

10th August 2024

Australian Securities and Investments Commission
Level 5, 100 Market Street,
Sydney, 2000

Emailed to: rri.consultation@asic.gov.au

Dear Sir/Madam

Extension of relief under ASIC Corporations (*Employee Redundancy Funds Relief*) Instrument 2015/1150 (ASIC Instrument 2015/1150)

ReddiFund Limited is the trustee of ReddiFund. The trust deed creating ReddiFund is dated 9 March 2004.

ReddiFund was established to accept contributions made from employers in the construction industry (**Participating Employers**). These contributions are then allocated, or credited, to separate accounts within the trust fund for nominated employees (**Participating Employees**) of those Participating Employers. It is an employee redundancy fund for the purposes of ASIC Instrument 2015/1150.

The credit balance in a Participating Employee's Member Account is paid to that Employee Member if, and when, they:

- retire;
- die;
- terminate their employment;
- are made Redundant;
- permanently leave the construction industry.

The Board of ReddiFund Limited is comprised by one Independent Director, one director appointed by the Master Builders Association WA, one director appointed by Master Plumbers and Gas Fitters Association WA, one director appointed by Construction Contractors Association WA and 3 directors appointed by CFMEU WA covering the building and construction industry in Western Australia.

ReddiFund is an *approved worker entitlement fund* for the purposes of section 58PB of the *Fringe Benefits Tax Assessment Act (FBTAA)*.

Effect and purpose of ASIC Instrument 2015/1150

It is, and remains, an unresolved and open issue as to whether ReddiFund (and similar industry redundancy funds like it) should be captured by the managed investment scheme and financial services framework of the Corporations Act 2001.

Regardless, ASIC has provided operators of employee redundancy funds (such as ReddiFund) relief from the managed investment and associated provisions since 25 May 2000. A summary of the relevant class orders and relief instruments is attached.

Relief provided under the current instrument, ASIC Instrument 2015/1150, continues to apply until 1 October 2024.

The sunset date of ASIC Instrument 2015/1150 is, of course, quite close and there has been no consultation, so far as ReddiFund Limited is aware, regarding requirements for the operation of these industry redundancy funds and their compliance with the Corporations Act after that date.

A failure to renew or extend the relief beyond 1 October 2024 would, it is submitted, cause or create extraordinary and predictable hardship and risk significant disadvantage to, and unfair and unjust outcomes for, Participating Employee Members, Participating Employers, the trustee of the fund (and its directors) and other stakeholders.

Consequently, we ask ASIC to confirm that it will:

1. take all appropriate steps and action to ensure that the relief provided under ASIC Instrument 2015/1150 is extended beyond 1 October 2024, and that this will occur prior to 1 October 2024, so that its ongoing effect is preserved without disruption; and
2. undertake appropriate consultation and seek feedback from operators and promoters of industry redundancy funds, trade unions (such as the CFMEU WA), employer associations (such as the Master Builders Association WA, Master Plumbers & Gas Fitters Association WA and Construction Contractors Association WA) and other stakeholders regarding the appropriate form of relief for these funds going forward.

Representatives from ReddiFund Limited are available to meet and discuss this matter with ASIC and we ask that it be given appropriate, and urgent, attention.

Should you have any queries in the meantime, please do not hesitate to contact [REDACTED] on mobile [REDACTED] or email [REDACTED]

Yours faithfully

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Chief Executive Officer

Summary of relief

25 May 2000	ASIC Class Order [00/1156]
29 June 2001	ASIC Class Order [00/1156] repealed by <i>ASIC Class Order [CO 01/929] (ASIC Class Order 01/929)</i> which provided interim relief until 31 December 2002, pending a public consultation process and finalisation of ASIC's approach to regulating such funds.
11 March 2002	ASIC Class Order 01/929 repealed by <i>ASIC Class Order [CO 02/314] Employee redundancy funds: relief (ASIC Class Order 02/314)</i> .
12 July 2002	ASIC Class Order 02/314 varied by <i>ASIC Class Order [CO 02/791]</i> by inserting after the words "exempts a person" in the third paragraph the words ", until 31 December 2002,".
5 December 2002	ASIC Class Order 02/314 varied by <i>ASIC Class Order [CO 02/1322]</i> by replacing the number "2002" with the number "2003" in each of the second and third paragraphs.
16 December 2003	ASIC Class Order 02/314 varied by <i>ASIC Class Order [CO 03/1051]</i> by deleting words "31 December 2003" in each of the second and third paragraphs.
December 2015	<p>ASIC Class Order 02/314 repealed by <i>ASIC Corporations (Repeal) Instrument 2015/1157</i> and, following targeted consultation with a number of employee redundancy funds, remade into ASIC Instrument 2015/1150.</p> <p>Relief under ASIC Instrument 2015/1150 was originally provided until 1 October 2018 to allow sufficient time for Government to consider, and implement any law reforms resulting from, the findings from the Final Report of the Royal Commission into Trade Union Governance and Corruption.</p>
18 September 2018	ASIC Instrument 2015/1150 was amended by <i>ASIC Corporations (Amendment) Instrument 2018/825</i> to extend the sunset date from 1 October 2018 to 1 October 2021 in anticipation of <i>The Fair Work Laws Amendment (Proper Use of Worker Benefits) Bill 2017</i> being passed by the Senate.
9 September 2021	ASIC Instrument 2015/1150 amended by <i>ASIC Corporations (Amendment) Instrument 2021/767</i> to extend the sunset date from 1 October 2021 to 1 October 2024, pending the passage of the <i>Fair Work Laws Amendment (Proper Use of Worker Benefits) Bill 2019 (2019 Bill)</i> . Had the 2019 Bill been enacted, consequential amendments to the Corporations Act to remove employee redundancy funds from the managed investment scheme regime permanently were expected by ASIC to follow. ¹

