



Summary of feedback to CS 53 and ASIC's response

In ASIC's consultation *ASIC proposes to remake six legislative instruments about managed investment schemes* ([CS 53](#)), we sought feedback on our proposal to remake six legislative instruments about managed investment schemes that are due to sunset on 1 October 2026. The legislative instruments to be remade were:

- [ASIC Corporations \(Serviced Apartment and Like Schemes\) Instrument 2016/869](#)
- [ASIC Corporations \(Property Rental Schemes\) Instrument 2016/870](#)
- [ASIC Corporations \(Charitable Investment Fundraising\) Instrument 2016/813](#)
- [ASIC Corporations \(School Enrolment Deposits\) Instrument 2016/812](#)
- [ASIC Corporations \(Horse Schemes\) Instrument 2016/790](#), and
- [ASIC Corporations \(Attribution Managed Investment Trusts\) Instrument 2016/489](#).

We received 19 submissions in relation to our proposal. Two submissions provided general feedback on our proposal to remake the six legislative instruments and addressed each of the instruments. The remaining 17 submissions provided feedback on our proposal to remake ASIC Instrument 2016/790 only. We have summarised key feedback received and our responses in the following tables. This document is not intended to be a comprehensive summary of all feedback or all changes in the final legislative instruments.

Note: Non-confidential submissions are published on the landing page for [CS 53](#).

General feedback

Feedback	ASIC's response
We received varied feedback on our proposal to remake all six of the legislative instruments. One respondent provided feedback supporting the continuation of relief under each instrument to the extent that the relief continued to operate effectively and remained a necessary and useful part of the legislative framework. One respondent expressed concerns about remaking the instruments and supported a 'controlled sunset' approach where ASIC would remake relief only for a managed transition period during which ASIC would gather information about the entities relying on the relief and their circumstances. At the end of this period, the relief would continue only if it could be justified in a narrower, evidence-based and more transparent form. More specific feedback received on particular legislative instruments is detailed below.	We have proceeded with our proposal to remake the six legislative instruments. The new legislative instruments are: • ASIC Corporations (Horse Schemes) Instrument 2026/723; • ASIC Corporations (Attribution Managed Investment Trusts) Instrument 2026/726; • ASIC Corporations (Serviced Apartment and Property Rental Schemes) Instrument 2026/192; • ASIC Corporations (School Enrolment Deposits) Instrument 2026/709; and • ASIC Corporations (Charitable Investment Fundraising) Instrument 2026/730. We determined that the legislative instruments are operating effectively and efficiently and continue to form a necessary and useful part of the regulatory framework. In remaking the instruments, we revised the drafting to improve clarity and consistency as appropriate. We have not adopted a controlled sunset approach, based on available information on the continued need for the relief provided under the legislative instruments and stakeholder compliance.
One respondent noted that consequential updates would need to be made to ASIC regulatory guides to ensure that they reflect the names of the remade legislative instruments.	We will update and simplify our related guidance in Regulatory Guide 87 <i>Charitable schemes and school enrolment deposits</i> (RG 87), Regulatory Guide 91 <i>Horse breeding schemes and horse racing syndicates</i> (RG 91) and Regulatory Guide 140 <i>Strata schemes and management rights schemes</i> (RG 140). We will also make consequential amendments to our guidance to update references to the new instruments where necessary.

Feedback	ASIC's response
One respondent raised concerns that further information was required to assess ASIC's proposal to remove transitional provisions that are no longer necessary.	We have removed or amended transitional provisions where appropriate. We considered the impact on existing stakeholders relying on the instruments in making these amendments. We have not provided transitional arrangements in respect of the provisions in ASIC Instrument 2016/813 that restrict the issue and holding of short-term investment products to any person as a retail, non-associated client, because the relevant timeframes for compliance have passed and stakeholders should have complied with the provisions. For the transitional provisions to ASIC Instrument 2016/869, we have allowed these provisions to continue for another 12 months until 1 October 2027 to allow any entity relying on the provisions to amend their systems. However, we will repeal the provisions from that date. Repeal will ensure that the same conditions of relief apply to serviced strata schemes under the instrument. It also recognises the length of time that has passed since the last dates that these legacy schemes could be established.

Proposed remake of ASIC Instrument 2016/869 and ASIC Instrument 2016/870

Feedback	ASIC's response
In our consultation, we proposed to remake ASIC Instrument 2016/869 and ASIC Instrument 2016/870 into a single instrument as they both relate to property-related arrangements. One respondent did not object to consolidation in principle, provided that it did not alter the substance or scope of the existing relief. Another respondent opposed consolidation.	We have retained our proposed consolidation, noting that both instruments concern property-related schemes and provide relief from overlapping provisions of the <i>Corporations Act 2001</i> (Corporations Act). Consolidating the instruments promotes legislative simplicity and accessibility and is consistent with ASIC's commitment in Report 830 <i>Regulatory simplification progress report</i> (REP 830) to continue identifying appropriate opportunities to simplify and consolidate legislative instruments. We have taken care to ensure that consolidation does not inadvertently alter the substance or scope of the relief, aside from including an end date on the transitional provisions to ASIC Instrument 2016/869. We have removed provisions in ASIC Instrument 2016/869 that referred to ASIC notifying an entity that it is excluded from relying on the relief or that the breach condition did not apply. Given ASIC is able to make decisions of this nature under our modification powers, we considered those provisions did not need to be expressly included in the instrument.

ASIC Instrument 2016/813

Feedback	ASIC's response
One respondent noted that any changes to ASIC Instrument 2016/813 should align with the APRA framework so that there are no inadvertent inconsistencies between the two regimes. The respondent recommended that ASIC confirm there are no changes affecting the conditions on which charitable investment fundraisers presently rely.	We have taken this feedback on board and generally retained the conditions in ASIC Instrument 2016/813 in the same form. For charitable investment fundraisers that are natural persons, we have amended the condition relating to inclusion of an address in the identification statement to enable the inclusion of either a physical or email address. We have made this amendment to address privacy and safety concerns with public access to residential addresses. We will monitor the outcome of ASIC's current Consultation Paper 391 <i>Access to information on the companies register</i> (CP 391) and assess whether any amendments to the instrument are required going forward. Consistent with our approach to the remake of ASIC Instrument 2016/869, we have removed provisions referring to ASIC notifying an entity that it is no longer a sponsor or notifying a charitable investment fundraiser that ASIC has revoked acceptance of an identification statement. This is because ASIC is able to make decisions of this nature under our modification powers. As outlined above, we have also removed redundant transitional provisions.

ASIC Instrument 2016/790

Feedback	ASIC's response
In our consultation, we sought feedback on whether the investment and participant thresholds (\$500,000 and 50 participants) for scheme registration relief afforded to horse racing syndicates under ASIC Instrument 2016/790 remained appropriate. There was broad support for increasing the investment limit for horse racing syndicates. Of the nine submissions that commented on the issue, seven supported an increase to reflect rising bloodstock, yearling and training costs, with some respondents providing supporting data on the increase in average yearling and other syndication costs. Respondents proposed new limits ranging from \$650,000 to \$1 million and suggested annual indexation. There was also broad support for increasing the participant limit. Of the nine submissions that commented on the issue, eight supported an increase. Respondents proposed new limits ranging from 75 to 200 participants. One respondent submitted that the investment and participant limits should not be increased without strong evidence.	We have increased the investment limit for a horse racing syndicate relying on the scheme registration relief from \$500,000 to \$750,000. This increase takes into account the rise in the costs of operating a horse racing syndicate since we made ASIC Instrument 2016/790. We have also increased the participant limit from 50 to 75. This is intended to ensure that participation in horse racing syndicates remains affordable, taking into account the increase in the investment limit and the existing ratio between the respective thresholds. We acknowledge the feedback that the current thresholds should not be increased without strong evidence. However, we considered that the material provided by respondents regarding increases in yearling and other costs supports a proportionate increase to both thresholds. We have not adopted CPI indexation of the investment limit. We consider that fixed thresholds provide certainty and clarity for stakeholders and the thresholds should be assessed periodically when the instrument is reviewed.
Several respondents suggested simplifying disclosure requirements for horse racing syndicates. Suggestions included the use of simplified or short-form disclosure documents, standardised disclosure templates, plain English disclosure materials and template-based or simplified approval processes for Product Disclosure Statements (PDSs). Several respondents expressed support for the existing disclosure framework. One suggested requiring additional disclosures and supporting documentation.	We have not made changes to the disclosure requirements under the instrument. We view that the existing disclosure requirements promote informed participation in horse racing syndicates. They also support consistency and comparability of disclosure documents between syndicates. We consider that it is open to industry participants, in cooperation with lead regulators, to develop streamlined approval processes for disclosures, for example by developing standardised disclosure templates, without requiring changes to the terms of the instrument.
Two respondents suggested that ASIC should amend the current 'whole of horse' condition applying to horse racing syndicates. One suggested that ASIC '<i>permit syndication arrangements involving fractional legal and beneficial ownership interests in a horse, subject to enhanced disclosure requirements</i>'. The other suggested ASIC allow '<i>greater flexibility in ownership structures through combinations of outright ownership interests, syndicates, and leasehold interests within the same scheme</i>'.	We have not amended the 'whole of horse' condition, which requires that the participants in a syndicate have unencumbered title to, or lease, the whole of the syndicate horse or horses. This condition helps prevent multiple syndicates being established in relation to the same racehorse, which could otherwise be used to circumvent the participant and investment thresholds under the relief. It also reflects the policy intent that relief apply only to small-scale horse racing syndicates.

Feedback	ASIC's response
Some respondents suggested reducing the financial reporting obligations that apply to horse racing syndicates relying on the relief. Suggestions included removing the requirement to prepare and lodge financial statements in certain circumstances and making financial statements available on request rather than requiring annual lodgement with the lead regulator.	We have not amended the requirement for managers of horse racing syndicates relying on the relief to prepare financial statements and lodge them with the lead regulator. We consider these requirements provide an important mechanism for lead regulators to monitor the financial operation of horse racing syndicates. We are not satisfied that sufficient justification has been provided to remove or reduce these obligations.
Several respondents submitted that the co-regulatory framework, under which lead regulators are responsible for day-to-day supervision while ASIC provides oversight of the lead regulators, should be retained. Some of those respondents also expressed caution about, or opposition to, industry self-regulation. One respondent suggested that the co-regulatory framework creates risk because lead regulators are part of the same industry as the participants they regulate.	We have not amended the existing co-regulatory model under the instrument. We consider that the existing framework strikes an appropriate balance between protecting the interests of participants and recognising the expertise and regulatory role of the lead regulators in horse racing matters.
Several respondents expressed concern that compliance costs under the current framework are burdensome for small-scale operators and disproportionate to the risks involved. Respondents noted that small-scale operators (e.g. breeders or hobbyists) operate under a different business model to commercial syndication businesses and should not be subject to the same level of regulation. Other respondents submitted that the compliance costs associated with the framework are modest and proportionate when weighed against the consumer protections provided.	We have maintained the existing relief afforded to small-scale horse racing syndicates and horse breeding schemes. While we acknowledge the general feedback provided on the burden of compliance, we consider the existing conditions of the instrument provide important consumer protections. Our guidance in RG 91 explains the available relief. As outlined above, we will update our guidance in coming months. Stakeholders can also consider applying to ASIC for individual relief from strict compliance with requirements of the Corporations Act (and related ASIC legislative instruments) if particular requirements are unduly burdensome: see Regulatory Guide 51 <i>Applications for relief</i> (RG 51).

ASIC Instrument 2016/489

Feedback	ASIC's response
In our consultation, we outlined that we proposed to remove the relief outlined in section 6 of ASIC Instrument 2016/489. One respondent suggested that ASIC retain the relief in section 6 because responsible entities of schemes that have not previously elected to become an attribution managed investment trust (AMIT) may still wish to do so in the future. In those circumstances, the relief provides a relatively certain and cost-effective means of amending or replacing the scheme constitution. One respondent supported repealing the relief in section 6.	We have retained the relief in section 6 under the new instrument. Based on feedback received, we are satisfied that there remains a continuing need for the relief for schemes that may elect to become an AMIT in the future. We also note that we will make an amendment to ASIC Corporations (Hardship Withdrawals Relief) Instrument 2020/778 to replace the reference it makes to ASIC Instrument 2016/489 with the new instrument details.