



ASIC
Australian Securities &
Investments Commission

REPORT 620

Overview of decisions on relief applications (October 2018 to March 2019)

June 2019

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 2018 to 31 March 2019 (report period). 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 and the National Credit Act.

It also refers to a number of publications issued by ASIC during the report period 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).

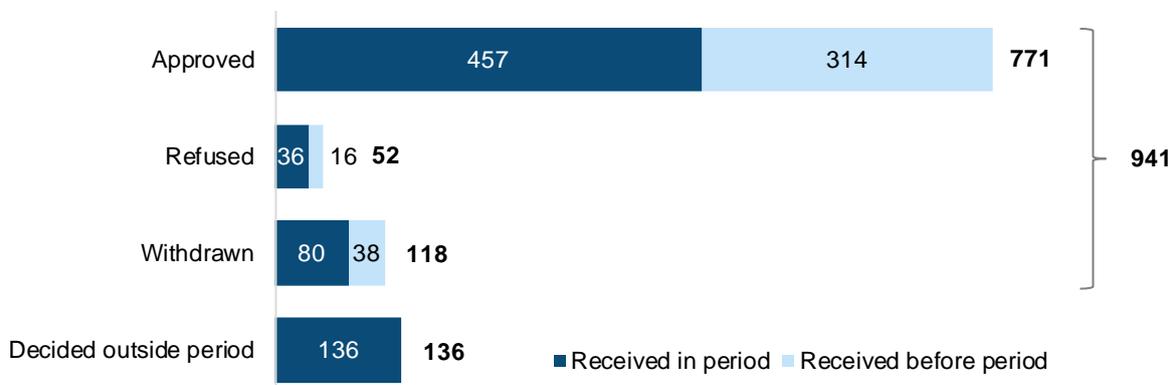
Note: In this report, references to sections (s), chapters (Chs) and parts (Pts) are to the Corporations Act, unless otherwise specified.

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 October 2018 and ending 31 March 2019 (report period). During the report period, we received 709 applications and determined 941 relief applications (this includes some applications received before the report period). For a summary of the outcomes of all relief applications we decided during this period, see Figure 1.

Figure 1: Outcome of all relief applications received before and during the report period



Note: See Table 14 in the appendix for the data shown in this figure (accessible version).

- 5 The ‘Decided outside this period’ category comprises 19% of the applications received (as indicated by the last dark blue bar in Figure 1), and is made up of applications that we received during the report period 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 For a summary of the outcomes of all the applications determined in the report period, see Figure 2. These comprise applications approved, refused or withdrawn within the report period that we received both during and before the commencement of the period.

Note: Due to rounding, some figures in this report do not add up to 100%.

Figure 2: Outcome of all relief applications determined in the report period



Note: See Table 15 in the appendix for the data shown in this figure (accessible version).

- 7 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.
- 8 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.
- 9 The appendix to this report details the individual relief instruments we have executed for matters referred to in the report. [Legislative instruments](#) are available on our website. Individual relief instruments are published in the

[ASIC Gazette](#) or on our [Credit relief webpage](#) (for credit instruments).

A [register of waivers granted under ASIC market integrity rules](#), including class rule waivers, is published on our website. See our website for [media releases](#) on the matters and publications referred to in this report.

- 10 This report refers to a number of publications we issued 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

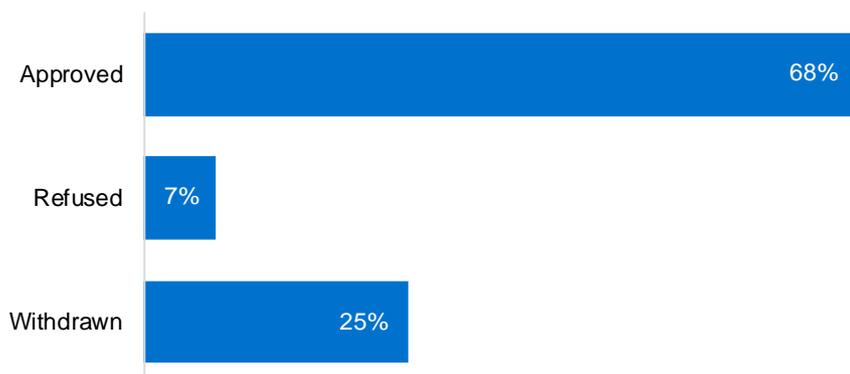
This section outlines some of our decisions on whether to grant relief under Ch 7 of the Corporations Act, including under s926A(2), from the Australian financial services (AFS) licensing requirements.

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

Key statistics

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

Figure 3: Outcome of AFS licensing relief applications determined in the report period



Note: See Table 16 in the appendix for the data shown in this figure (accessible version).

Equity release product

Relief for an entity that operates a managed investment scheme with investments in an equity release product

- 12 We granted conditional relief to an entity that operates a managed investment scheme with investments in an ‘equity release product’.
- 13 The entity’s business model involves offers of an equity release product to residential property owners, which is a cash advance secured by an interest in the owner’s property. The entity also offers units in a managed investment scheme to investors, who beneficially acquire fractional interests in the secured residential properties in proportion to the amount they have invested. The entity uses the amounts invested in the managed investment scheme to fund

the pay out to the property owners, in return for a service fee (from the owners) for the equity release product.

- 14 The equity release product gives owners immediate access to the equity in their residential property (in the form of upfront cash) and operates, in substance, as an alternative to a reverse mortgage (i.e. commitment to progressive reduction in the owner's equity in their home).
- 15 The equity release product is not regulated under the National Credit Act or subject to responsible lending obligations because it is not structured as a loan. Instead, the equity release product comes under the definition of a derivative in the Corporations Act, because it is subject to the value of the underlying property.
- 16 We granted the entity conditional relief from the AFS licensing requirements for retail over-the-counter (OTC) derivatives because we considered that those requirements had not been designed for a product of this kind. The relief limits the regulatory burdens specific to derivatives that may not provide significant benefits for consumers.
- 17 The relief granted gives the entity an exemption from the requirements to:
- (a) in relation to the scheme interests, register a separate scheme for investments in each residential property under Ch 5 of the Corporations Act; and
 - (b) in relation to the equity release product, comply with the financial requirements for AFS licensees providing OTC derivatives to retail clients (see s912AB of the Corporations Act, as notionally inserted by [Class Order \[CO 12/752\]](#) *Financial requirements for retail OTC derivative issuers*).
- 18 The conditions of the relief:
- (a) impose requirements that mirror key protections available under the National Credit Act and the National Credit Code for property owners who obtain reverse mortgages;
 - (b) recognise the equity release product as a financial product, which gives owners the benefit of product disclosure, remedies for defective disclosure and access to dispute resolution; and
 - (c) are consistent with the Australian Government's policy approach to concerns about reverse mortgages and home reversion schemes, which was announced before the introduction of the reverse mortgage related protections in the National Credit Act.
- Note: See the Hon. Bill Shorten MP, the then Assistant Treasurer and Minister for Financial Services and Superannuation, [Better protections for seniors using reverse mortgages](#), media release, 7 August 2011.
- 19 We had previously given this entity relief from the Ch 5C registration requirement for a similar product in 2013. The relief we granted replaced the relief given in 2013.

Non-cash payment facilities

Relief for testing a non-cash payment facility

- 20 We granted conditional relief from the requirement to hold an AFS licence (see s911A(1) of the Corporations Act) to a company that is developing a prepaid debit card facility. The relief permits the company to distribute its product for a testing period of 12 months.
- 21 The company is developing single-use, reloadable and multi-currency scheme prepaid cards, and related account management and recording capabilities, for use by corporate businesses to provide funds to employees for work-related purposes (e.g. expenses while on business travel).
- 22 During the testing period:
- (a) an authorised deposit-taking institution (ADI) will issue the product; and
 - (b) the company will distribute the product to its corporate clients and provide related account management and recording functions as a feature of the product.
- 23 Following the testing period, the company proposes to obtain an AFS licence that permits it to issue non-cash payment facilities.
- 24 The relief is modelled on the fintech licensing exemption provided under [ASIC Corporations \(Concept Validation Licensing Exemption\) Instrument 2016/1175](#). The applicant requested an increase to the aggregate maximum exposure limit (from \$5 million to \$20 million), which we decided to permit because:
- (a) the company's clients are wholesale clients; and
 - (b) it would be difficult to adequately test the business concept within the restrictions of a \$5 million limit, given the nature of the clients and intended use of the product by those clients.
- 25 We were concerned about the risks involved in permitting an unlicensed person to provide services where the person may decide not to continue with the product after the testing period. To minimise disruption to clients in this event, we have provided the relief subject to the following conditions:
- (a) the company must have contractual arrangements with the ADI that issues the product, and other service providers, to ensure continued access to and use of the product and the related services and functionality; and
 - (b) if the company ceases to provide the testing services to new clients, it must notify any existing clients of any material changes to the way in which those clients and any end users of the product may use the product until the expiry of the product.

- 26 We have also imposed disclosure conditions consistent with:
- (a) the fintech licensing exemption; and
 - (b) the provisions in [ASIC Corporations \(Non-cash Payment Facilities\) Instrument 2016/211](#) and the [ePayments Code](#) for disclosure of information about the expiry of the product, how the client or end user can redeem funds before expiry, and how the client or end user can check the balance of available funds.

E-money issuers

Short-term transitional relief from AFS licensing requirements for an e-money issuer regulated by the Financial Conduct Authority

- 27 We refused ongoing relief to exempt a UK-based firm from the requirement to have an AFS licence and from other obligations under Ch 7 of the Corporations Act. However, we granted short-term transitional relief, subject to conditions, to permit the firm to operate in Australia for a period of nine months while we assessed its application for an AFS licence. The applicant is an e-money issuer under the Electronic Money Regulations 2011 (UK) and is regulated by the Financial Conduct Authority (FCA) in the United Kingdom.
- 28 We refused to grant ongoing relief because:
- (a) the specific products the firm proposed to offer to Australian retail clients are ordinarily subject to AFS licensing and disclosure requirements in the Corporations Act. We do not give relief that would reverse the usual and intended effect of the law—see [Regulatory Guide 51 Applications for relief \(RG 51\)](#) at RG 51.62;
 - (b) we were not satisfied that compliance with the ordinary requirements under the law would be impossible or disproportionately burdensome—see [Regulatory Guide 167 Licensing: Discretionary powers \(RG 167\)](#) at RG 167.12(a); and
 - (c) the net regulatory effect of granting relief would result in detriment, particularly for retail clients. We were not satisfied that, if relief were granted, sufficient protections would be available to consumers, including dispute resolution processes and disclosure.
- 29 We granted short-term transitional relief, subject to conditions, because:
- (a) the firm operates in the United Kingdom providing products and services that are regulated by the FCA, which are the same products and services it intends to provide in Australia; and
 - (b) the experience and governance requirements met by the firm in the United Kingdom are comparable to those that apply in Australia.

- 30 To minimise any risks for consumers, we imposed the conditions that the firm:
- (a) complies with requirements to maintain internal dispute resolution processes and membership of Australian Financial Complaints Authority (AFCA)
 - (b) complies with the ordinary disclosure obligations that apply to AFS licensees;
 - (c) provides the financial services in Australia in a way that would comply with UK regulatory requirements for those services; and
 - (d) holds all money provided by Australian clients on trust for the benefit of the clients, in an account with an Australian ADI.

Publications

- 31 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 261	<i>Crowd-sourced funding: Guide for companies</i>	18-314MR	18 October 2018
Regulatory Guide 262	<i>Crowd-sourced funding: Guide for intermediaries</i>	18-314MR	18 October 2018

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

Instrument name	Amends or replaces	Date issued
ASIC Corporations (Amendment) Instrument 2018/752	Amends ASIC Corporations (Non-cash Payment Facilities) Instrument 2016/211	8 November 2018
ASIC Corporations (Amendment) Instrument 2018/1098	Amends ASIC Corporations (Group Purchasing Bodies) Instrument 2018/751	3 December 2018

B Disclosure relief

Key points

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

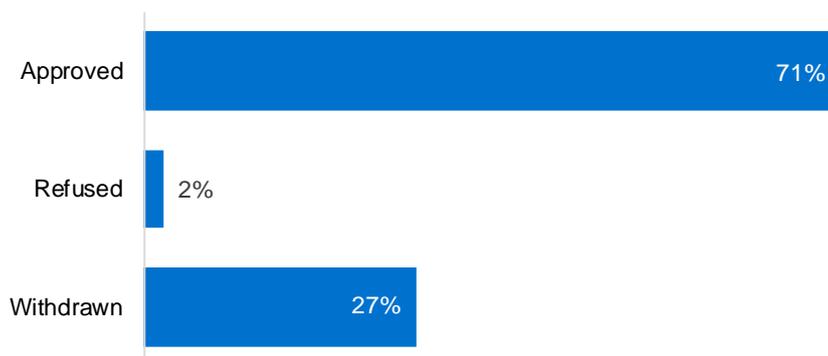
- the requirements in Ch 6D to provide prospectuses and other disclosure documents; and
- the Ch 7 requirements to provide Product Disclosure Statements (PDSs) and Financial Services Guides (FSGs).

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

Key statistics

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

Figure 4: Outcome of disclosure relief applications determined in the report period



Note: See Table 17 in the appendix for the data shown in this figure (accessible version).

Stapled securities

Modification of the definition of ‘continuously quoted securities’ for entities covered by technical accounting relief

33 We granted relief—in the form of a modification to the definition of ‘continuously quoted securities’ in s9 of the Corporations Act—to each of the entities within a stapled group. The stapled group consisted of a trust, a company and an entity that was a responsible entity for the trust. The applicants were structured so that the shares of the company and the units of the trust were stapled together for the purposes of trading on the ASX market.

- 34 The stapled group was proposing to make a non-renounceable entitlement offer of securities and interests to existing eligible holders of the stapled product, and to offer any securities and interests not taken up under the entitlement offer to new investors. The group sought relief to allow the use of a single disclosure document for the entitlement offer, which would meet the requirements of both s713 and 1013FA.
- 35 The stapled group also sought relief to permit them to:
- (a) on-sell securities and interests resulting from a conversion of convertible notes issued to institutional investors; and
 - (b) issue securities and interests under a security purchase plan.
- 36 The stapled securities met the definition of ‘continuously quoted securities’ in s9, except that an order made under s340 applied to both the trust and the company.
- 37 The order in force under s340 is an ASIC individual relief instrument that allows the company and trust to prepare aggregated financial statements, despite the company and trust being separate legal entities: see paragraphs 92–96 of [Report 574](#) *Overview of decisions on relief applications (October 2017 to March 2018)* (REP 574).
- 38 We granted relief because the s340 order was technical accounting relief that did not detract from the level of information available to the market.

Employee incentive schemes

Foreign employee incentive scheme relief

- 39 We granted relief to a foreign company, substantially in the form of [Class Order \[CO 14/1000\]](#) *Employee incentive schemes: Listed bodies*, to facilitate offers under its employee incentive scheme to employees of its Australian subsidiaries.
- 40 The applicant foreign company was based in France and listed on Euronext Paris. The applicant’s employee incentive scheme was in the form of a collective employee investment vehicle known as a Fonds Commun de Placement d’Entreprise (FCPE), regulated by the Autorité des Marchés Financiers, the French market authority.
- 41 The applicant sought to offer to Australian employees:
- (a) units in the FCPE; and
 - (b) Stock Appreciation Rights.
- 42 The Stock Appreciation Rights were offered in connection with the FCPE and represented a contractual promise by the employer to pay to the participating

employee an amount ultimately determined by the change in the value of the shares in the applicant foreign company. Effectively, the Stock Appreciation Rights were similar to a derivative, with the aim of ‘hedging’ the employee’s exposure to fluctuations in the applicant foreign company’s shares. The Stock Appreciation Rights ensure that, if the value of the shares in the applicant foreign company:

- (a) falls, participating employees are able to recover the amount of their subscription to the FCPE; and
- (b) rises, participating employees are paid an amount determined by the increase in value of the shares.

43 The applicant foreign company was unable to rely on [\[CO 14/1000\]](#) because the employee offering involves an offer of units in a collective employee shareholding saving vehicle, rather than a direct offering of shares in the applicant foreign company.

44 We granted relief because we were satisfied that:

- (a) the primary aim of the employee incentive scheme was to support the long-term mutual interdependence of the applicant foreign company, its Australian subsidiaries and its employees;
- (b) the offer of units in the FCPE and the Stock Appreciation Rights leads to the same level of mutual interdependence of the parties as an offer of shares or other financial products;
- (c) the FCPE and Stock Appreciation Rights were adequately governed by French law and regulated by the Autorité des Marchés Financiers; and
- (d) the regulation imposed by French law and the proposed conditions of our relief ensure adequate protections for Australian employees, including requirements for offers to Australian employees to be accompanied by offer documents explaining the effect of the FCPE Rules and the terms of the Stock Appreciation Rights.

Publications

45 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 197	<i>Warrants: Out-of-use notices</i>	19-056MR	18 March 2019

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

Instrument name	Amends or replaces	Date issued
ASIC Corporations (Amendment) Instrument 2018/752	Amends ASIC Corporations (Non-cash Payment Facilities) Instrument 2016/211	8 November 2018
ASIC Corporations (Amendment) Instrument 2018/1028	Amends Class Order [CO 13/763] <i>Investor directed portfolio services</i>	8 November 2018
ASIC Corporations (Amendment) Instrument 2018/1098	Amends ASIC Corporations (Group Purchasing Bodies) Instrument 2018/751	3 December 2018
ASIC Corporations (Amendment) Instrument 2018/1088	Amends Class Order [CO 14/1252] <i>Technical modifications to Schedule 10 of the Corporations Regulations</i>	7 December 2018
ASIC Corporations (Warrants: Out-of-use notices) Instrument 2019/148	Replaces Class Order [CO 08/781] <i>Warrants: Out-of-use notices</i>	12 March 2019
ASIC Corporations (Amendment) Instrument 2019/216	Amends ASIC Corporations (Repeal and Transitional) Instrument 2017/186	19 March 2019
ASIC Corporations (Amendment) Instrument 2019/240	Amends: <ul style="list-style-type: none"> • Class Order [CO 13/1534] <i>Deferral of Stronger Super amendments in relation to PDS and periodic statement disclosure; and</i> • Class Order [CO 14/443] <i>Deferral of choice product dashboard and portfolio holdings disclosure regimes</i> 	2 April 2019

C Managed investment relief

Key points

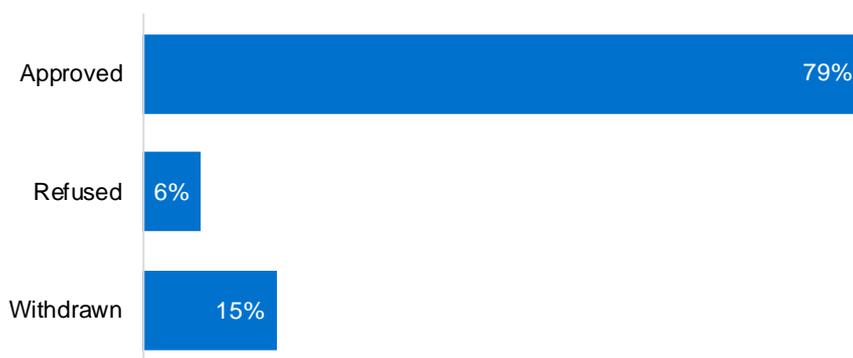
This section sets out some of the circumstances in which we have granted or refused relief from the provisions of Ch 5C.

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

Key statistics

46 We have set out a summary of the outcomes of applications for managed investment relief that we determined in this period: see Figure 5.

Figure 5: Outcome of managed investment relief applications determined in the report period



Note: See Table 18 in the appendix for the data shown in this figure (accessible version).

Members' withdrawal rights

Refusal of relief to a responsible entity to allow members' withdrawal rights to be determined by the liquidity of assets attributed to a class of units

47 We refused to grant relief to a responsible entity by modifying Pt 5C.6 of the Corporations Act so that a member's right to withdraw from a scheme could be determined by the liquidity of one class of units in the scheme, rather than the liquidity of the scheme as a whole (as determined by the operation of s601KA). The applicant submitted that it intended to create unit classes for a proposed scheme as an attribution managed investment trust (AMIT) under the *Tax Laws Amendment (New Tax System for Managed Investment Trusts) Act 2016*, and that the relief was necessary for it to participate in the AMIT regime.

- 48 The objective of the withdrawal rights regime in Pt 5C.6 is to ensure members have fair and equal access to liquidity. Unless a scheme is liquid within the meaning of s601KA, responsible entities must comply with statutory withdrawal procedures. [ASIC Corporations \(Mortgage Investment Schemes\) Instrument 2017/857](#) provides limited relief from the statutory withdrawal procedures by defining liquidity with regard to classes of particular mortgage loans. The instrument provides this relief on the basis that the liquidity of one mortgage (resulting from the disposal of one property) to satisfy withdrawal requests would not adversely affect the liquidity of other existing mortgages in a scheme.
- 49 The applicant's scheme consisted of a pool of financial assets that were similar in nature but were not comparable to the assets contemplated in ASIC Corporations (Mortgage Investment Schemes) Instrument 2017/857. We considered that granting relief for a unit class in a scheme of financial assets may have an adverse effect on the price that members may obtain in another class, which would erode the protection afforded by Pt 5C.6 for a scheme's continuing members.
- 50 We did not find the applicant's submissions about its participation in the AMIT regime persuasive. The applicant may participate in the AMIT regime without relief, as the regime is not intended to require the modification of existing rights and obligations under Pt 5C.6.
- 51 In refusing to grant relief, we also considered the guidance in [RG 51](#) and [Regulatory Guide 136 Funds management: Discretionary powers](#) (RG 136). We determined that the application was not within our policy for the following reasons:
- (a) the regulatory detriment was neither minimal nor clearly outweighed by the resulting commercial benefit;
 - (b) compliance with the statutory requirements was not impossible; and
 - (c) it was not disproportionately burdensome to achieve the regulatory objectives of ensuring the fair and equal treatment of members in different classes in a scheme.

Publications

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

Table 5: Legislative instruments on managed investment relief made during the report period

Instrument name	Amends or replaces	Date issued
ASIC Corporations (Amendment) Instrument 2018/752	Amends ASIC Corporations (Non-cash Payment Facilities) Instrument 2016/211	8 November 2018

Instrument name	Amends or replaces	Date issued
ASIC Corporations (Amendment) Instrument 2018/1098	Amends ASIC Corporations (Group Purchasing Bodies) Instrument 2018/751	3 December 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 did not issue any publications on mergers and acquisition relief during the period of this report.

Key statistics

- 53 We have set out a summary of the outcomes of applications for merger and acquisitions relief that we determined in this period: see Figure 6.

Figure 6: Outcome of mergers and acquisitions relief applications determined in the report period



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

American depository receipts

Refusal of relief from substantial holding reporting requirements

- 54 We refused relief to a US depository bank from the requirement to lodge substantial holding notices (under s671B of the Corporations Act) about depository services relating to American depository receipts (ADRs).
- 55 ADRs provide evidence of ownership in American depository shares, each of which represent a specific number of securities in a non-US company. As a depository bank, the applicant facilitated the acquisition, holding and transfer of securities in Australian companies by US and other foreign investors through the use of ADRs under a depository agreement.

- 56 The depositary agreements governing the relationship between the depositary bank and the holders of ADRs provide the applicant with several limited discretions for disposing the underlying securities and exercising voting rights. These discretions give rise to the applicant's relevant interest in the underlying securities.
- 57 The applicant sought relief to disregard its relevant interests in the securities deposited under its ADR program when calculating its obligation to lodge notices under s671B.
- 58 The applicant cited commercial difficulties of complying with s671B. It also submitted that providing substantial holding notices about the size of its relevant interests through its ADR programs would be of minimal use and may cause confusion in the market because:
- (a) it may also have a relevant interest in the underlying securities in the same entity in other capacities; and
 - (b) ultimately, the holders of the ADRs retained substantial control over the disposal of the shares and exercise of voting rights.
- 59 We refused relief because we considered the information the applicant would be required to provide would help maintain an informed market for the trading of the underlying securities. We did not consider the commercial difficulties the applicant cited were sufficient to outweigh the regulatory benefit of promoting transparency in the market about the number of underlying securities deposited under an ADR program.

Partial refusal of relief from the takeovers provisions

- 60 In the matter referred to in paragraph 54–59, the applicant also requested relief to disregard its relevant interests in the underlying securities of its ADR programs for the purpose of s606 of the Corporations Act. We granted relief for some ADR programs, but refused relief for programs whose depositary agreement contained a specific clause that we determined was not appropriate in the circumstances.
- 61 The clause required the applicant to provide undirected proxies to a representative of the Australian company whose underlying securities formed the basis of the ADR program.
- 62 We refused relief on the basis that depositary agreements containing this particular clause permitted Australian issuers to acquire undirected proxies without informing the market. This has the effect of allowing Australian issuers to accumulate decision-making influence that could significantly affect the entity's financial standing or affairs without informing the market. We consider the potential attribution of large proxies in this circumstance is a significant regulatory detriment—one that outweighed any commercial benefit flowing from provision of relief.

- 63 By contrast, we granted relief from the takeovers provisions for ADR programs whose depositary agreements did not include a clause of the type described in paragraph 61. In these instances, we considered the ADR programs conveyed a substantial commercial benefit to Australian companies whose shares foreign investors traded as ADRs. In granting the relief from s606, we noted the following:
- (a) the depositary agreements that were the subject of relief contained discretions that were limited to circumstances that enable the applicant to properly fulfil its duties and obligations as a depositary bank for the ADR programs, ensure compliance with applicable laws, and apply commercial pragmatism to the program's implementation; and
 - (b) the applicant very rarely exercises the discretions.

International creditors' schemes of arrangement

Downstream acquisition relief

- 64 We granted relief to facilitate the downstream acquisition of an Australian listed company as a result of the global reconstruction of a group of companies by way of creditors' schemes of arrangement in England and Bermuda.
- 65 We granted the relief because:
- (a) we were satisfied that control of the Australian listed company was not a significant purpose of the upstream acquisition for the global reconstruction;
 - (b) the Australian listed company shares were not a substantial part of the assets of the group globally; and
 - (c) the Australian listed company supported relief being granted and relied on the group for financial support.
- 66 Although the acquirer obtained effective control of the Australian listed company, we did not impose a downstream bid condition for the Australian listed company or impose standstill or voting conditions because:
- (a) the acquisition was through the creditors' schemes of arrangement; and
 - (b) the Australian listed company was already 93% controlled by the group before the global reconstruction.
- 67 We granted our relief before the applicants executed the agreements required to implement the creditors' schemes of arrangement. On executing the agreements, the new ultimate holding company acquired relevant interests in 93% of the Australian listed company (the same amount as before the reconstruction) through a number of wholly-owned subsidiaries.

Bid period extension

Relief to extend bid period beyond 12 months

- 68 We granted relief to permit a bidder to vary their takeover offer to extend the bid period beyond 12 months. We had previously granted relief to this bidder (from s659B of the Corporations Act) to allow it to commence proceedings in the Federal Court for a judicial review of a Takeovers Panel decision before the end of the bid period: see paragraphs 45–49 of [Report 602 Overview of decisions on relief applications \(April 2018 to September 2018\)](#) (REP 602).
- 69 We modified s624(1)(b) to allow the bidder to end their bid period no later than 28 days after the Federal Court made final orders in the proceedings or, if the matter was remitted to the Takeovers Panel, 35 days after the Panel made final orders.
- 70 We imposed the following conditions on the relief:
- (a) a person who holds securities outside the bid class can request that the bidder extend the bid to include those securities and that any acceptance of those securities is suspended while the bid is open;
 - (b) we may direct the bidder to release the suspension; and
 - (c) the bidder must make appropriate disclosure about the variation, using a supplementary bidder's statement.
- 71 We granted relief for the following reasons:
- (a) the objective of the 12-month bid period limit in s624(1) is to provide flexibility to takeover bids while ensuring a finite limit to the bid period. The bidder had extended the bid on multiple occasions and in a commercial sense the bid had largely concluded. Shareholder outcomes depended on the issues to be concluded in the Federal Court proceedings;
 - (b) it is appropriate to maintain the status quo for the takeover bid until the Federal Court proceedings are concluded. Granting the relief helps achieve this, as extending the bid period ensures the buy-out and compulsory acquisition mechanisms in the Corporations Act are not triggered until proceedings are concluded; and
 - (c) the remaining shareholders' ability to have their shares compulsorily acquired is not extinguished by the relief granted—rather, it is deferred until the conclusion of the Federal Court proceedings.

Non-compliance with the takeover provisions

Relief from the effect of s612

- 72 We granted relief from the effect of s612 to enable a bidder to rely on the exception in item 1 of s611 (from the general prohibition against takeovers in s606(1)), even though the bidder did not strictly comply with item 6 of s633(1).
- 73 The bidder did not send the bidder's statement and offers to each person holding securities in the bid class, as required by item 6 of s633(1). Failing to comply with item 6 of s633(1) would usually mean the bidder cannot rely on the exception in item 1 of s611: see s612(f). However, the bidder's failure was the result of genuine inadvertence or mistake by an agent of the bidder and affected a very small number of target securities holders. The bidder acted promptly to remedy the error on becoming aware of it.
- 74 We granted the relief sought because it was consistent with our policy in [Regulatory Guide 9 Takeover bids](#) (RG 9)—particularly RG 9.657–RG 9.661, given the non-compliance resulted from the bidder's genuine inadvertence or mistake and the bidder was not aware of it until after it occurred.
- 75 We also took into account the bidder's timely efforts to remedy the error and the broader principles in s602, including the commercial certainty that our relief would provide.
- 76 Our relief was confined to the effect of the non-compliance with item 6 of s633(1) in the context of the operation of s612. It did not extend to providing relief from the primary breach of item 6 of s633(1).

Escrow and secondary transfers

Refusal of relief to allow a novation involving escrowed parties

- 77 We refused relief to a company that sought to extend its existing voluntary escrow relief to a proposed transfer of escrowed securities. The proposed transfer was to be made to a third party who was willing to 'continue' the company's existing escrow arrangements with its substantial holder.
- 78 We had previously granted voluntary escrow relief to the company for the escrowed securities held by the company's substantial holder before the company's initial public offering.
- 79 Under the terms of the voluntary escrow arrangements with the substantial holder (original escrow arrangement), the substantial holder was able to sell a significant number of its escrowed securities to any third party on the condition that the third party agreed to enter into voluntary escrow

arrangements with the company for the escrowed securities for the remainder of the original escrow arrangement. Effectively, the company was seeking to 'novate' the parties to the original escrow arrangement. The company had disclosed in its prospectus these 'unusual' terms of the original escrow arrangement and that they were subject to the company obtaining relief from ASIC.

- 80 We were minded to refuse the voluntary escrow relief for the escrowed securities that were to be transferred to a third party because:
- (a) granting the relief would be inconsistent with our policy for voluntary escrow relief in [Regulatory Guide 5](#) *Relevant interests and substantial holding notices* (RG 5), which states that we may grant voluntary escrow relief if the arrangements relate to securities issued to the holder as promoter, or in return for seed capital, assets or services (see RG 5.262). Although the substantial holder met this requirement, any transferee was unlikely to satisfy the prerequisite. We did not consider the disclosure of the unusual terms of the original escrow arrangement displaced the requirement in RG 5.262; and
 - (b) relief was not necessary because, alternatively, the company could obtain shareholder approval under item 7 of s611 for the escrowed securities before the proposed transfer to a third party.

81 In light of our view that relief was inconsistent with our policy, the company withdrew its application.

Extension of voluntary escrow relief for limited secondary escrow arrangements

82 We note that some escrow arrangements permit a shareholder to transfer their shares on the condition that the transferee enters into new escrow arrangements with the company. Our standard form of escrow relief does not prohibit these kind of transfers; however, we will only extend escrow relief to shareholders named in the individual relief instrument. We generally do not provide relief to cover the company's acquisition of a relevant interest in securities as a result of secondary escrow arrangements with transferees.

83 We were prepared to grant relief to a company who sought to extend voluntary escrow relief to apply to entities within the same wholly-owned corporate group as the original shareholder. After we had made a decision to grant this form of relief, the applicant informed us that the relevant transaction was not proceeding.

84 The applicant originally requested that we extend our standard escrow relief to facilitate shareholders transferring their shares to an 'affiliate', who would then enter into a new escrow deed with the company. 'Affiliate' was defined as a business under common control or, alternatively, a related body corporate.

- 85 We considered that the applicant's proposed definition was too broad and would have allowed promoters to realise a profit from the escrowed shares. This is contrary to our policy for granting voluntary escrow relief that aligns the interests of seed investors and/or promoters with new shareholders.
- 86 We were prepared, however, to grant extended voluntary escrow relief to entities within the same wholly-owned corporate group as the original shareholder. We consider that restricting relief to entities within the same wholly-owned corporate group as the original shareholder permitted flexibility while being consistent with our policy on voluntary escrow in [RG 5](#).

Expert report

Relief to undertake compulsory acquisition without an expert report

- 87 We granted relief to allow an applicant to compulsorily acquire convertible notes in a target without providing an independent expert report expressing an opinion on whether fair value was offered for the securities.
- 88 The target had recently completed a members' scheme of arrangement, under which the applicant acquired all ordinary shares in the target. As part of the scheme, the target provided its members with an independent expert report expressing an opinion on the value of an ordinary share in the target and the value of the consideration offered. The only remaining target securities not held by the applicant were a small number of convertible notes, convertible into ordinary shares. The noteholder was a company domiciled overseas that had been uncontactable for a significant period of time.
- 89 The applicant proposed to undertake a general compulsory acquisition to acquire the convertible notes, for equivalent consideration to that offered under the scheme. The value of the notes, if converted into ordinary shares and exchanged for the scheme consideration, was extremely small and significantly less than the applicant's estimated costs of obtaining an independent expert report.
- 90 We granted relief as we were satisfied that:
- (a) in circumstances where the value of the notes was insignificant and the noteholder had been uncontactable for an extended period of time, the estimated costs to the applicant of obtaining the expert report outweighed its advantages;
 - (b) the noteholder had the benefit of the independent expert report provided for the scheme of arrangement, which expressed an opinion on both the value of the ordinary shares and the scheme consideration; and
 - (c) members of the target had voted to approve the scheme of arrangement, which suggested that the members considered the scheme consideration to be fair value.

E Conduct relief

Key points

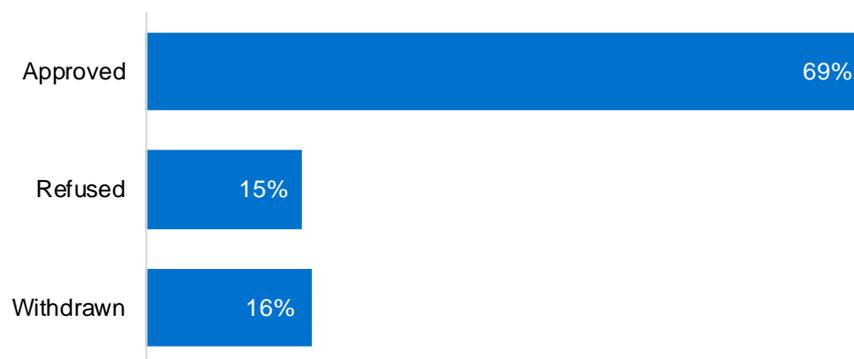
This section outlines some of our decisions to grant relief from the conduct obligations imposed by Chs 2D, 2G, 2M and 7.

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

Key statistics

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

Figure 7: Outcome of conduct relief applications determined in the report period



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

Instrument of transfer requirements

Relief from instrument of transfer requirements for a listing on the Hong Kong Stock Exchange

- 92 We granted relief from the instrument of transfer requirements (in s1071B of the Corporations Act) to an Australian company seeking to delist from the ASX and list on the financial market operated by the Stock Exchange of Hong Kong Limited (Hong Kong Stock Exchange).
- 93 The share transfer form used in Hong Kong does not strictly comply with the requirements in s1071B. We granted relief to the company to exclude certain share transfers from those requirements, including transfers of shares in the company:
- (a) to or from the Hong Kong Securities Clearing Company Limited for the deposit of the shares into, or the withdrawal of shares from, the Hong Kong Central Clearing and Settlement System; and

- (b) using a transfer form the company reasonably believes is the standard transfer form prescribed by the operator of the Hong Kong Stock Exchange.
- 94 We granted relief because we considered that the criteria in s1075A(2) of the Corporations Act were satisfied, given that:
- (a) shareholders would have similar protections, given the equivalency between the Australian and Hong Kong regulatory regimes (s1075A(2)(a)). While no formal assessment of sufficient equivalency between the Australian and Hong Kong regulatory regimes has been undertaken, a high-level review concluded that the regulatory regime for the Hong Kong Central Clearing and Settlement System is broadly and sufficiently equivalent to Australia's clearing and settlement system;
- (b) the share transfer process would be more efficient (s1075A(2)(b)), as the vast majority of trading in the company's shares would be conducted electronically through the Hong Kong Central Clearing and Settlement System, and paper-based transfers would be exempted from the requirements of s1071B.

Annual general meetings

Refusal of extension of time to hold an annual general meeting due to a proposed scheme of arrangement

- 95 We refused to grant an extension of time to hold an annual general meeting (AGM) requested under s250P by a publicly listed company. The applicant requested relief due to a forthcoming vote for a scheme of arrangement. If the company's shareholders approved the scheme of arrangement, a single shareholder would acquire all the company's shares approximately two weeks after the AGM deadline. Under s250N(4), a company with only one member is not required to hold an AGM.
- 96 The company submitted that granting the extension of time would be in the interests of its shareholders, as it would avoid the expense of an AGM when the company might soon after be taken over by a single shareholder and no longer be required to hold an AGM. Shareholders were being offered a combination of cash and shares in the acquirer.
- 97 We will usually only be inclined to grant an extension of time to hold an AGM if:
- (a) the inability of the company to hold its AGM on time is due to factors beyond its control; or
- (b) we are persuaded that it is in the interests of shareholders to do so.

- 98 In this instance, we refused to grant the extension as we were not persuaded that it was in the interests of shareholders. We considered the following facts:
- (a) the company had already announced a date for holding its AGM;
 - (b) shareholders would continue to have an indirect interest in the company's performance by virtue of their shareholdings in the acquirer if the scheme of arrangement was implemented; and
 - (c) the extension would deny shareholders the opportunity to meet and consider the company's financial performance and to ask questions of the company's management and the company's auditor prior to the scheme meeting.

Financial reporting requirements

Financial reporting relief analogous to ASIC Corporations (Wholly-owned Companies) Instrument 2016/785

- 99 We granted financial reporting relief analogous to [ASIC Corporations \(Wholly-owned Companies\) Instrument 2016/785](#) to a disclosing entity that was acquired by the Australian subsidiary of a foreign company.
- 100 The disclosing entity was delisted shortly after being acquired by the Australian subsidiary, with that same Australian subsidiary becoming the holding entity of the Australian group under a new deed of cross-guarantee.
- 101 After the acquisition, the disclosing entity could not rely on the financial reporting relief in ASIC Corporations (Wholly-owned Companies) Instrument 2016/785. This is because paragraph 6(1)(b)(i) of that instrument excludes companies that have been a disclosing entity for part of the relevant financial year.
- 102 Paragraph 6(1)(b)(i) is not an anomaly. However, we granted this relief because:
- (a) we were satisfied that there was unlikely to be any adverse effects on users of the disclosing entity's financial report for the relevant financial year;
 - (b) the disclosing entity was acquired for cash consideration and shareholders had no ongoing economic interest in the disclosing entity following the acquisition;
 - (c) creditors of the disclosing entity continued to have the benefit of:
 - (i) a deed of cross-guarantee between the disclosing entity and its own subsidiaries for the relevant financial year (pending its revocation); and

- (ii) a new deed of cross-guarantee between the Australian acquirer, the disclosing entity and the wholly-owned entities of both the Australian acquirer and the disclosing entity; and
- (d) we were satisfied that the group under the new deed of cross-guarantee was in good financial condition.

Refusal of extension of time for lodging financial reports after loss of auditor independence

- 103 We refused to grant an extension of time for the preparation and lodgement of financial reports by a number of companies in a group, following a loss of auditor independence that required the companies to appoint a new auditor. The companies applied for the extension close to their reporting deadline on the basis that they needed the additional time to appoint a new auditor and conduct the audit.
- 104 A conflict of interest arose between the applicant companies and their auditor when:
- (a) the audit firm agreed to move to new premises that were being constructed by the applicant companies; and
 - (b) the applicant companies agreed to pay lease tail payments on the audit firm's former premises until a certain date.
- 105 We refused to grant the extension of time because the conflict of interest situation that led to the loss of auditor independence occurred a number of years before the audit firm and the companies took steps to address the situation.
- 106 We were not satisfied that the financial reporting obligations—in particular, the due date for lodgement of financial reports—imposed unreasonable burdens on the companies in these circumstances.
- 107 We expect companies and their auditors to have processes in place to identify clear conflict of interest situations in a timely manner.

Publications

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

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

Type and number	Title	Media release	Date issued
Regulatory Guide 174	<i>Relief for externally administered companies and registered schemes being wound up</i>	Not applicable	17 December 2018

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

Instrument name	Amends or replaces	Date issued
ASIC Corporations (Amendment) Instrument 2018/752	Amends ASIC Corporations (Non-cash Payment Facilities) Instrument 2016/211	8 November 2018
ASIC Corporations (Amendment) Instrument 2018/1028	Amends Class Order [CO 13/763] <i>Investor directed portfolio services</i>	8 November 2018
ASIC Corporations (Amendment) Instrument 2018/1098	Amends ASIC Corporations (Group Purchasing Bodies) Instrument 2018/751	3 December 2018

F Credit relief

Key points

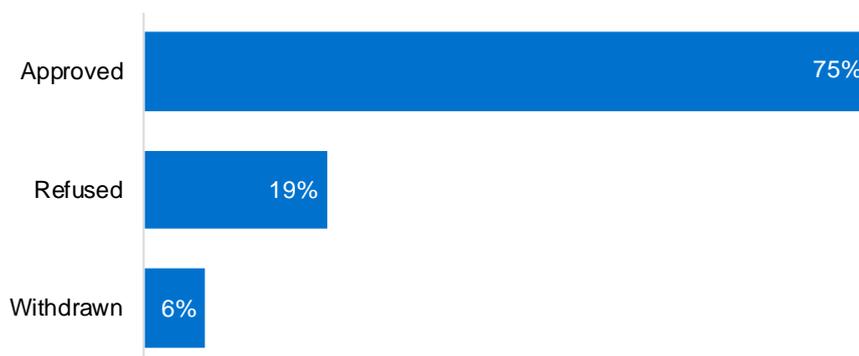
This section outlines some of our decisions in relation to applications for relief under the National Credit Act.

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

Key statistics

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

Figure 8: Outcome of credit relief applications determined in the report period



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

Annual compliance certificates

Relief to adjust annual compliance certificate dates

110 We used our modification powers to amend the date on which two credit licensees were required to lodge their annual compliance certificates under s53 of the National Credit Act. The effect of the modification was to bring forward the date the certificates were due—in one case by seven months and in the other case by one month—to align with other credit licensees in the corporate group.

111 We granted this relief because it reduced the burden of compliance across the corporate group without creating a regulatory detriment or affecting the purpose of the certificate.

Retirement village operator

Refusal of relief for credit provided by retirement village operator

- 112 We refused relief from the National Credit Act and the National Credit Code to a retirement village operator regulated under state-based legislation. The relief requested would have applied to an arrangement between the operator and residents that allowed residents early access to part of their upfront contribution (i.e. the deposit) to the village while they continued to live there.
- 113 The applicant submitted that the arrangements would be analogous to a form of credit that is largely excluded from regulation: see reg 60 of the National Consumer Credit Protection Regulations 2010. Broadly, the exemption in reg 60 applies to an alternative to paying an upfront contribution to facilities regulated under the *Aged Care Act 1997*. In this context, the *Aged Care Act 1997* imposes a range of specific obligations that address many of the same risks as the National Credit Act.
- 114 We refused relief because we did not consider that early access to the upfront contribution was analogous to reg 60. We considered the following facts:
- (a) the arrangements the applicant proposed were not an alternative to paying an upfront contribution. Rather, they had substantially similar characteristics to borrowing against an existing asset, with repayment to be deferred to a later time (i.e. consumer credit); and
 - (b) the state-based legislation lacked some of the specific obligations that apply under the *Aged Care Act 1997*.
- 115 Additionally, we concluded relief would create potential for consumer detriment, given many of the requirements of the National Credit Act and National Credit Code would no longer apply.

Sale of goods by instalments

Refusal of relief for sale of goods by instalments provider

- 116 We refused relief to a sale of goods by instalments provider that requested that we:
- (a) note the provider's proposed methodology for calculating the cash price of its goods, which was intended to demonstrate that fair market value was not exceeded for the purposes of s11 of the National Credit Code; and
 - (b) confirm that the provider's business model was not credit to which the Code applies.

- 117 We refused relief under s6(14) of the National Credit Code for the following reasons:
- (a) the question of whether the amount payable for the goods under the contract exceeds their cash price is a question of fact, not a question of law, and it would not be within ASIC’s policy to grant comfort relief (see RG 51.75);
 - (b) on the information provided, we could not be certain whether the goods would or would not be sold at fair market value;
 - (c) we were not satisfied that the cash price of the goods did or did not incorporate the cost of any credit provided for paying by instalments, including the risk of consumers defaulting into the purchase price; and
 - (d) we consider that it is Parliament’s intention that the National Credit Code applies to contracts where the cost of credit has been incorporated into the cash price of the financed goods—therefore, if the sales model involves a contract to which the National Credit Code applies, we consider the National Credit Act should apply.

Publications

- 118 We issued the following publications on credit relief during the report period: see Table 8.

Table 8: Legislative instruments on credit relief made during the report period

Instrument name	Amends or replaces	Date issued
ASIC Corporations (Amendment) Instrument 2019/216	Amends ASIC Corporations (Repeal and Transitional) Instrument 2017/186	19 March 2019

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

119 We have set out a summary of the outcomes of applications for other relief that we determined in this period: see Figure 9.

Figure 9: Outcome of other relief applications determined in the report period



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

Indirect self-acquisition provisions

Conditional relief from indirect self-acquisition provisions

120 We granted conditional relief from the indirect self-acquisition provisions to an applicant to allow two of its controlled entities to continue to hold beneficial interests in shares, or units of shares, in the applicant.

121 Although the controlled entities act as responsible entities for managed investment schemes, the applicant requested the relief to allow the controlled entities to continue to hold a small number of shares in the applicant that were acquired using company funds, rather than client funds.

- 122 We previously provided relief to the applicant to allow indirect self-acquisition by its controlled entities involved in funds management. However, that relief did not contemplate the design of systems used to control the composition of investment portfolios on which the investors' separately managed accounts are modelled. This design included portfolio managers using 'reference accounts', containing a small number of actual shares that had been acquired on-market using bank funds.
- 123 Given the insignificant number of interests involved and the nature of the contraventions, we granted conditional relief to the applicant—in one case for six months and in the other case for three years—to enable the controlled entities to implement alternative modelling systems with minimal disruption to third-party investors.
- 124 We imposed relief conditions designed to ensure that the regulatory risks of indirect self-acquisition were appropriately mitigated, including conditions on:
- (a) the number of applicant shares that can be held in the reference accounts, and the overall proportion of the applicant's shares in which its controlled entities have an interest;
 - (b) how those shares may be voted;
 - (c) the manner in which the shares may be acquired; and
 - (d) public disclosure of interests in the applicant's shares that are held by the controlled entities.

Publications

- 125 We issued the following publications on other relief during the report period: see Table 9–Table 12.

Table 9: New regulatory documents on other relief issued during the report period

Type and number	Title	Media release	Date issued
Report 608	<i>Response to submission on CP 299 Short selling: Naked short selling relief, position reporting amendments and sunseting class orders</i>	18-301MR	30 January 2019
Information Sheet 157	<i>Foreign financial services providers—Practical guidance</i>	19-076MR	3 April 2019

Table 10: Updated regulatory documents and legislative instruments on other relief issued during the report period

Type and number	Amends or replaces	Date issued
ASIC Superannuation (Amendment) Instrument 2018/1080	Amends Class Order [CO 14/541] RSE licensee s29QC SIS Act disclosure exemption.	14 December 2018
ASIC Corporations (Asia Region Funds Passport) Instrument 2019/75	Not applicable	31 January 2019
ASIC Corporations (Amendment) Instrument 2019/45	Amends ASIC Corporations (Division 4 Financial Products) Instrument 2015/1030	27 February 2019
ASIC Corporations (Amendment) Instrument 2019/169	Amends ASIC Corporations (Derivative Transaction Reporting Exemption) Instrument 2015/844	11 March 2019
ASIC Corporations (Amendment) Instrument 2019/216	Amends ASIC Corporations (Repeal and Transitional) Instrument 2017/186	19 March 2019
ASIC Corporations (Amendment) Instrument 2019/202	Amends ASIC Corporations (Derivative Clearing Exemption) Instrument 2018/209 .	25 March 2019

Table 11: Amendments to rulebooks on other relief made during the report period

Amendment name	Amends	Date issued
ASIC Market Integrity Rules (NSXA Market) Repeal Instrument 2018/1157	Repeals ASIC Market Integrity Rules (NSXA Market) 2010 , which are superseded by the ASIC Market Integrity Rules (Securities Market) 2017 .	7 January 2019

Table 12: Determinations on other relief made during the report period

Determination name	Relevant rulebook	Date issued
ASIC Market Integrity Rules (Securities Markets) Determination 2018/1131	ASIC Market Integrity Rules (Securities Markets) 2017	4 December 2018
ASIC Market Integrity Rules (Securities Markets) Determination 2019/175	ASIC Market Integrity Rules (Securities Markets) 2017	7 March 2019
ASIC Regulated Foreign Markets Determination (Amendment) Instrument 2019/324	ASIC Regulated Foreign Markets Determination [OTC DET 13/1145]	10 April 2019

Appendix 1: ASIC relief instruments

Table 13 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](#)—except for credit instruments (marked with asterisks), which are published on our [Credit relief webpage](#).

Table 13: ASIC relief instruments

Paragraph numbers	Entity name	Instrument number (Gazette number if applicable)	Date executed	Power exercised and nature of relief
12	Melbourne Securities Corporation Limited	18-0926 (A50/18)	16 November 2018	Sections 601QA(1) and 926A(2)(b) of the Corporations Act Declaration that Ch 5C applies to Melbourne Securities Corporation Limited as if Pt 5C.6 were modified. Exemption from s911A(1) such that the equity release product is not a specified product to which s911A(1) applies. Relief from s601ED(5) and 912AB as a result of the equity release product not being a s911A(1) specified product
20	IN.C.C Payments Pty Ltd	18-0857 (A49/18)	12 November 2018	Section 926A(2)(a) of the Corporations Act Relief from s911A(1) in relation to the requirement to hold an AFS licence.
29	Revolut Limited	19-0046 (A03/19)	18 January 2019	Section 926A(2)(a) of the Corporations Act Relief from requirement in s911A to hold an AFS licence for the provision of specific financial services
33	Walsh & Company Investments Limited, New Energy Solar Trust and New Energy Solar Limited	19-0041 (A03/19)	16 January 2019	Sections 741(1)(b) and 1020F(1)(c) of the Corporations Act Modification to s9 to facilitate use of a single disclosure document, on-sale of securities and interests, and sale of securities and interests under a security purchase plan

Paragraph numbers	Entity name	Instrument number (Gazette number if applicable)	Date executed	Power exercised and nature of relief
39	Pernod Ricard S.A.	19-0101(A14/19)	29 March 2019	Sections 601QA(1), 741(1), 926A(2), 992B(1) and 1020F(1) of the Corporations Act Conditional relief from Pts 6D.2, 6D.3 and 7.9 to facilitate offers of employee incentive schemes by a foreign company to employees of its Australian subsidiaries
63	The Bank of New York Mellon	19-0371 (A20/19)	29 April 2019	Sections 655A(1)(b) and 673(1)(b) of the Corporations Act Relief from s606 to facilitate ADR programs covering more than 20% of an Australian issuer's shares Note: While this instrument was executed on 29 April 2019, it has been included in this report as we made the decision to grant relief on 23 January 2019 and to refuse relief for the components of the ADR terms that did not meet ASIC policy on 11 March 2019.
64	Noble Intermediate Hold Co Limited, Noble Trading Hold Co Limited, Noble Trading Co Limited, Noble Group Holdings Limited, Noble Investors Limited	18-1089 (A51/18)	23 November 2018	Section 655A(1)(a) of the Corporations Act Relief from s606 to facilitate a downstream acquisition
68	Eastern Field Developments Limited	18-1094 (A51/18)	26 November 2018	Sections 655A(1) and 669(1) of the Corporations Act Modification of s624(1)(b) to allow the bidder to vary the bid period
72	Vango Mining Limited	18-1055 (A20/19)	16 November 2018	Section 655A(1)(b) of the Corporations Act Relief from s612(f) to allow a bidder to rely on an exception in item 1 of s611

Paragraph numbers	Entity name	Instrument number (Gazette number if applicable)	Date executed	Power exercised and nature of relief
87	Nine Entertainment Co. Holdings Limited	18-1146 (A52/18)	6 December 2018	Section 669(1) of the Corporations Act Relief from s664C(1)(e)(iii) and 664C(2)(b)(ii) to permit general compulsory acquisition without an independent expert's report
92	Dragon Mining Limited	18-0943 (A45/18)	18 October 2018	Section 1075A(1) of the Corporations Act Relief from s1071B to exclude certain share transfers in connection with a listing on a foreign financial market
99	Mantra Group Limited	18-1031	12 November 2018	Section 340 of the Corporations Act Conditional relief from s292(1)(b) and (c), 292(2)(b), 301(1), 315, 316(2), 317, 292(1), 327B, 327A and 327C to facilitate financial reporting for a disclosing entity that was acquired by the Australian subsidiary of a foreign company
110	Secure Funding Pty Ltd and Liberty Network Services Pty Ltd	18-1053	11 December 2018	Section 109(1)(c) of the National Credit Act Modification of s53 to change the date by which annual compliance certificates need to be lodged
120	National Australia Bank Limited	18-1043	19 December 2019	Section 259C(2) of the Corporations Act Conditional relief from s259C for the transfer or issue of National Australia Bank Limited shares to a controlled entity
120	National Australia Bank Limited	18-1044	19 December 2019	Section 259C(2) of the Corporations Act Conditional relief from s259C for the transfer or issue of National Australia Bank Limited shares to a controlled entity

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 14: Outcome of all relief applications received before and during the report period

Outcome	Received before period	Received during period	Total
Approved	314	457	771
Refused	16	36	52
Withdrawn	38	80	118
<i>All applications decided in the period</i>	<i>368</i>	<i>573</i>	<i>941</i>
Decided outside this period	0	136	136

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

Table 15: Outcome of all relief applications determined

Outcome	Percentage
Approved	82%
Refused	6%
Withdrawn	13%

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

Table 16: Outcome of AFS licensing relief applications

Outcome	Percentage
Approved	68%
Refused	7%
Withdrawn	25%

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

Table 17: Outcome of disclosure relief applications

Outcome	Percentage
Approved	71%

Outcome	Percentage
Refused	2%
Withdrawn	27%

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

Table 18: Outcome of managed investment relief applications

Outcome	Percentage
Approved	79%
Refused	6%
Withdrawn	15%

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

Table 19: Outcome of mergers and acquisitions relief applications

Outcome	Percentage
Approved	91%
Refused	1%
Withdrawn	8%

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

Table 20: Outcome of conduct relief applications

Outcome	Percentage
Approved	69%
Refused	15%
Withdrawn	16%

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

Table 21: Outcome of credit relief applications

Outcome	Percentage
Approved	75%
Refused	19%
Withdrawn	6%

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

Table 22: Outcome of other relief applications

Outcome	Percentage
Approved	97%
Refused	2%
Withdrawn	2%

Note: This table sets out the data in Figure 9.