



ASIC

Australian Securities &
Investments Commission

REPORT 602

Overview of decisions on relief applications (April 2018 to September 2018)

December 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 April 2018 to 30 September 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 April 2018 to 30 September 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 2001* 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.

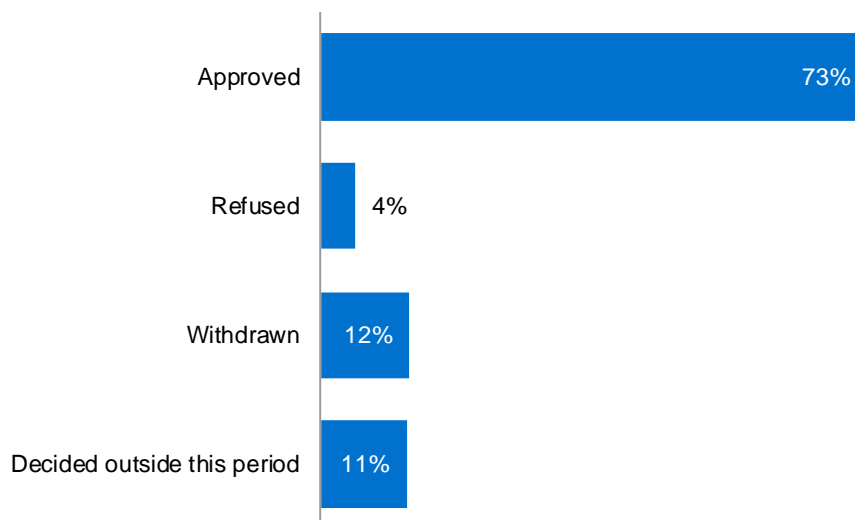
3 The purpose of the report is to improve the level of transparency and the quality of information available about decisions we make when we are asked to exercise ASIC's discretionary powers to grant relief from provisions of the Corporations Act and the National Credit Act.

4 This report covers the period beginning 1 April 2018 and ending 30 September 2018 (report period). During the report period, we received 1143 applications: see Figure 1 for a summary of the outcomes of all relief applications we received during this period.

Note: Figure 1 excludes the outcomes of all relief applications we received before 1 April 2018 but determined in this period.

5 The 'Decided outside this period' category is made up of applications that we received between 1 April 2018 and 30 September 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.

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

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

- 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.

A AFS licensing relief

Key points

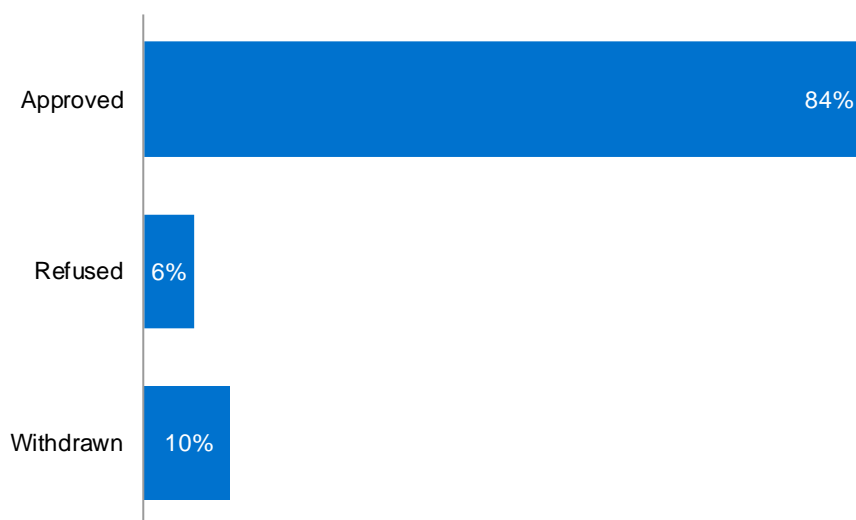
This section outlines some of our decisions on whether to grant relief under Ch 7 of the Corporations Act, including under s926A(2), from the Australian financial services (AFS) licensing requirements.

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

Key statistics

- 10 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 determined in report period



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

Basic deposit product

Modification of the definition of 'basic deposit product' for a savings account with a 31-day withdrawal notice period

- 11 We granted relief by modifying the definition of 'basic deposit product' in s761A to include a product that was a transaction account with a 31-day withdrawal notice period. We gave relief such that the modified definition would apply to Pts 7.6, 7.7, and 7.9.

- 12 ASIC previously gave class relief in [Class Order \[CO 14/1262\]](#) *Relief for 31 day notice term* for term deposit accounts with a 31-day notice period. As the applicant's product was not a term deposit, the applicant could not rely on the relief in [\[CO 14/1262\]](#).
- 13 We considered the product offered by the applicant met all the characteristics of a 'basic deposit product' in s761A, but for the fact that it contained a 31-day withdrawal notice period. Under this deposit product:
- (a) the depositor receives monthly interest on their balance. The interest rate aligns closely with the rate on standard 'at call' high interest savings accounts; and
 - (b) the depositor can make further deposits at any time—but the depositor can only access funds by submitting a withdrawal request and funds are released to a nominated account after the 31-day withdrawal notice period.
- 14 The relief instrument was based on the terms of the class relief in [\[CO 14/1262\]](#) and included the following:
- (a) a modification of the definition of 'basic deposit product'. This enables the provider of the account to rely on concessions that are contained in the Corporations Act for basic deposit products, including lower 'tier 2' training standards for representatives who provide advice in relation to these accounts; and
 - (b) a modification of the product disclosure provisions in Pt 7.9 to require the applicant to give the depositor information about the notice period that applies to withdrawals, including the duration of the notice period, and a statement that, if the depositor will need to withdraw funds immediately, another deposit product may be more suitable.

Paid financial counselling services

Refusal of relief for the provision of paid financial counselling services without an AFS licence or an Australian credit licence

- 15 We refused relief to allow for the provision of paid financial counselling services on a per client basis.
- 16 [ASIC Corporations \(Financial Counselling Agencies\) Instrument 2017/792](#) and subregulation 20(5) of the National Consumer Credit Protection Regulations 2010 exempt those offering financial counselling services from the need to hold an AFS licence and credit licence when providing financial product advice in relation to specified types of financial products and engaging in credit activity. The exemptions are not available if fees, charges or remuneration are payable to the financial counselling agency by or on behalf

of the client in relation to the financial service or credit activity, or any other aspect of the financial counselling service (other than any fees or charges payable on behalf of the client by the Commonwealth, a state or a territory).

Note: Subregulation 20(5) of the National Consumer Credit Protection Regulations 2010 was notionally modified by [ASIC Credit \(Financial Counselling Agencies\) Instrument 2017/793](#).

- 17 We refused relief for the following reasons:
- (a) despite the applicant's measures to mitigate any risk of conflicts of interest arising as a result of the proposed payment arrangements, there remained a significant risk of conflicts of interest in allowing paid financial counselling services;
 - (b) the applicant could not demonstrate any distinguishing features in their proposal to justify departure from the policy settings behind the existing class exemptions, including the policy aim of ensuring clients have a high degree of confidence when financial counsellors provide advice—that they do so free from any conflicts of interest. The applicant's circumstances were distinguishable from those that were present in the [Business Services Wage Assessment Tool \(BSWAT\) Payment Scheme](#), which led to ASIC modifying [ASIC Corporations \(Financial Counselling Agencies\) Instrument 2017/792](#) and issuing [ASIC Credit \(Financial Counselling Agencies\) Instrument 2017/793](#) in 2017. In particular, the decision to accommodate the BSWAT circumstances within the existing class exemptions was particular to the fact that it was enabling a Commonwealth statutory scheme; and
 - (c) we were not satisfied that the applicant was unable to offer similar consumer value by conforming to the terms of the class exemptions.

Foreign financial service providers

Licensing relief for a foreign financial service provider

- 18 We notified a foreign financial service provider (FFSP) that it was excluded from relying on [Class Order \[CO 03/1100\]](#) *US SEC regulated financial service providers* to provide certain financial services to wholesale clients in Australia.

Note: [\[CO 03/1100\]](#) was repealed by [ASIC Corporations \(Repeal and Transitional\) Instrument 2016/396](#) while providing transitional relief to extend their effect for two years until 30 September 2018.

- 19 Under [\[CO 03/1100\]](#), a foreign company that is a body corporate incorporated in the United States of America or a state of the United States of America and is a registered investment adviser under section 203(c) of the *Investment*

Advisers Act of 1940 (US), is exempt from the requirement to hold an AFS licence, subject to specified conditions.

- 20 The relief under [\[CO 03/1100\]](#) is intended to reduce the regulatory burden for entities already subject to and compliant with an equivalent overseas regulatory regime for the particular financial services that they are providing when they wish to provide those same services in Australia.
- 21 We issued a notice of exclusion under paragraph (d) of Sch A of [\[CO 03/1100\]](#) as we were not satisfied that the applicant was providing financial services in the United States of America (home jurisdiction) that were subject to any kind of overseas regulatory oversight based upon the information and documents provided to ASIC in support of the application.

Licensing relief for overseas financial adviser

- 22 For the avoidance of doubt, we granted relief to a financial adviser regulated by the Ontario Securities Commission in Canada from the requirement to hold an AFS licence in order to continue to act as a financial adviser for two of the applicant's clients who had relocated from Canada to Australia. The applicant's clients had requested that the applicant continue to act for them for the purposes of maintaining their existing retirement and education accounts in Canada and withdrawing monies from these accounts.
- 23 Section 911A(2A) as modified by reg 7.6.02AG of the Corporations Regulations 2001, provides an exemption from the requirement to hold an AFS licence for an overseas provider of a financial service to a client in Australia as long as the provider does not engage in conduct that is intended to induce people in Australia to use the service or is likely to have that effect. The client must either be an Australian citizen or an Australian resident.
- 24 At the time relief was sought, the applicant's clients held temporary work visas and had lodged applications for permanent residency in Australia. However, they were yet to be granted Australian permanent resident status.
- 25 We granted relief on the basis of the unique and limited circumstances given the legal uncertainty surrounding whether the applicant could rely on the exemption in s911A(2A), which requires the client to either be an Australian citizen or an Australian resident in the period during which the applicant's clients were yet to become permanent residents.

Publications

- 26 We issued the following publications in relation to AFS relief during the report period: see Table 1 and Table 2.

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

| Type and number | Title | Media release | Date issued |
|--------------------------------------|---|--------------------------|-------------------|
| Regulatory Guide 98 | <i>ASIC's powers to suspend, cancel and vary AFS licences and make banning orders</i> | Not applicable | 20 September 2018 |
| Regulatory Guide 192 | <i>Licensing: Wholesale equity schemes</i> | 18-254MR | 4 September 2018 |

Table 2: Legislative instruments on AFS relief made during the report period

| Instrument name | Amends or replaces | Date issued |
|---|--|-------------------|
| ASIC Corporations (Amendment) Instrument 2018/825 | Amends ASIC Corporations (Employee redundancy funds relief) Instrument 2015/1150 | 18 September 2018 |
| ASIC Corporations and Credit (Transition to AFCA) Instrument 2018/814 | Not applicable | 19 September 2018 |
| ASIC Corporations (Amendment) Instrument 2018/807 | Amends: <ul style="list-style-type: none"> ASIC Corporations (Repeal and Transitional) Instrument 2016/396 ASIC Corporations (CSSF-Regulated Financial Services Providers) Instrument 2016/1109 ASIC Corporations (Foreign Financial Services Providers—Limited Connection) Instrument 2017/182 | 20 September 2018 |
| ASIC Corporations (Group Purchasing Bodies) Instrument 2018/751 | Continues and extends Class Order [CO 08/1] Group purchasing bodies to 'limited licensees' | 14 September 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).

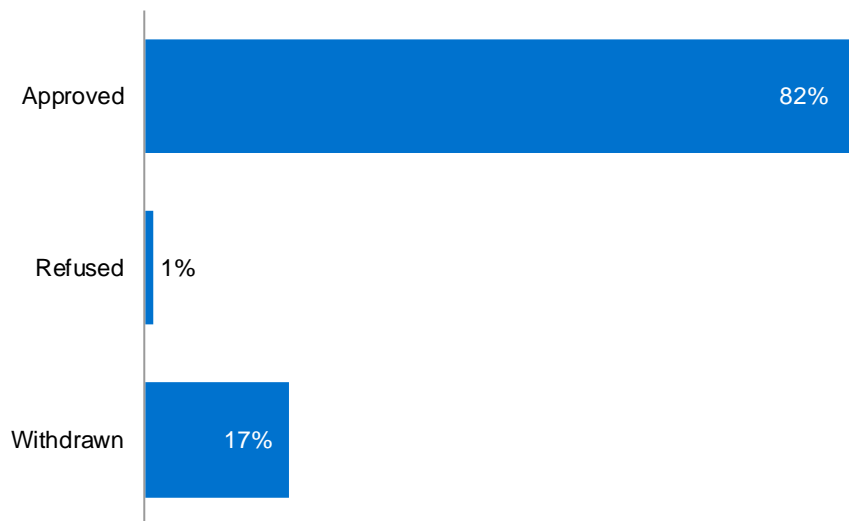
We also outline the publications we issued in relation to disclosure relief during the period of this report.

Key statistics

27

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

Figure 3: Outcome of disclosure relief applications determined in report period



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

Basic deposit product

Modification of the definition of 'basic deposit product' for a savings account with a 31-day withdrawal notice period

28 The relief referred to in paragraph 11, included a declaration that Pt 7.9 applies as if the definition of a basic deposit product was modified to cover a transaction account with a 31-day withdrawal notice period.

29 The effect of this relief is that the provider of the account can rely on the exemption from the requirement to give a PDS in s1012D(7A).

Note: Section 1012D(7A) was notionally inserted by reg 7.9.07FA of the Corporations Regulations.

30 ASIC has previously given this form of relief in [\[CO 14/1262\]](#) for 31-day notice term deposits. As the applicant's product was not a term deposit, the provider could not rely on the class relief.

31 The relief instrument is based on the terms of the class relief in [\[CO 14/1262\]](#). It includes a modification of the provisions in Pt 7.9 to require the provider to give the depositor information about the notice period that applies to withdrawals, including the duration of the notice period and a statement that, if the depositor will need to withdraw funds immediately, another deposit product may be more suitable.

Transfer between superannuation funds with the same trustee

PDS-giving and exit statement relief for a planned superannuation funds transfer

32 We granted disclosure relief for a proposal to transfer a member's superannuation benefits between two superannuation funds that had the same trustee and in circumstances where there is no legal requirement to obtain the member's consent. Although the transfer involves a technical change of fund for the member, after the transfer the member will hold a superannuation product that contains substantially the same rights and features in the transferee fund as they had in the transferor fund. Furthermore, the transfer will only occur if the trustee is satisfied that this is in the best interests of the transferring members.

33 In these circumstances, we were prepared to provide conditional relief from some of the disclosure requirements applying to the acquisition and disposal of a superannuation product. The unusual features of this transfer meant that the members did not need to receive a PDS, as the particular features of the transfer did not involve changes that could properly be characterised as involving transferring members to make an investment decision. Accordingly,

- we provided disclosure relief from the requirement that the trustee give transferring members a PDS in relation to the transferee fund. We also granted relief from the requirement to provide members with a separate exit statement after the transfer.
- 34 We imposed conditions designed to ensure that members received useful information about the transfer. These conditions include the trustee providing:
- (a) a notice under s1017B together with an information booklet to transferring members, at least 30 days before the transfer; and
 - (b) a final exit report for the member's interest in the transferor fund in the periodic statement for the year ending 30 June 2019 following the transfer of the member's interest in the transferee fund.
- 35 We refused to give relief from the requirement that the trustee send transaction confirmations to transferring members for the disposal of interests from the transferor fund and for the issue of interests in the transferee fund. This was because the confirmations would be informative to members and the compliance costs for providing confirmation did not exceed ordinary business costs. We considered that, as transferring members would be notified about the transfer before it was expected to occur, it would be beneficial for the transferring members to ultimately be notified that the transfer had occurred.
- 36 Under the terms of the relief instrument, the relief applied where the transfer occurs on or before 31 March 2019, and, prior to the transfer, APRA grants the trustee relief under its powers in the *Superannuation Industry (Supervision) Act 1993* in the form of a variation to the definition of 'successor fund' under the Superannuation Industry (Supervision) Regulations 1994.

Employee incentive schemes

Relief for offers made under an employee incentive scheme to former employees of a listed entity

- 37 We granted relief, similar to that provided by [Class Order \[CO 14/1000\]](#) *Employee incentive schemes: Listed bodies*, to a company listed on the ASX for securities to be allocated and issued to certain former employees of the company.
- 38 [\[CO 14/1000\]](#) provides relief from the disclosure and licensing provisions in Chs 6D and 7 for offers of financial products to eligible participants, which include current full-time or part-time employees of a company listed on an eligible financial market. Under [\[CO 14/1000\]](#), the definition of 'offer' extends to the issue of securities. As such, the company was not able to allocate and issue securities to former employees once they ceased to be employees of the company.

- 39 The company applied for relief because it wanted the ability to measure the performance of the relevant business, and therefore the relevant employees' performance over the full annual cycle before granting the award. The awards will only be made to former employees who were employed during the relevant financial year to which the award of securities relates.
- 40 We granted relief because the company was able to demonstrate that all requirements of [\[CO 14/1000\]](#) would be complied with at the time that it makes initial offers to its employees under the employee incentive scheme. We considered there was a limited risk from a disclosure perspective in allowing the company to allocate and issue the securities to a tightly defined group of former employees.

Publications

- 41 We issued the following publications on disclosure relief during the report period: see Table 3 and Table 4.

Table 3: Updated regulatory documents on disclosure relief issued during the report period

| Type and number | Title | Media release | Date issued |
|--------------------------------------|---|--------------------------|--------------|
| Regulatory Guide 165 | <i>Licensing: Internal and external dispute resolution</i> | 18-158MR | 31 May 2018 |
| Regulatory Guide 267 | <i>Oversight of the Australian Financial Complaints Authority</i> | 18-180MR | 20 June 2018 |

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

| Instrument name | Amends or replaces | Date issued |
|---|---|-------------------|
| ASIC Corporations (Amendment) Instrument 2018/473 | Amends Class Order [CO 12/749] <i>Relief from the Shorter PDS regime</i> | 1 June 2018 |
| ASIC Superannuation (Amendment) Instrument 2018/474 | Amends ASIC Superannuation (RSE Websites) Instrument 2017/570 | 1 June 2018 |
| ASIC Corporations (Group Purchasing Bodies) Instrument 2018/751 | Continues and extends Class Order [CO 08/1] <i>Group purchasing bodies to 'limited licensees'</i> | 14 September 2018 |
| ASIC Corporations (AFCA transition) Instrument 2018/447 | Not applicable | 29 May 2018 |
| ASIC Corporations (Amendment) Instrument 2018/549 | Amends ASIC Corporations (AFCA transition) Instrument 2018/447 | 21 June 2018 |

| Instrument name | Amends or replaces | Date issued |
|---|---|-------------------|
| ASIC Corporations (Amendment) Instrument 2018/3 | Amends: <ul style="list-style-type: none"> • Class Order [CO 10/288] <i>Covered short sale transaction reporting relief for market makers</i> • Class Order [CO 13/655] <i>Provisions about the amount of consideration to acquire interests and withdrawal amounts not covered by ASIC Corporations (Managed investment product consideration) Instrument 2015/847</i> • Class Order [CO 13/721] <i>Relief to facilitate quotation of exchange traded funds on the AQUA Market</i> • Class Order [CO 13/1200] <i>Periodic statements relief for AQUA quoted and listed managed investment scheme manager</i> | 28 May 2018 |
| ASIC Corporations (Amendment) Instrument 2018/483 | Amends ASIC Corporations (Compromises or Arrangements) Instrument 2015/358 | 7 August 2018 |
| ASIC Corporations (Amendment) Instrument 2018/825 | Amends ASIC Corporations (Employee redundancy funds relief) Instrument 2015/1150 | 18 September 2018 |

C Managed investment relief

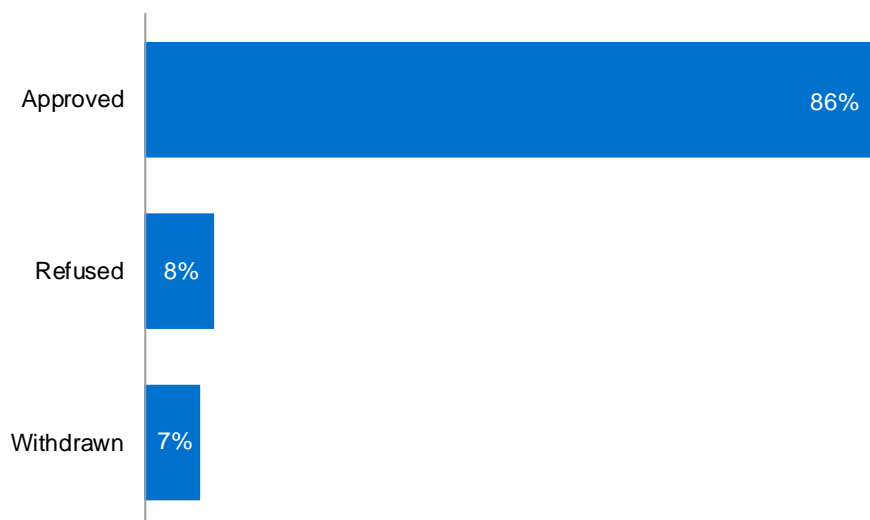
Key points

This section outlines the publications we issued in relation to the provisions of Ch 5C during the period of this report.

Key statistics

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

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



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

Publications

43 We issued the following publications on managed investment relief during the report period: see Table 5–Table 7.

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

| Type and number | Title | Media release | Date issued |
|--------------------------------------|--|--------------------------|--------------|
| Regulatory Guide 131 | <i>Funds management: Establishing and registering a fund</i> | 18-222MR | 31 July 2018 |

| Type and number | Title | Media release | Date issued |
|--------------------------------------|---|--------------------------|---------------|
| Regulatory Guide 137 | <i>Constitution requirements for schemes registered before 1 October 2013</i> | 18-222MR | 31 July 2018 |
| Regulatory Guide 138 | <i>Foreign passport funds</i> | 18-222MR | 31 July 2018 |
| Report 582 | <i>Response to submission on CP 296 Funds management</i> | 18-222MR | 31 July 2018 |
| Report 583 | <i>Review of exchange traded products</i> | 18-226MR | 2 August 2018 |
| Information Sheet 32 | <i>Foreign companies</i> | 18-222MR | 31 July 2018 |

Table 6: Updated regulatory documents on managed investment relief issued during the report period

| Type and number | Title | Media release | Date issued |
|--------------------------------------|--|--------------------------|-------------------|
| Regulatory Guide 132 | <i>Funds management: Compliance and oversight</i> | 18-222MR | 31 July 2018 |
| Regulatory Guide 133 | <i>Funds management and custodial services: Holding assets</i> | 18-222MR | 31 July 2018 |
| Regulatory Guide 134 | <i>Funds management: Constitutions</i> | 18-222MR | 31 July 2018 |
| Regulatory Guide 136 | <i>Funds management: Discretionary powers</i> | 18-222MR | 31 July 2018 |
| Regulatory Guide 138 | <i>Foreign passport funds</i> | Not applicable | 11 September 2018 |

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

| Instrument name | Amends or replaces | Date issued |
|---|---|-------------------|
| ASIC Corporations (Amendment) Instrument 2018/697 | Amends: <ul style="list-style-type: none"> • Class Order [CO 09/552] <i>Changing scheme constitutions</i> • Class Order [CO 12/749] <i>Relief from the Shorter PDS regime</i> • Class Order [CO 13/521] <i>Takeover bids</i> • Class Order [CO 13/656] <i>Equality of treatment impacting on the acquisition of interests</i> • Class Order [CO 13/1410] <i>Holding assets: Standards for providers of custodial and depository services</i> • Class Order [CO 14/1252] <i>Technical modifications to Schedule 10 of the Corporations Regulations</i> • ASIC Corporations (Externally-Administered Bodies) Instrument 2015/251 • ASIC Corporations (Sale Offers That Do Not Need Disclosure) Instrument 2016/80 • ASIC Corporations (Uncontactable Members) Instrument 2016/187 • ASIC Corporations (Managed Discretionary Account Services) Instrument 2016/968 • ASIC Corporations (Application Form Requirements) Instrument 2017/241 • ASIC Corporations (Disclosure Relief—Offers to Associates) Instrument 2017/737 • ASIC Corporations (Wholesale Equity Scheme Trustees) Instrument 2017/849 | 10 September 2019 |
| ASIC Corporations (Amendment) Instrument 2018/825 | Amends ASIC Corporations (Employee redundancy funds relief) Instrument 2015/1150 | 18 September 2018 |
| ASIC Corporations (Group Purchasing Bodies) Instrument 2018/751 | Continues and extends Class Order [CO 08/1] <i>Group purchasing bodies to 'limited licensees'</i> | 14 September 2018 |
| ASIC Corporations (Amendment) Instrument 2018/3 | Amends: <ul style="list-style-type: none"> • Class Order [CO 10/288] <i>Covered short sale transaction reporting relief for market makers</i> • Class Order [CO 13/655] <i>Provisions about the amount of consideration to acquire interests and withdrawal amounts not covered by ASIC Corporations (Managed investment product consideration) Instrument 2015/847</i> • Class Order [CO 13/721] <i>Relief to facilitate quotation of exchange traded funds on the AQUA Market</i> • Class Order [CO 13/1200] <i>Periodic statements relief for AQUA quoted and listed managed investment scheme manager</i> | 28 May 2018 |
| ASIC Corporations (Amendment) Instrument 2018/825 | Amends ASIC Corporations (Employee Redundancy Funds Relief) Instrument 2015/1150 | 18 September 2018 |

D Mergers and acquisitions relief

Key points

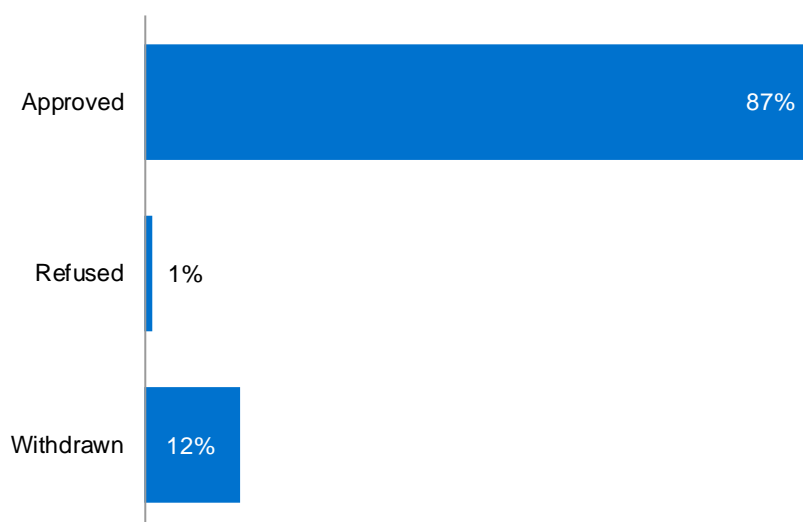
This section outlines some of the circumstances in which we have granted or refused relief from the provisions of Ch 6.

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

Key statistics

44 We have set out a summary of the outcomes of applications for merger and acquisitions relief that we determined in this period: see Figure 5.

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



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

Privative clause

Relief to commence court proceedings before the end of the bid period

45 We granted relief from s659B(1) to allow a bidder to commence proceedings in the Federal Court for judicial review of a Takeovers Panel decision before the end of the bid period.

- 46 Prior to the relief application being made, ASIC had made an application to the Takeovers Panel seeking orders and a declaration of unacceptable circumstances in connection with a substantial holder departing from statements it had made that it would not accept the bid in accordance with [Regulatory Guide 25 Takeovers: False and misleading statements](#) (RG 25).
- 47 The Takeovers Panel initially made a declaration and orders cancelling the substantial shareholders' acceptance. However, a review panel, in a split decision, ordered the substantial holders' acceptance to be cancelled while simultaneously allowing the substantial holders the right to put the shares at the offer price to the bidder in the future, and ordered the substantial shareholder to compensate investors who acquired shares on market above the offer price.
- 48 One consequence of closing the bid while the status of the review panel's order remained unresolved was that the bidder may have to proceed to make compulsory buyouts of shares not previously part of the bid.
- 49 We granted relief for the following reasons:
- (a) the objective of the privative clause in s659B(1) and its application during the bid period—we gave effect to the principle that the Takeovers Panel is the main forum for resolving disputes relating to bids rather than the courts. This is pertinent, given historical concerns that tactical litigation had the potential to significantly disrupt, or even defeat, the commercial course of bids;
 - (b) the bidder had acquired voting power of approximately 97% in the target and extended the bid on multiple occasions, and, in a commercial sense, the bid had largely concluded. We were satisfied that the delay arising from the court proceedings would not materially affect the commercial course of the bid in the way that the privative clause was principally designed to avoid;
 - (c) the alternative available to the bidder was to seek to commence proceedings in the High Court which may then refer the matter to the Federal Court. The relief facilitated a potentially speedier and less costly resolution of the matter for all parties involved; and
 - (d) the relief did not affect the power of the court under s659B(2) to stay proceedings once commenced.

Variation of an off-market bid

Relief to change the ultimate beneficial holder of securities acquired under the bid

- 50 We granted relief to permit a bidder to vary its takeover offer so as to change the ultimate beneficial holder of certain securities acquired under the bid.

- 51 A bidder (A) made a bid for stapled securities on behalf of two other entities (B and C) in the same corporate group, and, in turn, one of these entities was to hold the relevant securities as trustee for another entity (D). All these entities, A, B, C and D had the same holding company. Due to the definition of 'bidder' in s9, it was likely that A, B and C were all bidders. Following consultation with the Foreign Investment Review Board and the Australian Taxation Office, the bidders sought to change the bid terms so that the bid would be made on behalf of B and C, but C was to hold the relevant securities as trustee for B (rather than D). The effect of the relief sought was to remove one of the bidder entities (namely D) and result in only one company (namely B) having a beneficial interest in the stapled securities.
- 52 We granted relief to allow the bid terms to be changed in a way that was not permitted by s650A. The relief was granted on conditions, including that the variation have no impact on the bidders' ability to pay consideration for the target securities, the bidder entities were part of the same corporate group, and there would be no adverse impact on target holders. We also required disclosure as to the variation by way of a supplementary bidder's statement.

Scheme administrator relief

Waiver to permit voluntary administrators to act as scheme administrators

- 53 We granted relief in the form of a written direction to allow two voluntary administrators of a company, subject to a deed of company arrangement, to act as scheme administrators for a proposed creditors' scheme between the company and its secured creditors.
- 54 Relief was required because s411(7)(f) provides that a person who has at any time within the last 12 months been an officer of a body must not administer a creditors' scheme of arrangement in relation to the body without leave of the court or unless ASIC directs in writing. As voluntary administrators and deed administrators are considered to be officers of the company and the entities subject to the relief had held these positions within the last 12 months, they could not be appointed as scheme administrators for a creditors' scheme.
- 55 In deciding whether to provide the written direction, we considered whether any conflict of interest would arise if the proposed scheme administrators were appointed.
- 56 We were satisfied that there was no conflict of interest in allowing the appointment of the proposed scheme administrators in this circumstance. Where we do not object to the appointment of the proposed scheme administrators, we would be minded to provide the written direction.

Publications

57 We issued the following publications on mergers and acquisition relief during the report period: see Table 8.

Table 8: Legislative instruments on mergers and acquisition relief made during the report period

| Instrument name | Amends or replaces | Date issued |
|---|--|---------------|
| ASIC Corporations (Amendment) Instrument 2018/483 | Amends ASIC Corporations (Compromises or Arrangements) Instrument 2015/358 | 7 August 2018 |

E Conduct relief

Key points

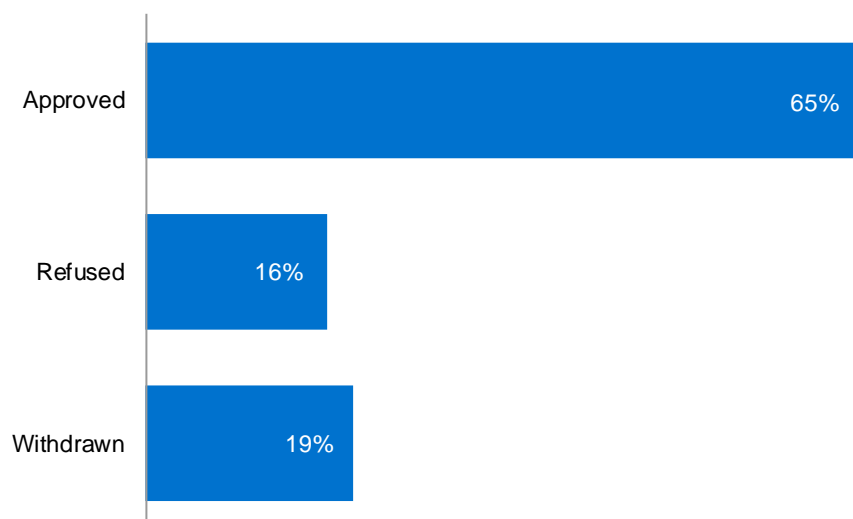
This section outlines some of our decisions to grant relief from the conduct obligations imposed by Chs 2D, 2G, 2M, 5C and 7.

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

Key statistics

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

Figure 6: Outcome of conduct relief applications determined in report period



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

Presentation of financial reports by a stapled group

Relief to allow a stapled group to present two of the three stapled entities in the group in a single financial report

59 We granted relief to a stapled group, comprising three stapled entities, to allow the consolidated financial statements and directors' report of two of the three stapled entities to be presented in a single financial report. The third entity would continue to present consolidated financial statements for the entities it controls in a separate report.

- 60 We granted relief because the relief would not result in users of the group's financial report being provided with less information than if three separate reports were produced and would result in a better outcome for users—with the group's financial report being easier to read, given the unique stapling arrangement of the group involving two Australian companies (which will be combined into the single report) and a third foreign entity.
- 61 The group was not able to rely on [ASIC Corporations \(Stapled Group Reports\) Instrument 2015/838](#), which allows financial statements of all members of a stapled group to be presented in a single financial report, because the foreign entity in the group is not subject to Ch 2M. Additionally, due to the different auditors and standards applicable to the foreign entity, there were practical difficulties in presenting all three entities in a single report. ASIC's relief is limited to three years and it expires in 2021.

Access to minutes of directors' meetings

Approval to allow minutes of directors' meetings to be kept at an alternative location

- 62 We approved a company's request to keep certain parts of its minute books relating to a subcommittee of directors' meetings at another place in Australia other than its registered office or its principal place of business in Australia. The company is a state-owned government enterprise.
- 63 As the minute books relate to a subcommittee of directors' meetings, as opposed to general meetings of members, only the directors of the company are entitled to access those minute books. In granting the relief, we considered accessibility to those minute books will not be an issue for the directors of the company.
- 64 In granting the relief, we also accepted that the minute books may contain sensitive government information which dictated the need for these minute books to be kept at a location other than the company's registered office or its principal place of business. As the minute books may contain sensitive government information, we took into account the fact that the company has obligations under the *State Records Act 1998* (NSW) to ensure the safe custody and proper preservation of those minute books.

Voting by responsible entity and associates

Refusal to disapply the application of s253

- 65 We refused relief to disapply s253E, which provides that the responsible entity of a registered scheme and its associates are not entitled to vote their interests on a resolution at a meeting of the scheme's members if they have an interest in the resolution or matter other than as a member.
- 66 The applicant was a responsible entity under external administration who sought relief to permit it to vote interests on a resolution at meetings called by members to be removed as the responsible entity of certain unlisted registered managed investment schemes and as manager of the schemes, and other related members' resolutions. The applicant would vote on interests that it held in its capacity as trustee of a wholesale trust on behalf of a key investor in the wholesale trust. It was submitted that the applicant would vote as instructed by the key investor.
- 67 Although the applicant had no legal duty to vote as instructed by the key investor, it was submitted that if the key investor had held the interests in the schemes directly, the investor would have been able to vote, and, as such, a third party beneficiary, like the key investor, should not be unfairly disenfranchised from exercising its (indirect) voting rights and enjoying the rights and benefits attached to its investment. The applicant submitted that the key investor should not be denied a right to vote that is available to all other members under Ch 5C. The responsible entity and investor did not assert that the responsible entity held the interests under a bare trust or nominee arrangement for the key investor.
- 68 We refused relief on the basis that the regulatory detriment of granting the relief was more than minimal and was not clearly outweighed by the resulting commercial benefit. In our view, refusing the relief sought would promote the ordinary and intended operation of s253E in circumstances when the conflicts of interest of the responsible entity were actual, potential or perceived.
- 69 We will exercise caution in changing the ordinary operation of s253E to remove the protections that the legislator intended for members of an unlisted registered scheme at a meeting of the scheme's members where the responsible entity and its associates have an interest in the resolution or matter other than as a member.

Publications

- 70 We issued the following publications on conduct relief during the report period: see Table 9 and Table 10.

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

| Type and number | Title | Media release | Date issued |
|-------------------------------------|---|----------------|-------------|
| Regulatory Guide 58 | <i>Reporting by registered foreign companies and Australian companies with foreign shareholders</i> | Not applicable | 3 July 2018 |

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

| Instrument name | Amends or replaces | Date issued |
|---|---|-------------------|
| ASIC Corporations (Group Purchasing Bodies) Instrument 2018/751 | Continues and extends Class Order [CO 08/1] <i>Group purchasing bodies to 'limited licensees'</i> | 14 September 2018 |
| ASIC Corporations (Amendment) Instrument 2018/825 | Amends ASIC Corporations (Employee Redundancy Funds Relief) Instrument 2015/1150 | 18 September 2018 |

F Credit relief

Key points

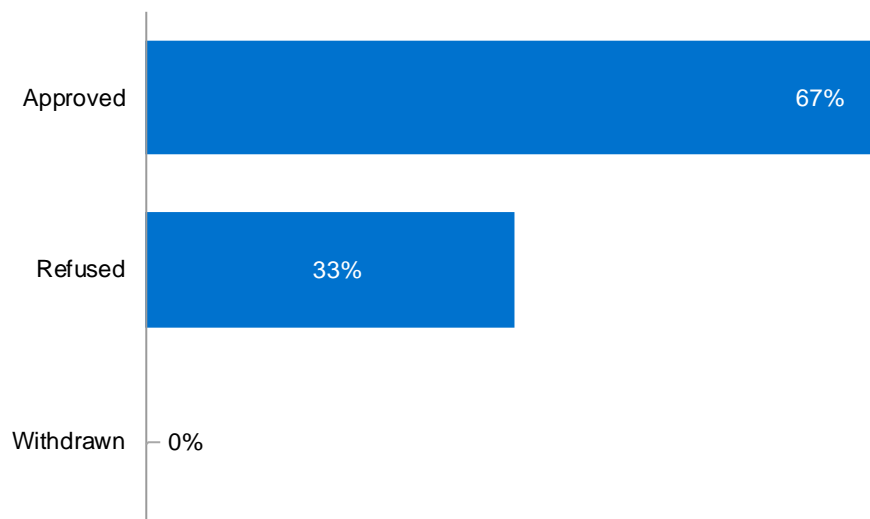
This section outlines some of our decisions in relation to applications for relief under the National Credit Act.

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

Key statistics

- 71 We have set out a summary of the outcomes of applications for credit relief that we determined in this period: see Figure 7.

Figure 7: Outcome of credit relief applications determined in report period



Note: See Table 26 in the appendix for the data shown in this figure (accessible version).

Prohibition on retrospective interest charges on credit cards

Transitional relief from credit card interest rate reforms

- 72 We granted conditional relief from s133BS of the National Credit Act as inserted by the *Treasury Laws Amendment (Banking Measure No. 1) Act 2018*, which comes into effect from 1 January 2019.
- 73 Section 133BS of the National Credit Act will prohibit credit card providers from retrospectively charging interest at a higher rate on a balance, or part of a

balance, in a credit card contract. We granted relief for a period of three months, commencing 1 January 2019.

74 Relief was required as the applicant is a credit provider in the process of undertaking a systems consolidation which is due to be completed shortly after the commencement of s133BS of the National Credit Act. The system is used by the applicant to allocate interest to credit card accounts, among other things. If the applicant was required to comply with the legislation from 1 January 2019, they would be required to update a platform which will be decommissioned in early 2019.

75 We decided to grant conditional relief because we considered that full compliance with s133BS of the National Credit Act in relation to the systems to be decommissioned would be unduly burdensome. The relief was subject to:

- (a) the provider remediating consumers so that consumers are in the same position as if the applicant had complied with s133BS of the National Credit Act from the date it commenced; and
- (b) the applicant ensuring that the consumer was consistently informed of the effect on their account.

With these conditions, we were satisfied that relief would result in minimal or no regulatory detriment, and a commercial benefit.

Publications

76 We issued the following publications on credit relief during the report period: see Table 11 and Table 12.

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

| Type and number | Title | Media release | Date issued |
|--------------------------------------|--|--------------------------|------------------|
| Report 590 | <i>Response to submissions on CP 303 Credit cards: Responsible lending assessments</i> | 18-257MR | 5 September 2018 |
| Regulatory Guide 165 | <i>Licensing: Internal and external dispute resolution</i> | 18-158MR | 31 May 2018 |
| Regulatory Guide 267 | <i>Oversight of the Australian Financial Complaints Authority</i> | 18-180MR | 20 June 2018 |

Table 12: Legislative instruments on credit relief made during the report period

| Instrument name | Amends or replaces | Date issued |
|---|--|-------------------|
| ASIC Credit (Unsuitability—Credit Cards) Instrument 2018/753 | Not applicable | 28 August 2018 |
| ASIC Corporations and Credit (Transition to AFCA) Instrument 2018/814 | Not applicable | 19 September 2018 |
| ASIC Credit (Amendment) Instrument 2018/836 | Amends ASIC Corporations and Credit (Transition to AFCA) Instrument 2018/814 | 20 September 2018 |
| ASIC Credit (AFCA transition) Instrument 2018/448 | Not applicable | 29 May 2018 |
| ASIC Credit (Amendment) Instrument 2018/665 | Amends ASIC Credit (AFCA transition) Instrument 2018/448 | 16 August 2018 |

G Other relief

Key points

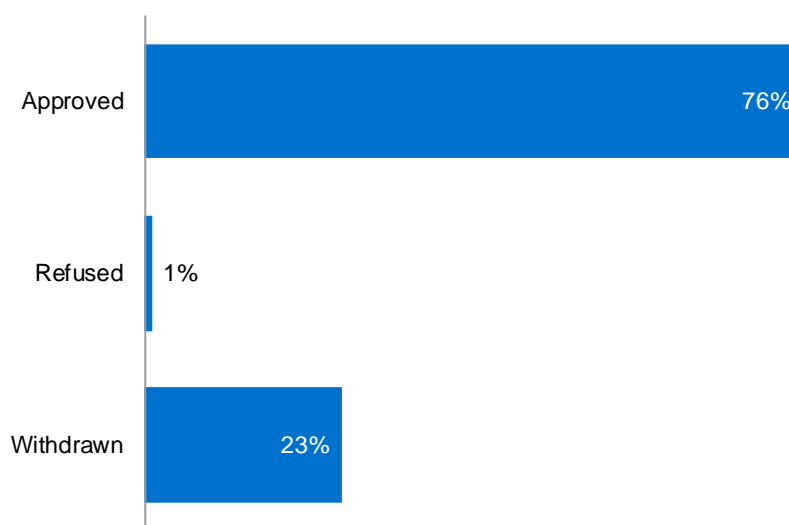
This section outlines decisions we have made that do not fall within any of the categories mentioned in previous sections, and that may be significant to participants in the financial services and capital markets industry.

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

Key statistics

77 We have set out a summary of the outcomes of applications for other relief that we determined in this period: see Figure 8.

Figure 8: Outcome of other relief applications determined in report period



Note: See Table 27 in the appendix for the data shown in this figure (accessible version).

Benchmark administrator licence

Financial benchmark administrator relief

78 We granted relief in the form of an exemption from s908BA(1), which requires a person who administers a significant financial benchmark to hold a benchmark administrator licence. The relief was granted for as long as the applicant holds an Australian Clearing and Settlement (CS) facility licence.

- 79 The applicant was responsible for the administration of a financial benchmark listed in [ASIC Corporations \(Significant Financial Benchmarks\) Instrument 2018/420](#).
- 80 The Australian regulatory regime for financial benchmarks implements the International Organization of Securities Commission (IOSCO) Principles for Financial Benchmarks, which excludes benchmarks produced by Central Counterparties (CCPs) provided they are produced solely for the purposes of risk management and settlement. The basis for this exclusion is because CCPs are regulated under Part 7.3 and are already subject to governance and risk management requirements.
- 81 The applicant is a holder of an Australian CS facility licence with respect to the CCP service it provides. We were satisfied the applicant would administer the financial benchmark in its capacity as a CCP and was doing so solely for the purposes of risk management and settlement.

Authorised deposit-taking institution

Relief for novation of margin loan portfolio

- 82 We granted relief to an authorised deposit-taking institution (ADI) for the novation of a portfolio of margin loans. This relief was required because novation of a credit contract involves ending the existing contract with the old credit provider and entering into a new contract on the same terms with the new credit provider. The entry into the new contract triggers a number of requirements under the regulatory regime for margin loans in the Corporations Act.
- 83 We gave relief from these requirements because:
- (a) from the consumer's perspective, the contracts that would be held after the transfer were effectively the same as their existing contracts and so the transaction is more akin to a continuation of an existing contract rather than an entry into a new contract; and
 - (b) if the responsible lending processes needed to be completed prior to the transfer, there would be a significant cost impost for the new credit provider which would be likely to affect the viability of the transfer, and would also involve a significant disruption for consumers under existing contracts.
- 84 We have previously granted similar relief in relation to the novation of a portfolio of credit card contracts: see [Report 483 Overview of decisions on relief applications \(October 2015 to March 2016\)](#) (REP 483) at paragraphs 190 to 192.

Publications

85 We issued the following publications on other relief during the report period: see Table 13–Table 18.

Table 13: New regulatory documents on other relief issued during the report period

| Type and number | Title | Media release | Date issued |
|--------------------------------------|--|--|---------------|
| Regulatory Guide 172 | <i>Financial markets: Domestic and overseas operators</i> | 18-130MR 18-131MR | 4 May 2018 |
| Regulatory Guide 268 | <i>Licensing regime for financial benchmark administrators</i> | 18-171MR | 12 June 2018 |
| Report 583 | <i>Review of exchange traded products</i> | 18-226MR | 2 August 2018 |
| Information Sheet 32 | <i>Foreign companies</i> | 18-222MR | 31 July 2018 |

Table 14: Updated regulatory documents and legislative instruments on other relief issued during the report period

| Type and number | Title | Media release | Date issued |
|---|---|--------------------------|------------------|
| Regulatory Guide 108 | <i>No-action letters</i> Note: On 4 September 2018, the following amendment was made: We amended the note to RG 108.4 and inserted a new note to RG 108.22 to clarify the fees relating to no-action letters. | N/A | 18 December 2009 |
| Regulatory Guide 196 | <i>Short selling</i> | 18-301MR | 8 October 2018 |
| ASIC Corporations (Amendment) Instrument 2018/3 | Amends: <ul style="list-style-type: none"> • Class Order [CO 10/288] <i>Covered short sale transaction reporting relief for market makers</i> • Class Order [CO 13/655] <i>Provisions about the amount of consideration to acquire interests and withdrawal amounts not covered by ASIC Corporations (Managed investment product consideration) Instrument 2015/847</i> • Class Order [CO 13/721] <i>Relief to facilitate quotation of exchange traded funds on the AQUA Market</i> • Class Order [CO 13/1200] <i>Periodic statements relief for AQUA quoted and listed managed investment scheme manager</i> | Not applicable | 28 May 2018 |

| Type and number | Title | Media release | Date issued |
|--|---|----------------|-------------------|
| ASIC Superannuation (Amendment) Instrument 2018/474 | Amends ASIC Superannuation (RSE Websites) Instrument 2017/570 | Not applicable | 1 June 2018 |
| ASIC Corporations (Significant Financial Benchmarks) Instrument 2018/420 | Not applicable | Not applicable | 6 June 2018 |
| ASIC Corporations (Short Selling) Instrument 2018/745 | Provides conditional relief from naked short selling prohibition in s1020B(2) and remakes the relief in: <ul style="list-style-type: none"> • Class Order [CO 08/764] <i>Short selling – exercise of exchange traded options</i> • Class Order [CO 09/774] <i>Naked short selling relief for market makers</i> • Class Order [CO 10/288] <i>Covered short sale transaction reporting relief for market makers</i> • Class Order [CO 09/1051] <i>Short selling relief: Exchange traded options, unobtained financial products and certain bonds and debentures</i> • Class Order [CO 10/111] <i>Short selling: limited relief for deferred purchase agreement issuers from s1020B(2)</i> • Class Order [CO 10/29] <i>Short selling position reporting regime; and</i> • Class Order [CO 10/135] <i>Relief for small short positions</i> | Not applicable | 26 September 2018 |
| ASIC Corporations (Amendment) Instrument 2018/810 | Amends ASIC Corporations (Derivative Transaction Reporting Exemption) Instrument 2015/844 | Not applicable | 19 September 2018 |

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

| Rulebook | Media release | Date issued |
|--|--------------------------|-------------|
| ASIC Financial Benchmark (Administration) Rules 2018 | 18-171MR | 6 June 2018 |
| ASIC Financial Benchmark (Compelled) Rules 2018 | 18-171MR | 6 June 2018 |

Table 16: Amendments to rulebooks on other relief made during the report period

| Amendment name | Amends | Date issued |
|---|---|-------------|
| ASIC Market Integrity Rules (Securities Markets and Futures Markets) Amendment 2018 (No. 1) | ASIC Market Integrity Rules (Securities Markets) 2017 ASIC Market Integrity Rules (Futures Markets) 2017 | 2 May 2018 |

Table 17: Determinations on other relief made during the report period

| Determination name | Relevant rulebook | Date issued |
|---|---|------------------|
| ASIC Market Integrity Rules (Securities Markets) Determination 2018/314 | ASIC Market Integrity Rules (Securities Markets) 2017 | 1 May 2018 |
| ASIC Market Integrity Rules (Futures Markets) Determination 2018/315 | ASIC Market Integrity Rules (Futures Markets) 2017 | 1 May 2018 |
| ASIC Market Integrity Rules (Securities Markets) Determination 2018/317 | ASIC Market Integrity Rules (Securities Markets) 2017 | 1 May 2018 |
| ASIC Market Integrity Rules (Securities Markets) Determination 2018/445 | ASIC Market Integrity Rules (Securities Markets) 2017 | 7 June 2018 |
| ASIC Market Integrity Rules (Securities Markets) Determination 2018/546 | ASIC Market Integrity Rules (Securities Markets) 2017 | 20 June 2018 |
| ASIC Market Integrity Rules (Securities Markets) Determination 2018/765 | ASIC Market Integrity Rules (Securities Markets) 2017 | 6 September 2018 |
| ASIC Market Integrity Rules (Securities Markets) Repeal Instrument 2018/766 | ASIC Market Integrity Rules (Securities Markets) 2017 | 6 September 2018 |

Table 18: Class rule waivers on other relief made during the report period

| Class rule waiver name | Amends or repeals | Date issued |
|--|-------------------|---------------|
| ASIC Market Integrity Rules (Securities Markets) Class Waiver 2018/258 | Not applicable | 20 April 2018 |
| ASIC Market Integrity Rules (Securities Markets – Capital) Class Waiver 2018/259 | Not applicable | 20 April 2018 |
| ASIC Market Integrity Rules (Futures Markets) Class Waiver 2018/265 | Not applicable | 23 April 2018 |
| ASIC Market Integrity Rules (Securities Markets) Class Waiver 2018/266 | Not applicable | 23 April 2018 |
| ASIC Market Integrity Rules (Futures Markets) Class Waiver 2018/267 | Not applicable | 23 April 2018 |
| ASIC Market Integrity Rules (Futures Markets) Class Waiver 2018/264 | Not applicable | 24 April 2018 |

| Class rule waiver name | Amends or repeals | Date issued |
|--|--------------------------|--------------------|
| ASIC Market Integrity Rules (Securities Markets) Class Waiver 2018/269 | Not applicable | 24 April 2018 |
| ASIC Market Integrity Rules (Securities Markets) Class Waiver 2018/298 | Not applicable | 26 April 2018 |
| ASIC Market Integrity Rules (Futures Markets) Class Waiver 2018/302 | Not applicable | 26 April 2018 |
| ASIC Market Integrity Rules (Securities Markets) Class Waiver 2018/303 | Not applicable | 26 April 2018 |
| ASIC Market Integrity Rules (Securities Markets) Class Waiver 2018/304 | Not applicable | 26 April 2018 |
| ASIC Market Integrity Rules (Futures Markets) Class Waiver 2018/305 | Not applicable | 26 April 2018 |
| ASIC Market Integrity Rules (Securities Markets) Class Waiver 2018/310 | Not applicable | 30 April 2018 |
| ASIC Market Integrity Rules (Securities Markets) Class Waiver 2018/311 | Not applicable | 30 April 2018 |
| ASIC Market Integrity Rules (Futures Markets) Class Waiver 2018/312 | Not applicable | 30 April 2018 |
| ASIC Market Integrity Rules (Futures Markets) Class Waiver 2018/313 | Not applicable | 30 April 2018 |

Appendix 1: ASIC relief instruments

Table 19 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 19: ASIC relief instruments

| Paragraph numbers | Entity name | Instrument number (Gazette number. if applicable) | Date executed | Power exercised and nature of relief |
|-------------------|------------------------------------|---|-------------------|---|
| 11 and 28 | National Australia Bank | 18-0030 | 13 June 2018 | Sections 926A(2)(c), 951B(1)(c) and 1020F(1)(c) of the Corporations Act Declarations that modify the definition of 'basic deposit product' as it applies in Parts 7.6 (other than Divs 4 and 8), 7.7. and 7.9 of the Corporations Act |
| 22 | Mr Ian Armel | 18-0426 | 23 May 2018 | Section 926A(2)(a) of the Corporations Act Licensing relief from s911A(1) |
| 32 | OnePath Custodians Pty Limited | 18-0640 (A32/18) | 20 July 2018 | Section 1020F(1) of the Corporations Act. Relief from PDS-giving requirement under s1012B(3) and modifications to exit statement requirements under s1017D of the Corporations Act. |
| 37 | Westpac Banking Corporation | 18-0844 | 24 September 2018 | Section 601QA(1), 741(1), 926A(2) 992B(1) and 1020F(1) of the Corporations Act Relief similar to Class Order [CO 14/1000] <i>Employee incentive schemes: Listed bodies</i> to facilitate offers to former employees of a listed entity |
| 45 | Eastern Field Developments Limited | 18-0617 (A31/18) | 13 July 2018 | Section 655A(1)(b) of the Corporations Act Relief from s659B(1) to facilitate judicial review of Takeovers Panel decision before the end of the bid period |

| Paragraph numbers | Entity name | Instrument number (Gazette number. if applicable) | Date executed | Power exercised and nature of relief |
|-------------------|---------------------------------|---|------------------|---|
| 78 | ASX Clear (Futures) Pty Limited | 18-0683 (A39/18) | 3 September 2018 | Section 908EB(2)(a) of the Corporations Act Relief from s908BA(1) of the Corporations Act |
| 82 | Westpac Banking Corporation | 18-0242 (A16/18) | 11 April 2018 | Section 992B(1)(a) and (c) of the Corporations Act Relief from Div 4A of Pt 7.8 other than s985J and modification of s985J of the Corporations Act |

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 20: Outcome of all relief applications received

| Outcome | Percentage |
|-----------------------------|------------|
| Approved | 73% |
| Refused | 4% |
| Withdrawn | 12% |
| Decided outside this period | 11% |

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

Table 21: Outcome of AFS licensing relief applications

| Outcome | Percentage |
|-----------|------------|
| Approved | 84% |
| Refused | 6% |
| Withdrawn | 10% |

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

Table 22: Outcome of disclosure relief applications

| Outcome | Percentage |
|-----------|------------|
| Approved | 82% |
| Refused | 1% |
| Withdrawn | 17% |

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

Table 23: Outcome of managed investment relief applications

| Outcome | Percentage |
|-----------|------------|
| Approved | 86% |
| Refused | 8% |
| Withdrawn | 7% |

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

Table 24: Outcome of mergers and acquisitions relief applications

| Outcome | Percentage |
|----------------|-------------------|
| Approved | 87% |
| Refused | 1% |
| Withdrawn | 12% |

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

Table 25: Outcome of conduct relief applications

| Outcome | Percentage |
|----------------|-------------------|
| Approved | 65% |
| Refused | 16% |
| Withdrawn | 19% |

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

Table 26: Outcome of credit relief applications

| Outcome | Percentage |
|----------------|-------------------|
| Approved | 67% |
| Refused | 33% |
| Withdrawn | 0% |

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

Table 27: Outcome of other relief applications

| Outcome | Percentage |
|----------------|-------------------|
| Approved | 76% |
| Refused | 1% |
| Withdrawn | 23% |

Note: This table sets out the data in Figure 8.