



ASIC

Australian Securities & Investments Commission

REPORT 574

Overview of decisions on relief applications (October 2017 to March 2018)

June 2018

About this report

This is a report for participants in the capital markets and financial services industry who are prospective applicants for relief.

This report outlines some of our decisions on relief applications during the period from 1 October 2017 to 31 March 2018. It summarises examples of situations where we have exercised, or refused to exercise, ASIC's exemption and modification powers from the financial reporting, managed investment, takeovers, fundraising or financial services provisions of the *Corporations Act 2001* and the *National Consumer Credit Protection Act 2009*.

It also refers to a number of publications issued by ASIC during the period from 1 October 2017 to 31 March 2018 that may be relevant to prospective applicants for relief, including legislative instruments, consultation papers, regulatory guides and reports.

About ASIC regulatory documents

In administering legislation ASIC issues the following types of regulatory documents.

Consultation papers: seek feedback from stakeholders on matters ASIC is considering, such as proposed relief or proposed regulatory guidance.

Regulatory guides: give guidance to regulated entities by:

- explaining when and how ASIC will exercise specific powers under legislation (primarily the Corporations Act)
- explaining how ASIC interprets the law
- describing the principles underlying ASIC's approach
- giving practical guidance (e.g. describing the steps of a process such as applying for a licence or giving practical examples of how regulated entities may decide to meet their obligations).

Information sheets: provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

Reports: describe ASIC compliance or relief activity or the results of a research project.

Disclaimer

This report does not constitute legal advice. We encourage you to seek your own professional advice to find out how the *Corporations Act* and/or the *National Consumer Credit Protection Act 2009* and other applicable laws apply to you, as it is your responsibility to determine your obligations.

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Overview

1 ASIC has powers under the *Corporations Act 2001* (Corporations Act) to exempt a person or a class of persons from particular provisions and to modify the application of particular provisions to a person or class of persons. This report deals with the use of ASIC's exemption and modification powers under various provisions of the Corporations Act, including the following:

- (a) Ch 2M (financial reports and audit);
- (b) Ch 5C (managed investment schemes)
- (c) Ch 6 (takeovers);
- (d) Ch 6D (fundraising); and
- (e) Ch 7 (financial services and markets).

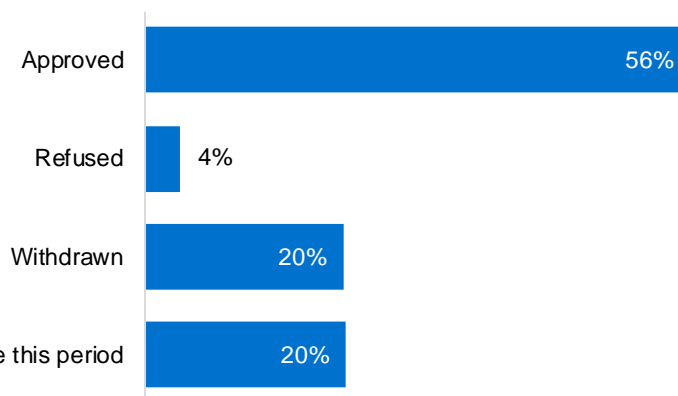
Note: In this report, references to sections (s), chapters (Chs) and parts (Pts) are to the Corporations Act, unless otherwise specified.

2 ASIC has powers to grant relief under the provisions of Chs 2 (licensing) and 3 (responsible lending) of the *National Consumer Credit Protection Act 2009* (National Credit Act) and from all or specified provisions of the National Credit Code, which is in Sch 1 to the National Credit Act.

3 The purpose of the report is to improve the level of transparency and the quality of information available about decisions we make when we are asked to exercise ASIC's discretionary powers to grant relief from provisions of the Corporations Act and the National Credit Act.

4 This report covers the period beginning 1 October 2017 and ending 31 March 2018 (report period). During the report period, we received 762 applications: see Figure 1 for a summary of the outcomes of all relief applications we received during this period.

Figure 1: Outcome of all relief applications received in the report period



Note: Figure 1 excludes the outcomes of all relief applications we received before 1 October 2017 but determined in this period.

Note: See Table 19 in the appendix for the data shown in this figure (accessible version).

- 5 The ‘Decided outside this period’ category is made up of applications that we received between 1 October 2017 and 31 March 2018 but were not approved, refused or withdrawn within the period. This could be because of several reasons, such as the applications:
- (a) being incomplete;
 - (b) failing to fully address all the relevant issues;
 - (c) being new policy applications (and therefore requiring more time to consider); and
 - (d) being received towards the end of the report period.
- 6 This report does not provide details of every single decision made in the period. It is intended to provide examples of decisions that demonstrate how we have applied our policy in practice. We use our discretion to vary or set aside certain requirements of the law where the burden of complying with the law significantly detracts from its overall benefit, or where we can facilitate business without harming other stakeholders.
- 7 In this report, we have outlined matters in which we refused to exercise ASIC’s discretionary powers as well as matters in which we granted relief. Prospective applicants for relief may gain a better insight into the factors we take into account in deciding whether to exercise our discretion to grant relief.
- 8 The appendix to this report details the individual relief instruments we have executed for matters referred to in the report. Legislative instruments are available from our website at www.asic.gov.au/li. Individual relief instruments are published in the *ASIC Gazette*, available at www.asic.gov.au/gazettes, or under ‘credit relief’ on our website (for credit instruments). A register of waivers, including class rule waivers, granted under ASIC market integrity rules is published on our website at www.asic.gov.au/markets under ‘market integrity rules’. For media releases on the matters and publications referred to in this report, see www.asic.gov.au/mr.
- 9 This report refers to a number of publications issued by us during the period that may be relevant to prospective applicants for relief. These include legislative instruments, consultation papers, information sheets, regulatory guides and reports.

Industry funding model—Fees for service

- 10 Applicants for relief should be aware that, as part of the implementation of ASIC’s industry funding model, the fees we charge for our services—including fees for processing applications for relief—are expected to increase from 1 July 2018 (subject to legislation passing). For further information, please see the [ASIC industry funding page](#) on our website.

A AFS licensing relief

Key points

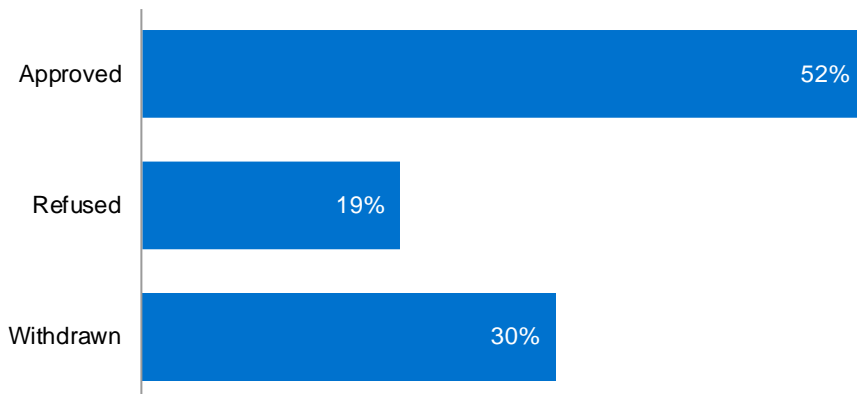
This section outlines some of our decisions on whether to grant relief under Ch 7 of the Corporations Act, including under s926A(2), from the Australian financial services (AFS) licensing requirements.

We also outline the publications we issued during the period of this report that relate to licensing relief.

Key statistics

- 11 We have set out a summary of the outcomes of applications for AFS licensing relief that we determined in this period: see Figure 2.

Figure 2: Outcome of AFS licensing relief applications decided in the report period



Note 1: Figure 2 shows the outcomes of applications decided during the report period, including those received before 1 October 2017.

Note 2: See Table 20 in the appendix for the data shown in this figure (accessible version).

AFS licence requirements

Licensing relief for electronic funds transfer payment gateway

- 12 We granted AFS licensing relief to the operator of an electronic funds transfer payment gateway. Consumers pay for goods and services through mobile and desktop devices, by authorising the operator of the gateway to act on their behalf to initiate a particular payment transaction from an account held with the consumer's financial institution.

- 13 We considered the facility to be a non-cash payment facility because it is a facility through which a consumer causes payments to be made.
- 14 The exemption contained in reg 7.1.07G of the Corporations Regulations 2001 is expressed to apply to ‘an operator of a payment system’. As this is an undefined term, we accepted the operator’s view that there may be some doubt about whether the facility came within that exemption.
- 15 To avoid doubt about whether the operator needed to hold an AFS licence, we granted relief subject to conditions to minimise consumer risk. Under the conditions, the operator must:
- (a) have an internal dispute resolution (IDR) procedure and give consumers information about how it may be accessed;
 - (b) be a member of an ASIC-approved external dispute resolution (EDR) scheme; and
 - (c) give consumers information about:
 - (i) the terms and conditions that apply to the facility; and
 - (ii) procedures for dealing with any unauthorised or mistaken transactions.

Licensing relief for custodial services and dealing in a mutual risk scheme

- 16 We granted licensing relief to a not-for-profit entity that deals in and provides custodial services for two mutual risk schemes designed to manage liability risks of Queensland local government related entities.
- 17 We granted conditional licensing relief for the following reasons:
- (a) the requirement to hold an AFS licence would involve additional compliance costs for the applicant without providing significant additional protection for consumers. Without licensing relief, the applicant would only need an AFS licence covering a narrow part of its overall financial services business—most parts of the applicant’s financial services business were exempted under the Corporations Act, due to the applicant’s intermediary authorisation arrangement with an AFS licensee;
 - (b) we were satisfied that there would be additional protections in place to ensure appropriate operation of the schemes and adequacy of scheme resources (in the absence of an AFS licence), including annual auditing by the Queensland Auditor-General; and
 - (c) although not a sufficient reason in isolation, we noted the applicant’s clients were primarily wholesale clients.

- 18 We also granted the applicant financial product disclosure relief (described in paragraphs 31–35) and scheme registration relief (described in paragraphs 73–74).

Offers of foreign exchange products

Refusal to declare certain foreign exchange products not to be financial products

- 19 We refused to give relief to a currency exchange service provider seeking a declaration that two proposed foreign exchange products are not financial products under s765A(2).
- 20 The proposed foreign exchange products were structured to allow a consumer to:
- (a) lock in an exchange rate up to one month before the date of collection, with the option of collecting the currency at the locked-in rate or on the spot rate on the day of collection; and
 - (b) refund some, or all, of their remaining currency within 50 days at the original exchange rate or the spot rate on the day of refund.
- 21 The products are derivatives under s761D. The applicant submitted the products are analogous to spot exchange contracts, which are not regulated under s765A(1)(m), and should be regulated in a manner similar to spot exchange contracts.
- 22 We refused relief because we considered that the lapse in time between the reservation and collection dates of the ordered physical currency was material to the purpose and operation of the products. In our view, the intended effect and operation of Ch 7 is to regulate foreign exchange contracts that are not settled immediately as financial products. We considered the regulatory detriment associated with the loss of protections intended by Parliament, such as disclosure to consumers about their rights under these products, was significant. As the requested relief could not be made conditional on providing consumers with additional disclosure, we determined that providing relief was not in line with our policy.

Responsible entity's NTA requirements

Relief to modify the currency of an auditor's report on a custodian's compliance

- 23 We granted relief to modify how current an auditor's report on a custodian's compliance must be (under s912AA(7)(c)) for the responsible entity to

continue to be subject to the lower net tangible asset (NTA) requirements in s912AA(4)(a).

Note: Sections 912AA(7)(c) and 912AA(4)(a) were notionally inserted by [Class Order \[CO 13/760\]](#) *Financial requirements for responsible entities and operators of investor directed portfolio services*.

- 24 A responsible entity is subject to the lower NTA requirements if all the scheme assets are held by a custodian that satisfies the requirements in s912AA(7): s912AA(4). Under s912AA(7)(c), a custodian will satisfy s912AA(7) at a particular point in time if:
- (a) the responsible entity has a copy of an auditor's report for a period at least 12 months that ended no more than 16 months before the relevant time; and
 - (b) the report states that, in the auditor's opinion, the custodian complied with the financial requirements in s912AC that apply to custodians that are:
 - (i) authorised to provide custodial or depository services; and
 - (ii) not incidental providers.

Note: Section 912AC was notionally inserted by [Class Order \[CO 13/761\]](#) *Financial requirements for custodial or depository service providers*.

- 25 The responsible entity and custodian applied for relief to extend the time during which the responsible entity could rely on the auditor's report, from 16 months to 17 months. They sought relief because the custodian had recently changed its financial year-end to 30 September and the financial statements for the current year (1 July 2016 to 30 September 2017) would not be available until 30 November 2017. To comply with s912AA(7)(c), the responsible entity could only rely on the auditor's report for the previous financial year (1 July 2015 to 30 June 2016) until 31 October 2017. From 1 November 2017, that auditor's report would be outside the 16-month period and the responsible entity would need to either obtain a new auditor's report or be subject to the higher NTA requirements in s912AA(4)(b).
- 26 We granted relief to enable the responsible entity to rely on the auditor's report for 2015–16 within 17 months of that year-end. As a result, the responsible entity had until 30 November 2017 to obtain the auditor's report and, if it met the other requirements in s912AA(7)(c), remain subject to the lower NTA requirements after then.
- 27 We granted the relief on the basis that:
- (a) the scope of the relief was limited to s912AA(7)(c) and the responsible entity must still meet the other requirements in s912AA(7) to remain subject to the lower NTA requirements;
 - (b) strict compliance with the requirement in s912AA(7)(c) would be disproportionately burdensome to the custodian, as the auditor's report

will need to be provided within one month of the financial year-end and before the custodian's financial statements for the current financial year were available;

- (c) a one-month extension to allow the custodian to provide the audited report would not undermine our regulatory objectives in [\[CO 13/760\]](#) and addresses an unusual and unforeseen circumstance of changing the financial year-end;
- (d) the extension will not be required for subsequent years when the custodian's financial year aligns to a 12-month period;
- (e) the custodian will still comply with the requirements in s912AA(7)(c), but for an extended timeframe of one month; and
- (f) it is consistent with our policy in [Regulatory Guide 51 Applications for relief \(RG 51\)](#) and [Regulatory Guide 167 Licensing: Discretionary powers \(RG 167\)](#).

Publications

28 We issued the following publications on AFS licensing relief during the report period: see Table 1–Table 3.

Table 1: New regulatory documents on AFS licensing relief issued during the report period

Type and number	Title	Media release	Date issued
Consultation Paper 297	<i>Retaining ASIC's fintech licensing exemption</i>	17-429MR	12 December 2017
Report 553	<i>Overview of licensing and professional registration applications: July 2016 to June 2017</i>	17-413MR	30 November 2017
Report 560	<i>Response to submissions on CP 290 Sell-side research</i>	17-456MR	21 December 2017
Regulatory Guide 264	<i>Sell side research</i>	17-456MR	21 December 2017

29 RG 264 is a guide for AFS licensees who are involved in providing research, focusing on managing conflicts of interest and inside information when providing sell-side research. This guide takes into account feedback from stakeholders following public consultation as outlined in REP 560.

Table 2: Updated regulatory documents on AFS licensing relief issued during the report period

Type and number	Title	Media release	Date issued
Regulatory Guide 90	<i>Example Statement of Advice: Scaled advice for a new client</i>	17-422MR	7 December 2017

Type and number	Title	Media release	Date issued
Regulatory Guide 165	<i>Licensing: Internal and external dispute resolution</i>	18-041MR	14 February 2018
Regulatory Guide 182	<i>Dollar disclosure</i>	16-274MR (editor's note)	5 December 2017
Regulatory Guide 246	<i>Conflicted and other banned remuneration</i>	17-421MR	7 December 2017

Table 3: Legislative instruments on AFS licensing relief made during the report period

Instrument name	Amends or replaces	Date made
ASIC Corporations (Amendment) Instrument 2018/213	Amends ASIC Corporations (Concept Validation Licensing Exemption) Instrument 2016/1175	28 March 2018

B Disclosure relief

Key points

This section outlines some of our decisions on whether to grant relief from:

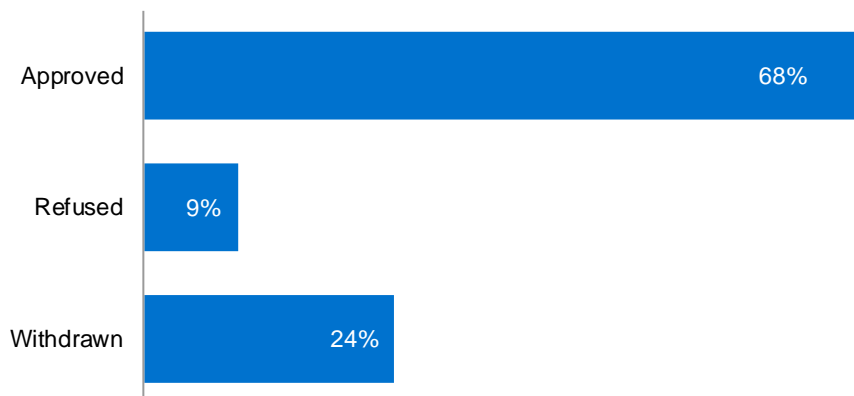
- the requirements in Ch 6D to provide prospectuses and other disclosure documents; and
- the Ch 7 requirements to provide Product Disclosure Statements (PDSs) and Financial Services Guides (FSGs).

We also outline the publications we issued in relation to disclosure relief during the period of this report.

Key statistics

30 We have set out a summary of the outcomes of applications for disclosure relief we determined in this period: see Figure 3.

Figure 3: Outcome of disclosure relief applications decided in the report period



Note 1: Figure 3 shows the outcomes of applications decided during the report period, including those received before 1 October 2017.

Note 2: See Table 21 in the appendix for the data shown in this figure (accessible version).

Disclosure relief for mutual risk schemes

Dollar disclosure relief for a mutual risk scheme

31 In the matter referred to in paragraphs 16–17, we granted dollar disclosure relief to a not-for-profit entity that deals in and provides custodial services for two mutual risk schemes designed to manage liability risks of Queensland local government related entities. The relief means that the applicant does not have to comply with the requirement in s1013D(1)(m) to state certain

information in the PDS in dollars (specifically, the information required by s1013D(1)(b), (d) and (e)).

- 32 We granted relief because the nature and operation of the mutual risk schemes meant that compliance would be impossible, unreasonably burdensome and not in the interests of the applicant's clients.
- 33 When we made our decision in principle on the applicant's request for dollar disclosure relief, [Class Order \[CO 04/1430\] Dollar disclosure: Unknown facts or circumstances](#) (since repealed by [ASIC Corporations \(Repeal\) Instrument 2016/768](#)) provided dollar disclosure relief in certain circumstances. However, there was some doubt as to whether the applicant could rely on [CO 04/1430], because the applicant considered that facts and circumstances that affect the amount of costs and benefits may be known at the time of preparing the PDS. However, the discretionary nature of the scheme, under which the operator has an absolute discretion about both payment of a claim and some costs that are applied, would mean that disclosure of a dollar amount would not be possible and could be misleading. We also noted that similar relief has previously been given for discretionary risk schemes.
- 34 Further, the relief in [Class Order \[CO 04/1431\] Dollar disclosure: Costs of derivatives, foreign exchange contracts, general insurance products and life risk products](#) (which existed at the time of our decision in principle but is now contained in [ASIC Corporations \(Disclosure in Dollars\) Instrument 2016/767](#)) was not available to the applicant because their product was a non-insurance risk product, rather than general insurance.
- 35 We also provided relief from the requirement to register the applicant's schemes as managed investment schemes: see paragraphs 73–74 for further details.

Social communication channels and pre-prospectus advertising

Pre-prospectus advertising relief to facilitate employee communications through social communication channels

- 36 We granted pre-prospectus advertising relief to allow an applicant to communicate general information to its employees about a proposed initial public offering (IPO) through specified 'social communication channels'. The 'social communication channels' consisted of a restricted list of closed-group instant messaging applications.
- 37 The applicant was a company in the digital media and technology industry, with a focus on operating a white-label mobile platform for smartphone devices.
- 38 We granted relief because these specified social communication channels are a core part of the applicant's internal communication platform with its staff. We noted the channels conveyed corporate information to employees in a

secure and closed platform, similar to emails. It was a condition of our relief that the information about the IPO would be of a general nature and not designed to promote the offer, or induce employees to make a decision to invest in the company without the benefit of a prospectus.

Offers of transferable custody receipts

Relief for offers of transferable custody receipts

- 39 We granted relief to apply the disclosure regime for offers of warrants in Pt 7.9 (and to disapply the disclosure regime for offers of securities in Ch 6D) to offers of transferable custody receipts issued by the applicant.
- 40 Our relief modified the definition of a ‘warrant’ in the Corporations Act to include transferable custody receipts representing a unit of beneficial ownership in quoted shares of a foreign company. The transferable custody receipts are ‘unsponsored’, as there is no involvement of the issuer of the foreign quoted share in the issue of the custody receipt.
- 41 The applicant sought relief due to uncertainty about the legal characterisation of the transferable custody receipts and, as a result, uncertainty about the applicable disclosure regime for offers of the custody receipts.
- 42 We considered that the product disclosure regime for warrants was the appropriate disclosure regime for offers of transferable custody receipts, given the unsponsored nature of the product. To the extent the custody receipts could be characterised as securities (and not warrants) under the Corporations Act, we accepted the applicant’s submission that there would be practical difficulties complying with the prospectus disclosure requirements in Ch 6D for the underlying foreign shares.
- 43 We granted relief because, in addition to a PDS, we considered the market would be adequately informed via other sources of information available, specifically:
- (a) the continuous disclosures made publicly by the foreign company issuing the underlying foreign quoted shares, which would also be made readily available in a timely manner on the website of the operator of the market on which the custody receipts can be traded (Chi-X Australia Pty Ltd); and
 - (b) an investor factsheet that gives an outline of (among other things) the nature of transferable custody receipts and how they are different to shares, including the underlying foreign quoted shares, and which the Chi-X Operating Rules will require investors to receive (and acknowledge).

Offers of shares as company title to real estate

Relief for offers of shares as company title

- 44 We granted disclosure and licensing relief on substantially the same terms as [ASIC Corporations \(Real Estate Companies\) Instrument 2015/1049](#) to an unlisted public company, to facilitate the offer of shares as company title to real estate.
- 45 ASIC Corporations (Real Estate Companies) Instrument 2015/1049 defines a real estate company to be (among other things) a company:
- (a) that is the owner of property on which a building is divided into separate areas and areas for common use; and
 - (b) whose shareholders are entitled to exclusive occupation of one or more of the separate areas and use of any common areas.
- 46 The applicant proposed to develop the property into a boarding house under the NSW Government's low-income housing initiative. While the shareholders would own a separate unit defined by their parcel of shares, they would not have exclusive occupation because the property must, under the local council's development approval, be occupied by eligible low-income residents.
- 47 We granted relief because we considered that the policy objectives behind ASIC Corporations (Real Estate Companies) Instrument 2015/1049 and [Regulatory Guide 67 Real estate companies \(RG 67\)](#) would be met. We considered that the offers should be regulated like offers of real estate, rather than securities, and that the disclosure and financial services licensing requirements under the Corporations Act would be too onerous for the applicant. We imposed the same conditions as ASIC Corporations (Real Estate Companies) Instrument 2015/1049 to ensure that the offers were made as if they had been regulated under state conveyancing laws.
- 48 We considered that certain aspects of the arrangement may amount to a managed investment scheme. However, we did not consider whether relief from the requirement to register a managed investment scheme was appropriate, because we were satisfied that the company could rely on the exemption from registration in s601ED. Instead, we imposed a condition that the arrangement would not have more than 20 members or be promoted by a person in the business of promoting managed investment schemes.

Extension of quotation periods

Company seeking to extend quotation period without offering withdrawal rights

- 49 We were minded to refuse an application for relief to extend the period in which securities must be admitted to quotation from three months after the date of the disclosure document (as required under s723(3)(b) and 724(1)(b)(ii)) to three months and one and a half weeks.

Note: Sections 723(3)(b) and 724(1)(b)(ii) were notionally modified by [ASIC Corporations \(Minimum Subscription and Quotation Conditions\) Instrument 2016/70](#).

- 50 The company that applied for relief conducted an offer subject to both a minimum subscription condition and the three-month quotation condition. While the company successfully achieved the minimum subscription, it did not meet the three-month quotation condition due to delay of a transfer of funds by a significant investor.

- 51 A company may lodge a 'refresh document' to extend the period in which the three-month quotation condition must be met: s724(3G). The document must disclose information about the status of the offer and allow investors one month to withdraw their application for shares and be repaid. In order for these withdrawal rights to be effective, the offer must also remain open until at least the end of the one-month withdrawal period.

Note: Section 724(3G) was notionally inserted by ASIC Corporations (Minimum Subscription and Quotation Conditions) Instrument 2016/70.

- 52 To avoid the need for the offer to remain open for a further month, the company sought individual relief to provide a one-week extension to the three-month quotation period without relying on ASIC Corporations (Minimum Subscription and Quotation Conditions) Instrument 2016/70, lodging a 'refresh document' or offering withdrawal rights.

- 53 We considered relief was not necessary, given that a legal and effective means to extend the quotation period was open to the company (as outlined in ASIC Corporations (Minimum Subscription and Quotation Conditions) Instrument 2016/70). We noted that providing relief in the form of a one-week extension would result in applicants under the offer receiving a listed security approximately two and a half weeks earlier than would be the case if the company relied on ASIC Corporations (Minimum Subscription and Quotation Conditions) Instrument 2016/70 (i.e. lodging a 'refresh document' and extending the offer for one month). However, we did not consider that the benefit of earlier listing outweighed the detriment that could arise should withdrawal rights not be provided to applicants under the offer. We were also not satisfied that extending the offer period by one month, rather than one week, posed any significant risk to the completion of certain acquisitions that formed part of the offer

- 54 The company withdrew its application and lodged a ‘refresh document’. Shortly after doing so, the company received the delayed funds, and made a further application to abridge the extended offer period and terminate the withdrawal rights.
- 55 We were minded to refuse this subsequent application for similar reasons to the first application, including a concern that it would permit the company to retract its offer of withdrawal rights to applicants under the offer made only one week prior. The subsequent application was also withdrawn.

Employee incentive schemes

Relief for offers made under an employee incentive scheme for an entity listed on a non-eligible market

- 56 We granted relief, similar to that provided by [Class Order \[CO 14/1000\]](#) *Employee incentive schemes: Listed bodies*, to a company listed on the National Stock Exchange of Australia (NSX) for offers of shares made under an employee share plan. [CO 14/1000] provides relief from the disclosure and licensing provisions in Chs 6D and 7 for offers of financial products of bodies listed on an eligible financial market. We granted relief on substantially the same terms as [CO 14/1000].
- 57 The company did not qualify for relief under [CO 14/1000], as the NSX market is not included as an ‘eligible financial market’ in Table A of [CO 14/1000].
- 58 We granted relief because the company was able to demonstrate that it complied with all requirements of [CO 14/1000], except to be listed on an ‘eligible financial market’.
- 59 We were satisfied that the company had demonstrated compliance with financial reporting obligations, was a well-established business (over 65 years), had been listed for a significant period (over 10 years) and had a strong balance sheet. The employee share plan proposed by the company also met our policy in [Regulatory Guide 49](#) *Employee incentive schemes* (RG 49).

Relief from the quotation condition for employee incentive scheme offers

- 60 We granted disclosure relief to a newly-listed foreign company on substantially the same terms as [\[CO 14/1000\]](#) for offers of securities under an employee incentive scheme following a merger, removing the minimum three-month quotation condition in that class order.

- 61 [CO 14/1000] includes a condition that the financial products being offered must be in the same class as financial products that were able to be traded on a financial market at all times in the three months before the offer document is first given. This ensures that there is a reliable alternative market price for the relevant financial products and that the product is issued by a listed body that is subject to appropriate market supervision and continuous disclosure requirements.
- 62 The merger was structured so that two large companies, each already listed on the New York Stock Exchange (NYSE), would become subsidiaries of a new holding company, which itself sought to be (and was subsequently) listed on the NYSE.
- 63 The newly-listed holding company wanted to continue the existing employee incentive plans of each merger party, altering each plan by replacing the employee award with shares in the newly-listed holding company (as opposed to shares in the subsidiaries).
- 64 The newly-listed holding company was eligible to rely on [CO 14/1000] for new offers under the employee incentive plans, by waiting a period of three months from the time of listing before making offers to Australian employees. However, the three-month period was problematic for offers to employees with existing awards under the altered plans on implementation of the merger.
- 65 We granted relief because we considered that in the circumstances, there was adequate disclosure for employees at the time of the amendment of their existing awards under the plans and that it would be unreasonably burdensome to require the applicant to provide a prospectus to these employees. In particular, we considered that:
- (a) the respective merger parties were large, well-known NYSE-listed companies, each significantly covered by financial analysts and media;
 - (b) there was extensive regulated disclosure being provided to the market about the merger as required under US securities laws; and
 - (c) there were, proportionately, very few Australian employees receiving offers under the plans.

On-sale relief

On-sale relief for options issued without disclosure

- 66 Restrictions apply to offers for the on-sale of shares that are issued to an investor when they exercise options issued to them without disclosure under Ch 6D. The applicant (a company listed on the Australian Securities Exchange (ASX)) issued the options to foreign sophisticated and professional investors. We granted relief to remove the on-sale restrictions.

- 67 The applicant was unable to rely on [ASIC Corporations \(Sale Offers That Do Not Need Disclosure\) Instrument 2016/80](#), which removes the on-sale restrictions for shares issued on the exercise of options or convertible securities if, among other conditions, the options or convertible securities were issued under a Ch 6D disclosure document.
- 68 While the applicant could have provided a cleansing notice each time new shares were issued on the exercise of the options, we considered that this was commercially impractical. The applicant would be required to give multiple cleansing notices (which must disclose certain information that has not otherwise been announced to the market) over the life of the options and the timing of exercise of the options was not within the applicant's control.
- 69 We granted relief because we considered that there was an exceptional urgency surrounding the circumstances of the applicant's fundraising through the issue of the options, which made it practically difficult for the applicant to issue a Ch 6D disclosure document at that time. We also considered that the applicant and/or foreign investors were not purposefully attempting to avoid the disclosure requirements of Ch 6D.
- 70 To ensure current and adequate disclosure to the market at the time the newly issued shares would be sold, we imposed a condition on the relief requiring the applicant to lodge a Ch 6D disclosure document—before the exercise of the options and any on-sale of the newly issued shares—containing an offer of options in the same class as those previously issued.

Publications

- 71 We issued the following publications on disclosure relief during the report period: see Table 4.

Table 4: Legislative instruments on disclosure relief made during the report period

Instrument name	Amends or replaces	Date made
ASIC Corporations (Amendment) Instrument 2017/1138	Amends Class Order [CO 14/1252] <i>Technical modifications to Schedule 10 of the Corporations Regulations</i>	21 December 2017

C Managed investment relief

Key points

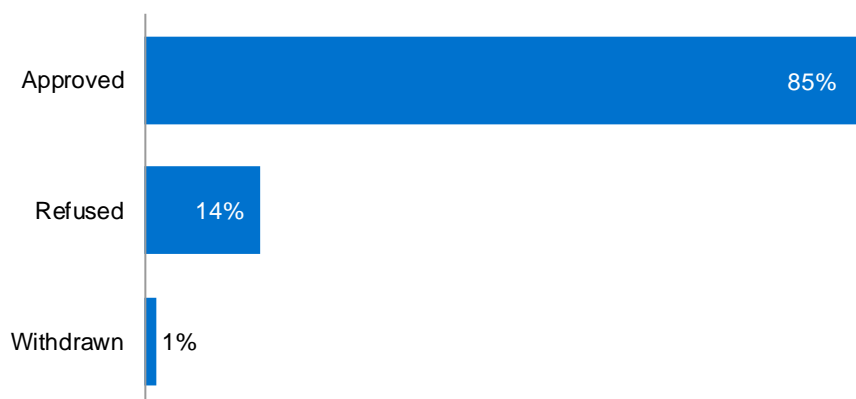
This section sets out some of the circumstances in which we have granted or refused relief, under s601QA, from the provisions of Ch 5C of the Corporations Act.

We also outline the publications we issued in relation to managed investment relief during the period of this report.

Key statistics

72 We have set out a summary of the outcomes of applications for managed investment relief we determined in this period: see Figure 4.

Figure 4: Outcome of managed investment relief applications decided in the report period



Note 1: Figure 4 shows the outcomes of applications decided during the report period, including those received before 1 October 2017.

Note 2: See Table 22 in the appendix for the data shown in this figure (accessible version).

Mutual risk schemes reporting requirements

Relief from the requirement to register a mutual risk scheme as a managed investment scheme

73 In the matter referred to in paragraphs 16–17 and 31–34, we also granted relief from the requirement to register a managed investment scheme to a not-for-profit entity that deals in and provides custodial services for two mutual risk schemes designed to manage liability risks of Queensland local government related entities.

- 74 We granted conditional relief under Ch 5C because:
- (a) we were satisfied the applicant's financial services under the schemes would be adequately covered by:
 - (i) an AFS licence held by a third party with whom the applicant has an intermediary authorisation arrangement; and
 - (ii) the terms of our licensing relief, as described in paragraphs 16–17 (which covers a narrow set of financial services that is not covered by the licence of the third-party AFS licensee); and
 - (b) we considered strict compliance with Ch 5C would be disproportionately burdensome with minimal regulatory benefit.

Transferable custody receipts

Scheme registration relief

- 75 We granted 'comfort relief' (i.e. relief given where it is not clear whether the applicant actually needs the relief to proceed with its planned course of action) from the requirement to register a managed investment scheme for a new product to be quoted and traded on the Chi-X market. We modified s601ED so the arrangement administered in relation to the product would not be considered a scheme under s601ED. The product is designed to provide holders with the rights and benefits of an underlying foreign quoted share traded on the NYSE, NASDAQ Global Market or NASDAQ Global Select Market, without the need to directly hold the share. Legal title to the shares will be held in a single account by a foreign custodian.
- 76 The applicant requested relief as it was concerned that the product and the arrangement for administering the product might be considered a managed investment scheme under s9, due to certain features of the product and the arrangement. These features included an element of pooling, as the custodian would be holding all of the underlying shares in one account and holders of the product may obtain some financial benefits because of this holding arrangement.
- 77 We considered that there was some doubt about whether the arrangement would satisfy the definition of a managed investment scheme, due to:
- (a) the pooling of the underlying shares in a single account of the custodian;
 - (b) the fact that holders do not have day-to-day control over the operation of the arrangement; and
 - (c) the existence of certain financial benefits arising from the pooling of the shares.

- 78 We granted comfort relief to remove doubt about whether the product and the arrangement for administering the product could be considered a managed investment scheme because:
- (a) the uncertain legal characterisation of the arrangement and the features of the product would make it inappropriate to apply the provisions in Ch 5C;
 - (b) strict compliance with the Corporations Act would be disproportionately burdensome if the arrangement was required to be registered, given the product's features and the commercial effect of treating the product as a managed investment scheme; and
 - (c) the product arises from a custodial arrangement under which the provider is licensed to provide custodial services and holders of the product would still have appropriate investor protections.
- 79 We considered the relief to be consistent with our policy on comfort relief in [RG 51](#), which applies where we recognise the effect of the Corporations Act in a particular case is uncertain or unclear, specifically where:
- (a) it is uncertain whether or how the Corporations Act applies; and
 - (b) commercially significant effects would flow from its application.
- 80 We also made a declaration that the arrangement in relation to transferable custody receipts is not a financial product, as described in paragraph 91.

Publications

- 81 We issued the following publications on managed investment relief during the period of this report: see Table 5.

Table 5: New regulatory documents on managed investment relief issued during the report period

Type and number	Title	Media release	Date
Consultation Paper 296	<i>Funds management</i>	17-358MR	26 October 2017

D Mergers and acquisitions relief

Key points

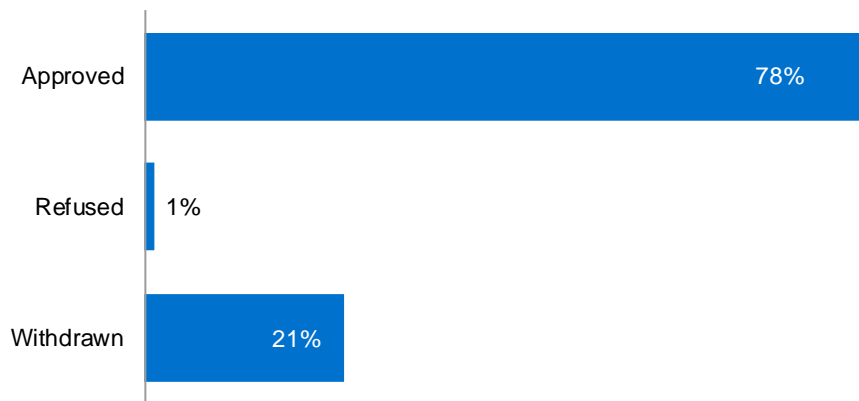
This section outlines some of the circumstances in which we have granted or refused relief from the provisions of Ch 6 of the Corporations Act.

We also outline the publications we issued during the period of this report that relate to mergers and acquisitions relief.

Key statistics

82 We have set out a summary of the outcomes of applications for mergers and acquisition relief we determined in this period: see Figure 5.

Figure 5: Outcome of mergers and acquisitions relief applications decided in the report period



Note 1: Figure 5 shows the outcomes of applications decided during the report period, including those received before 1 October 2017.

Note 2: See Table 23 in the appendix for the data shown in this figure (accessible version).

Subsequent changes to terms of a bid

Relief to retrospectively incorporate bid terms

83 We refused relief to allow a company to retrospectively specify the requisite status date, required by s630(1), for its off-market takeover bid.

84 The company's takeover bid was made subject to defeating conditions. The company failed to comply with s630(1), as offers contained in its bidder's statement did not specify a date for giving notice on the status of those defeating conditions.

- 85 The company engaged with ASIC to resolve the inadvertent omission, including by seeking relief from s630(1) or modifying s643(1) so that they could issue a supplementary bidder's statement specifying the requisite date.
- 86 We considered there was a real possibility that a consequence of failing to comply with s630(1) meant that the bid was actually unconditional. In such circumstances, we would be reluctant to remove bid class securityholders' rights to an unconditional bid and facilitate the bid terms becoming less favourable.
- 87 The company declared its bid unconditional and withdrew its application.
- 88 We are unlikely to grant relief where doing so may place bid class securityholders in a less favourable position. This is because, in such circumstances, the regulatory costs will likely outweigh any benefits of granting the relief. We expect bidders to take appropriate care when preparing bid offers, to ensure their bid and any offer documents are compliant with all of the requirements of Ch 6.

Publications

- 89 We did not issue any publications on mergers and acquisitions relief during the period of this report.

E Conduct relief

Key points

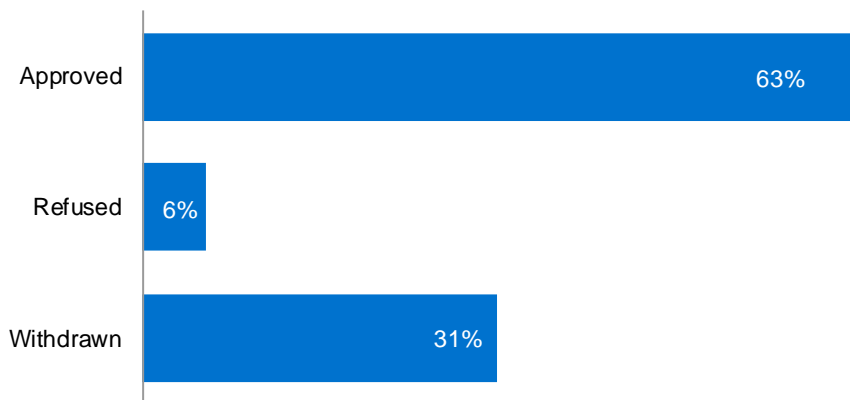
This section outlines some of our decisions on whether to grant relief from the conduct obligations imposed by Chs 2D, 2G, 2M, 5C and 7.

We also outline the publications we issued during the period of this report that relate to conduct relief.

Key statistics

90 We have set out a summary of the outcomes of applications for conduct relief we determined in the report period: see Figure 6.

Figure 6: Outcome of conduct relief applications decided in the report period



Note 1: Figure 6 shows the outcomes of applications decided during the report period, including those received before 1 October 2017.

Note 2: See Table 24 in the appendix for the data shown in this figure (accessible version).

Transferable custody receipts

Declaration that an arrangement in relation to transferable custody receipts is not a financial product

91 In the matter referred to in paragraphs 75–80, we also made a declaration that the arrangement would not be considered a managed investment scheme under Ch 7 and the AFS licensing provisions would not apply. We gave complementary relief from Ch 7, in relation to the transferable custody receipts, so that an interest in the scheme is not considered a financial product.

Financial reporting

Aggregated financial statements for stapled entities

- 92 We granted relief to enable a stapled entity to present combined financial statements that aggregate the financial statements of each of the entities within the stapled group.
- 93 The applicant was structured so that the shares of the applicant company and the units of a trust were stapled together for the purposes of trading on the ASX market. For financial reporting purposes, the company was identified as the parent entity and the trust was identified as a subsidiary.
- 94 The Australian accounting standards, specifically as the company met the definition of ‘investment entity’ in Australian Accounting Standard [AASB 10 Consolidated financial statements](#), required the company to record its ownership in any subsidiary investments (i.e. the trust) at fair value.
- 95 As the company held no ownership interest in the trust (as units in the trust were held directly by unitholders) the company was unable to recognise any fair value to the trust in its financial statements.
- 96 We granted relief because the company sought to include in the financial statements an additional column containing the aggregate financial information of the company and the trust and this inclusion was not prohibited by, nor contrary to, the International Financial Reporting Standards. We were satisfied that the unreasonable burden precondition in s342(1)(c) was met, on the basis that the additional cost of providing combined financial statements (which are useful for users of the financial reports) would be outweighed by the benefits of the stapled entity meeting the needs of those users.

Companies mistakenly relying on the ‘grandfathered’ company exemption

- 97 We declined to provide our confirmation to a number of companies that they were able to continue to rely on the grandfathered company financial reporting exception. The companies in question were all unable to find any record of having lodged Form 373 *Notification by large proprietary company that is exempt from lodging annual reports within the required time frame* with ASIC. We also had no record of the companies having lodged Form 373.
- 98 We considered that lodgement of Form 373 with ASIC was an important pre-requisite to obtaining the ‘grandfathered’ company exemption. Large proprietary companies that did not lodge Form 373 on time cannot rely on the grandfathering exemption and are required to lodge financial reports under the Corporations Act unless some other relief applies. For example, where the company is wholly owned, has a deed of cross-guarantee with its parent and

otherwise meets the conditions of [ASIC Corporations \(Wholly-owned Companies\) Instrument 2016/785](#).

- 99 Companies that have not lodged financial reports on the mistaken assumption that they are ‘grandfathered’ should take steps as soon as practicable to comply with the law.
- 100 While a firm view can only be reached on a case-by-case basis, taking into account all the relevant circumstances, we are unlikely to grant relief to companies who have breached the law multiple times because they failed to lodge Form 373 in 1996 and financial reports over many years.

Foreign company financial reporting relief

- 101 We granted relief to a wholly-owned subsidiary of a company listed on ASX (both foreign companies registered in New Zealand) from the requirement to lodge an annual balance sheet, cash flow and profit and loss statement.
- 102 Individual relief from the foreign company financial reporting requirements in s601CK was required, as the relief in [ASIC Corporations \(Wholly-owned companies\) Instrument 2016/785](#) only applies to the Australian company financial reporting requirements in Ch 2M. The terms of relief were substantially the same as those in the instrument.
- 103 The subsidiary is a party to a deed of cross-guarantee with its listed parent and its financial information is consolidated into the financial statements of its parent. The subsidiary was also able to meet the relevant conditions of ASIC Corporations (Wholly-owned companies) Instrument 2016/785, which permits New Zealand-incorporated entities to be part of the closed group.
- 104 We granted relief in accordance with [Regulatory Guide 58 Reporting requirements: Registered foreign companies and Australian companies](#) (RG 58) because we were satisfied that it would not result in the New Zealand subsidiary disclosing less information than the equivalent Australian subsidiaries. This is because the Australian subsidiaries were able to rely on relief in ASIC Corporations (Wholly-owned companies) Instrument 2016/785 and not lodge stand-alone financial statements.

Publications

- 105 We issued the following publications on conduct relief during the report period: see Table 6–Table 7.

Table 6: New regulatory documents on conduct relief issued during the report period

Type and number	Title	Media release	Date issued
Information Sheet 226	<i>Complying with ASIC Client Money Reporting Rules 2017</i>	17-338MR	10 October 2017
Report 546	<i>Response to submissions on CP 291 Reporting Rules: Derivative client money</i>	17-338 MR	10 October 2017
Report 552	<i>Response to submission on CP 273 Repealing ASIC class orders on holding client assets</i>	17-328MR	20 November 2017

Table 7: Legislative instruments on conduct relief made during the report period

Instrument name	Amends or replaces	Date made
ASIC Corporations (NZD Denominated Client Money) Instrument 2018/152	Not applicable	9 March 2018

Table 8: New rulebooks on conduct relief made during the period

Rulebook name	Media release	Date made
ASIC Client Money Reporting Rules 2017	17-338MR	9 October 2017

F Credit relief

Key points

This section outlines some of our decisions in relation to applications for relief under the National Credit Act.

This section also describes the relevant guidance we issued on credit relief during the period of this report.

Key statistics

- 106 During the period we decided 10 applications seeking credit relief:
- (a) we granted relief on nine applications; and
 - (b) we refused to grant relief on one application.
- 107 One application seeking credit relief was withdrawn.

Responsible lending requirements

Relief from responsible lending requirements for ADI promoting a dual-branded credit card

- 108 We granted conditional relief from the responsible lending obligations to an authorised deposit-taking institution (ADI) to enable it to provide limited credit assistance in the course of promoting to its customers a dual-branded credit card from a non-ADI credit card provider. The dual-branded card was to be made available to customers of the ADI that already hold, or who apply for, a credit card provided by the ADI, to enable those customers broader access to a rewards scheme.
- 109 We granted the relief because we were satisfied that the ADI would have been entitled to rely on a statutory exemption from the responsible lending obligations for its credit assistance activities, except for the fact that the new dual-branded card was to be provided by a non-ADI credit card provider. Further, we were satisfied that the ADI would only carry out limited credit assistance activities in the course of promoting the card and assisting customers to apply. In these circumstances, we considered that compliance with the responsible lending obligations before engaging in the limited promotional activities would be disproportionately burdensome for the ADI.
- 110 The relief is in substantially the same terms as the statutory exemptions that are available under regs 28Q and 28R of the National Consumer Credit Protection Regulations 2010 (though the statutory exemptions only apply

where both the credit assistance provider and the credit provider are ADIs). In particular, the terms of the relief provide that the ADI and the non-ADI credit card provider are liable (together and separately) to pay any compensation the credit card provider is ordered to pay as a consequence of breaching Div 4 of Pt 3-2 (entering an unsuitable credit contract).

111 In addition to conditions that would apply under the statutory exemptions, we imposed conditions to minimise consumer risk that could arise from customers with an existing credit card being encouraged to enter an additional credit card contract. These conditions:

- (a) limit the type of promotional conduct that the ADI is able to engage in;
- (b) require that the ADI takes steps to:
 - (i) identify existing customers for whom the dual-branded card is likely to be unsuitable, or that would otherwise be refused a credit card under the credit provider's eligibility criteria; and
 - (ii) not promote the dual-branded card to those customers;
- (c) ensure that existing customers are advised during the promotion and application process:
 - (i) that the credit limit on the dual-branded card will be in addition to the credit limit on the ADI-provided card;
 - (ii) that the customer is able to lower the credit limit on the ADI-provided card; and
 - (iii) how to lower the credit limit on the ADI-provided card; and
- (d) require the ADI to undertake:
 - (i) consumer testing of the promotional material, to ensure that customers understand that the dual-branded card is a separate credit card contract with a different entity, which has a separate credit limit and repayment obligations; and
 - (ii) data collection on customer uptake and experience.

Publications

112 We issued the following publications on credit relief during the report period: see Table 9–Table 10.

Table 9: Updated regulatory documents on credit relief issued during the report period

Type and number	Title	Media release	Date issued
Regulatory Guide 203	<i>Do I need a credit licence?</i>	17-324MR	12 October 2017

Table 10: Legislative instruments on credit relief made during the report period

Instrument name	Amends or replaces	Date made
ASIC Credit (Amendment) Instrument 2018/114	Amends Class Order [CO 14/41] <i>Extension of transitional credit hardship provisions</i>	28 February 2018

G Other relief

Key points

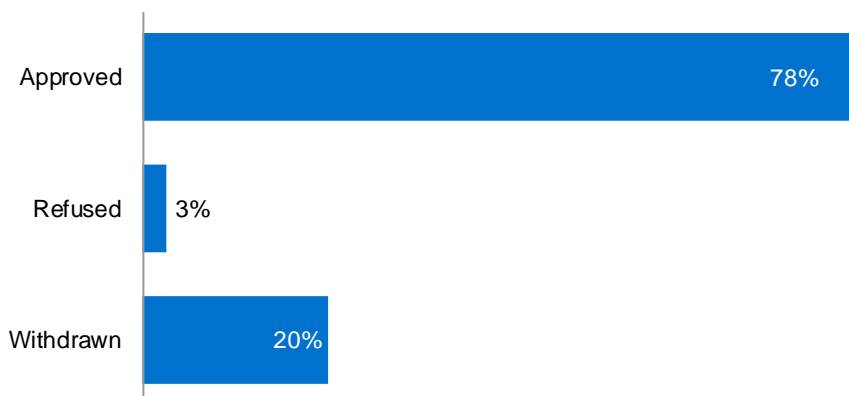
This section outlines decisions we have made that do not fall within any of the categories mentioned in previous sections, and that may be significant to participants in the financial services and capital markets industry.

We also outline further publications that we issued during the period of this report.

Key statistics

113 We have set out a summary of the outcomes of applications for other types of relief we determined in this period: see Figure 7.

Figure 7: Outcome of other relief applications decided in the report period



Note 1: Figure 7 shows the outcomes of applications decided during the report period, including those received before 1 October 2017.

Note 2: See Table 25 in the appendix for the data shown in this figure (accessible version).

Market operators' relief

Continuation of relief from requirement to comply with particular volatility controls for equity futures markets

114 We extended relief previously granted to the ASX 24 market from the ASIC Market Integrity Rules (Competition in Exchange Markets) 2011, regarding volatility controls applied for the equity futures markets. The relief will now expire on 20 March 2020.

Note: On 7 May 2018, the ASIC Market Integrity Rules (Competition in Exchange Markets) 2011 were replaced by the [ASIC Market Integrity Rules \(Futures Markets\) 2017](#).

Waiver [18/294], made on 23 April 2018, references the ASIC Market Integrity Rules (Futures Markets) 2017 and replaces Waiver [17/262]. The intent and effect of the original relief remains.

- 115 ASX 24 sought an extension of the relief to continue to manage extreme price movements in the ASX 24 equity index futures primarily through the application of anomalous order threshold (AOT) functionality rather than the extreme trade range (ETR) functionality.
- 116 The waivers allow ASX 24 to apply the ETR provisions of the ASIC Market Integrity Rules (Futures Markets) 2017 in a flexible manner—on a manual rather than automated basis—to address specific issues at the opening of the ASX 24 trading sessions, including issues relating to outright price allocations for net price strategy orders (spreads).
- 117 We extended the relief because we considered the specific design of ASX 24’s AOT functionality meant that reliance on the AOT alone (i.e. without application of the ETR provisions to equity futures contracts) would itself address some of the adverse consequences of market halts, without weakening the tempering effect that an ETR halt is meant to deliver.
- 118 The waiver relieves ASX 24 from the obligation to comply with the following volatility controls for equity futures markets in the ASIC Market Integrity Rules (Futures Markets) 2017:
- (a) Rule 8.1.3—to the extent that the rule requires ASX 24 to have in place adequate controls to prevent an anomalous order that is a net price strategy order from entering an order book of its market in specific circumstances;
 - (b) Rule 8.2.2(1)—to the extent that the rule requires ASX 24 to determine the reference price for an ASX SPI 200 future or equity index future at specified times and using the methodology set out in that rule; and
 - (c) Rule 8.2.2C(1)(c)—to the extent that the rule would require ASX 24 to immediately impose a trading pause on an ASX SPI 200 future or equity index future for a period of two minutes following an ETR event that occurs under specific circumstances.

Publications

- 119 We issued the following publications on other relief during the report period: see Table 11–Table 13.

Table 11: New regulatory documents on other relief issued during the report period

Type and number	Title	Media release	Date issued
Information Sheet 230	<i>Exchange traded products: Admission guidelines</i>	17-453MR	21 December 2017

Type and number	Title	Media release	Date issued
Report 547	<i>Response to submissions on CP 277 Proposals to consolidate the ASIC market integrity rules</i>	17-392MR	17 November 2017
Report 555	<i>Cyber resilience of firms in Australia's financial markets</i>	17-412MR	30 November 2017

Table 12: Updated regulatory documents on other relief issued during the report period

Type and number	Title	Media release	Date issued
Regulatory Guide 161	<i>Share and interest sale facilities</i>	18-063MR	6 March 2018
Regulatory Guide 175	<i>Licensing: Financial product advisers— Conduct and disclosure</i>	17-383MR	14 November 2017

Table 13: Legislative instruments on other relief made during the report period

Instrument name	Amends or replaces	Date
ASIC Corporations (Amendment) Instrument 2017/571	Amends ASIC Corporations (Division 4 Financial Products) Instrument 2015/1030	6 November 2017
ASIC Corporations (Amendment) Instrument 2017/1049	Amends Class Order [CO 14/1000] Employee incentive schemes: Listed bodies	1 December 2017
ASIC Corporations (Amendment) Instrument 2017/1119	Amends: <ul style="list-style-type: none"> • ASIC Corporations (Securities: NZ FASTER System) Instrument 2016/891 • ASIC Corporations (Nominee and Custody Services) Instrument 2016/1156 • ASIC Corporations (Definition of Approved Foreign Market) Instrument 2017/669 	19 December 2017
ASIC Corporations (Amendment) Instrument 2018/40	Amends ASIC Corporations (Generic Calculators) Instrument 2016/207	9 March 2018
ASIC Corporations (Amendment) Instrument 2018/172	Amends ASIC Corporations (Derivative Transaction Reporting Exemption) Instrument 2015/844	21 March 2018
ASIC Corporations (Amendment and Repeal) Instrument 2018/98	Repeals Class Order [CO 08/10] Share and interest sale facilities Amends ASIC Corporations (Definition of Approved Foreign Market) Instrument 2017/669	1 March 2018

Instrument name	Amends or replaces	Date
ASIC Corporations (Derivative Clearing Exemption) Instrument 2018/209	Not applicable	28 March 2018
ASIC Corporations (Repeal) Instrument 2018/193	Repeals Class Order [CO 07/753] <i>Singaporean collective investment schemes</i>	23 March 2018
ASIC Corporations (Share and Interest Sale Facilities) Instrument 2018/99	Not applicable	1 March 2018

Table 14: New rulebooks on other relief made during the report period

Rulebook	Media release	Date made
ASIC Market Integrity Rules (Futures Markets) 2017	17-392MR	14 November 2017
ASIC Market Integrity Rules (Futures Markets—Capital) 2017	17-392MR	14 November 2017
ASIC Market Integrity Rules (Securities Markets) 2017	17-392MR	14 November 2017
ASIC Market Integrity Rules (Securities Markets—Capital) 2017	17-392MR	14 November 2017

Table 15: Amendments to rulebooks on other relief made during the report period

Amendment name	Amends	Date made
ASIC Market Integrity Rules (Chi-X Australia Market) Amendment 2017 (No. 1)	ASIC Market Integrity Rules (Chi-X Australia Market) 2011	10 November 2017
ASIC Market Integrity Rules (Competition in Exchange Markets) Amendment 2017 (No. 1)	ASIC Market Integrity Rules (Competition in Exchange Markets) 2011	10 November 2017

Table 16: Determinations on other relief made during the report period

Determination name	Relevant rulebook	Date made
ASIC Market Integrity Rules (Securities Markets) Determination 2018/206	ASIC Market Integrity Rules (Securities Markets) 2017	28 March 2018
ASIC Market Integrity Rules (Securities Markets) Determination 2018/208	ASIC Market Integrity Rules (Securities Markets) 2017	29 March 2018

Table 17: Class rule waivers on other relief made during the report period

Class rule waiver name	Amends or repeals	Date made
Class Rule Waiver [CW 17-740]	Not applicable	3 October 2017

Class rule waiver name	Amends or repeals	Date made
Class Rule Waiver [CW 18/140]	Amends Class Rule Waiver [CW 17-740]	14 March 2018
Class Rule Waiver [CW 18/0143]	Amends Class Rule Waiver [CW 17-251]	5 March 2018

Appendix 1: ASIC relief instruments

Table 18 lists the individual relief instruments we have executed for matters that are referred to in this report and which are publicly available. The instruments are published in the *ASIC Gazette*, which is available via www.asic.gov.au/gazettes, except for credit instruments (marked with asterisks), which are published on our website under '[credit relief](#)'.

Table 18: ASIC relief instruments

Paragraph numbers	Entity name	Instrument no. (Gazette number if applicable)	Date executed	Power exercised and nature of relief	Expiry date
12–15	i-Pay Secure Payment Proprietary Limited	17-0966 (A50/17)	26 October 2017	Section 926A(2)(a), 992B(1)(a) and 1020F(1)(a) of the Corporations Act Relief from s911A, Pt 7.9 and s992A of the Corporations Act	N/A
16–18, 31–35, 73–74	Local Government Association of Queensland Limited	17-0923 (A49/17)	27 October 2017	Sections 601QA(1)(a), 911A(2)(l) and 1020F(1)(c) of the Corporations Act Modification of s1013D(1) of the Corporations Act	N/A
108–111	Westpac Banking Corporation	17-0814	2 November 2017	Section 163(1)(a) of the National Consumer Credit Protection Act Relief from Div 4 and Div 6 of Part 3-1, s121 and s144 of the National Consumer Credit Protection Act	N/A
36–38	Unlockd Media Pty Ltd	18-0068	1 February 2018	Section 741(1) of the Corporations Act Relief from s734(2) of the Corporations Act	31 May 2018
23–27	Webster Limited ACN 009 476 00 & AGW Funds Management Limited CAN 149 301 299	17-0976 (A50/17)	30 October 2017	Section 926A(2)(a) of the Corporations Act Modification of Pt 7.6 of the Corporations Act (other than Div 4 and Div 8)	N/A

Paragraph numbers	Entity name	Instrument no. (Gazette number if applicable)	Date executed	Power exercised and nature of relief	Expiry date
39–43, 75–79	Deutsche Access Investments Limited	17-0995 (A56/17)	6 November 2017	Section 601QA(1)(b) of the Corporations Act Relief from s601ED(5) of the Corporations Act	N/A
91	Deutsche Access Investments Limited	17-0995 (A56/17)	6 November 2017	Section 765A(2) of the Corporations Act Declaration that Ch 5C, 6D and Pt 7.9 of the Corporations Act applies as outlined in the Instrument	N/A
44–48	8 Daphne Street Botany Ltd	ASIC Corporations (8 Daphne Street Botany Ltd—Real Estate Company) Instrument 2017/1063	27 November 2017	Sections 741(1)(a) and 926A(2)(a) of the Corporations Act	1 April 2028
101–104	a2 Infant Nutrition Pty Ltd	17-1030 (A52/17)	14 November 2017	Section 601CK(7) of the Corporations Act Declaration that s601CK of the Corporations Act does not apply	N/A

Appendix 2: Accessible versions of figures

This appendix is for people with visual or other impairments. It provides a text description and/or the underlying data for each of the figures included in this report.

Table 19: Outcome of all relief applications received in the report period

Outcome	Percentage
Approved	56%
Refused	4%
Withdrawn	20%
Decided outside this period	20%

Note: This table sets out the data in Figure 1.

Table 20: Outcome of AFS licensing relief applications decided in the report period

Outcome	Percentage
Approved	52%
Refused	19%
Withdrawn	30%

Note: This table sets out the data in Figure 2.

Table 21: Outcome of disclosure relief applications decided in the report period

Outcome	Percentage
Approved	68%
Refused	9%
Withdrawn	24%

Note: This table sets out the data in Figure 3.

Table 22: Outcome of managed investment relief applications decided in the report period

Outcome	Percentage
Approved	85%

Outcome	Percentage
Refused	14%
Withdrawn	1%

Note: This table sets out the data in Figure 4.

Table 23: Outcome of mergers and acquisitions relief applications decided in the report period

Outcome	Percentage
Approved	78%
Refused	1%
Withdrawn	21%

Note: This table sets out the data in Figure 5.

Table 24: Outcome of conduct relief applications decided in the report period

Outcome	Percentage
Approved	63%
Refused	6%
Withdrawn	31%

Note: This table sets out the data in Figure 6.

Table 25: Outcome of other relief applications decided in the report period

Outcome	Percentage
Approved	78%
Refused	3%
Withdrawn	20%

Note: This table sets out the data in Figure 7.