the earliest time the financial reporting obligations would

have arisen but for subsection 8(1) of the instrument: see subsection 8(3) of the instrument.

Alternative methods for distributing deferred annual report

20. Subsection 8(4) of the instrument allows an externally administered company that relies on the deferral relief to use alternative methods of distributing a deferred annual report to members, instead of sending it to them personally (as is required by subsection 8(3)(a) of the instrument). To take advantage of alternate distribution methods, the company and the relevant external administrator must give notice on the company's website and notice on the relevant external administrator's website that the annual report has been lodged with ASIC and is available to members free of charge on request (see the definition of 'prescribed notice' in section 4 of the instrument for the full requirements).

Exclusions

21. The exemptions in section 8 of the instrument do not apply to a retail CCIV in relation to a sub-fund of the CCIV, small proprietary companies or small companies limited by guarantee that have received a direction from their members requesting financial reports: subsection 8(5) of the instrument.
22. The exemptions also not apply where:
- (a) ASIC has issued a direction to a company under section 321 of the Act requiring the company to lodge a financial report; or
 - (b) ASIC has given the company a notice stating that the company is excluded from relying on the deferral relief in subsection 8(1) and 8(2) of the principal instrument and ASIC has not withdrawn the notice.

Section 9 Public companies under external administration: AGMs

23. Subsection 9(1) of the instrument exempts public companies that are relying on the deferral relief in subsections 8(1) or 8(2) of the instrument from the obligation under section 250N of the Act to hold an AGM, or any continuing obligation on the company to hold an AGM that the company had not complied with before the appointment of the relevant external administrator, until the end of the deferral period.
24. A company relying on the AGM deferral relief must:
- (a) hold an AGM within two months after the end of the deferral period, and lay before that AGM all the deferred financial reports;
 - (b) before the end of the period within which the company would otherwise be required to hold its next AGM after the start of the deferral period, but for the AGM deferral relief, arrange for a notice of the company's intention to rely on the deferral relief to be published:

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- (i) in a prominent place on the company's website (if any);
 - (ii) in a place that is readily accessible on a website (if any) maintained by the relevant external administrator or any external administrator appointed after the relevant external administrator; and
 - (iii) if the company is listed—on a website maintained by the financial market operator; and
- (c) have adequate arrangements in place during the deferral period to answer, within a reasonable period of time and without charge, any reasonable questions asked by a member of the company about its external administration and its obligations to hold any deferred AGM.
25. The AGM deferral relief in subsection 9(1) of the instrument does not apply where ASIC has given the company a notice stating that the company is excluded from relying on the AGM deferral relief and ASIC has not withdrawn the notice.

Section 10 Schemes being wound up

26. Section 10 of the instrument exempts a responsible entity of a registered scheme which is being wound up from:
- (a) all current and future financial reporting obligations under Part 2M.3,
 - (b) section 601HG (audit of compliance plan) of the Act, and
 - (c) regulation 5C.9.01 (final report on completion of the winding up) of the *Corporations Regulations 2001* in certain circumstances.
27. The exemption in subsection 10(1) of the instrument for the current financial year is available where:
- (a) the responsible entity has notified ASIC of the commencement of the winding-up of the registered scheme under regulation 5C.9.01 or, if a person appointed by the Court under subsection 601NF(1) to take responsibility for winding up the scheme, has notified ASIC of their appointment; and
 - (b) the responsible entity or the person appointed under subsection 601NF(1) has lodged with ASIC a 'scheme insolvency resolution' stating that, for at least 12 months, the scheme property has been insufficient to meet the debts of the responsible entity incurred in that capacity as and when they were due and payable.
28. The requirement that a registered scheme be insolvent for 12 months provides sufficient certainty that scheme property has not been available to meet the debts of the responsible entity in its capacity as responsible entity of the registered scheme.

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29. Paragraph 10(2)(a) of the instrument provides that the responsible entity does not have to comply with financial reporting obligations for subsequent periods or earlier financial periods (to the extent that the responsible entity would have continuing obligations).
 30. Paragraph 10(2)(b) of the instrument provides relief from the obligation in section 601HG of the Act to obtain a compliance plan audit report and the obligations in reg 5C.9.01 and approved form 5138 to lodge a final audited financial report and auditor's reports on completion of the winding up of an insolvent registered scheme. Compliance plan audit reports, audited financial reports and auditor's reports on completion of the winding up may be of limited value and create an unreasonable burden in these circumstances.

Section 18 Alternate disclosure required by insolvent registered schemes being wound-up

31. Insolvent registered schemes that are being wound-up and relying on the exemption in section 10 of the instrument must comply with section 601NFA as notionally inserted by section 18 of the instrument.
32. Section 601NFA requires the responsible entity or the person appointed under subsection 601NF(1) of the Act to give members a report that includes the following information (unless the disclosure of that information would be prejudicial to the winding-up):
 - (a) information about the progress and status of the winding-up of the scheme, including details (as applicable) of:
 - (i) the actions taken during the period;
 - (ii) the actions required to complete the winding-up;
 - (iii) the actions proposed to be taken in the next 12 months;
 - (iv) the expected time to complete the winding-up; and
 - (b) financial information about receipts and payments for the scheme during the period; and
 - (c) the following information as at the end of the period:
 - (i) the value of scheme property; and
 - (ii) any potential return to scheme members.
33. The reporting obligations under Chapter 5 of the Act for corporate external administration do not ordinarily apply to the winding-up of a registered scheme. The reporting requirements under notional section 601NFA inserted by the instrument will ensure that scheme members receive important information about the winding-up, similar, to that available to creditors and members of an externally administered company.

Section 11 Notified foreign passport funds being wound up

34. Subsection 11(1) of the instrument exempts the operator of a notified foreign passport fund that is being wound up from financial reporting obligations under Part 2M.3 of the Act in certain circumstances. The exemption applies where the operator has lodged:
- (a) a notice under subsection 12(5) of the Australian Passport Rules in the approved form that the winding-up of the fund has commenced; and
 - (b) a copy of a notified foreign passport fund insolvency resolution.
35. Complying with the financial reporting obligations in Part 2M.3 of the Act will impose unreasonable burdens on the operator of a notified foreign passport fund where it is clear that the assets of the fund are insufficient to meet the debts of the operator of the fund incurred in that capacity as and when they were due and payable.

Section 19 Alternate disclosure required by notified foreign passport funds being wound up

36. The operator of a notified foreign passport fund that is relying on the exemption in section 11 of the instrument must comply with notional section 1213MA (inserted by section 19 of the instrument).
37. Section 1213MA requires the operator of a notified foreign passport fund to make available to members a report at regular intervals. This report must include the following information (unless the disclosure of that information would be prejudicial to the winding-up):
- (a) information about the progress and status of the winding-up, including details (as applicable) of:
 - (i) the actions taken during the period;
 - (ii) the actions required to complete the winding-up;
 - (iii) the actions proposed to be taken in the next 12 months;
 - (iv) the expected time to complete the winding-up; and
 - (b) financial information about receipts and payments for the fund during the period; and
 - (c) the following information as at the end of the period:
 - (i) the value of fund; and
 - (ii) any potential return to fund members.
38. Section 1213MA also requires the operator of a notified foreign passport fund to have adequate arrangements in place to answer, within a reasonable period of

time and without charge, any reasonable questions asked by a member of the fund about the winding up.

Section 12 Winding-up of sub-funds of retail CCIVs

39. Section 12 of the instrument exempts a retail CCIV from having to comply with Part 2M.3 of the Act in relation to a sub-fund if at the date the retail CCIV was obliged to lodge a report, the sub-fund had a liquidator appointed to it.
40. The availability of the relief is subject to the condition that the retail CCIV must have adequate arrangements in place to answer questions asked by a member of the sub-fund about the winding up.

Section 13 Former AFS licensees being wound up

41. Subsection 13(1) of the instrument exempts a company that held an AFS licence as at the end of the company's financial year from the financial reporting obligations in Part 7.8 of the Act in relation to the financial year if the company has a liquidator appointed. The company is also exempt from any continuing AFS licensee financial reporting obligations that the company had not complied with before the appointment of the liquidator and before cancellation of the AFS licence.
42. The exemption in subsection 13(1) of the instrument does not apply to a company that has an administrator appointed under Part 5.3A of the Act, is subject to a deed of company arrangement or continues to hold an AFS licence.

Section 14 Financial services licensees under other external administration

43. Section 14 of the instrument extends the time for reporting under Part 7.8 of the Act for companies that hold an AFS licence and have a relevant external administrator appointed. The exemption applies to AFS licensee financial reporting obligations that fall due in the six-month period following the appointment of the relevant external administrator and to any outstanding AFS licensee financial reporting obligations that were due before the appointment the relevant external administrator.
44. The exemptions for AFS licensee financial reporting obligations in Part 7.8 of the Act apply until the last day of the licensee deferral period (which ends on the day that is 6 months after the day of the appointment of the relevant external administrator): see the definition of licensee deferral period in section 4 of the instrument. AFS licensees may also be able to rely on the deferral exemption in section 8 of the instrument for financial reporting obligations under Part 2.M.3 of the Act.

Section 15 Effect of specifications under s915H of the Act

45. Section 15 of the instrument ensures that any AFS licensee whose licence has been cancelled or suspended and who has been given a specification under section 915H must comply with the specification in the event of any inconsistency with the relief under the instrument. Under section 915H of the Act, ASIC may, in the written notice of suspension or cancellation of an AFS licence specify the licence continues in effect as though the suspension or cancellation had not happened for the purposes of specified provisions of the Act.
46. A specification under section 915H is an important regulatory tool by which ASIC may require the AFS licensee to comply with financial reporting obligations under Part 2M.3 or Part 7.8 of the Act.

Section 16 Application for review by Administrative Review Tribunal

47. Section 16 of the instrument provides that applications may be made to the Administrative Review Tribunal for review of a decision by ASIC to give a notice stating that a company is excluded from relying on the deferral relief or the AGM deferral relief.

Section 17 Transitional arrangements

48. Section 17 of the instrument continues the exemptions in sections 6A and 8 of ASIC Instrument 2015/252 provided the company published the required notice under paragraph 6A(3)(a) or 8(3)(a).

Legislative instrument and primary legislation

49. The subject matter and policy implemented by the instrument is more appropriate for a legislative instrument than primary legislation because it provides relief where strict compliance with the primary legislation produces anomalous outcomes that would be inconsistent with the intent of the primary law.
50. 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.
51. 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 provided by the instrument.

Commencement and duration of the instrument

52. The instrument was made on 19 September 2025 and commences on the day after it is registered. The duration of the instrument is 5 years.

Legislative authority

- 53. The principal instrument is made under sections 250PAA, 341, 341A, 601QA, 992B, 1217 and 1243 of the Act.
- 54. The principal instrument is a disallowable legislative instrument.

Statement of Compatibility with Human Rights

- 55. 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 (Externally-Administered Bodies) Instrument 2025/584

Overview

1. *ASIC Corporations (Externally-Administered Bodies) Instrument 2025/584* provides relief to certain externally administered entities by easing financial reporting and AGM obligations.

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*.