REGULATORY GUIDE 254

Offering securities under a disclosure document

November 2026

About this guide

This guide is for issuers who are required to prepare and lodge a disclosure document under Ch 6D of the Corporations Act.

It helps issuers and their advisers understand our interpretation and administration of the procedural aspects of Ch 6D. It seeks to provide greater certainty regarding the obligations of all parties involved in the process of preparing a disclosure document, lodging a disclosure document and offering securities for issue or sale under a disclosure document.

The procedural focus of this guide is intended to complement our other guidance on the content of disclosure documents—in particular, Regulatory Guide 228 *Prospectuses: Effective disclosure for retail investors* (RG 228).

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.

Document history

This guide was issued in November 2026 and is based on the legislation and regulations in force at that date. We updated the guide to reflect new and revoked ASIC legislative instruments and related changes to ASIC's policy settings.

Previous versions:

- Superseded Regulatory Guide 254, issued March 2016, reissued November 2018, August 2020, and April 2026.

Disclaimer

This guide does not constitute legal advice. We encourage you to seek your own professional advice to find out how the Corporations Act and other applicable laws apply to you, because you are responsible for determining your obligations.

Examples in this guide are purely for illustration; they are not exhaustive and are not intended to impose or imply particular rules or requirements.

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A Overview

Key points

The purpose of a disclosure document is to help retail investors assess the risks and returns associated with an offer of securities for issue or sale and make informed investment decisions.

If an offer of securities requires disclosure, that offer must be made in or accompanied by a disclosure document. However, a number of exceptions set out certain people to whom, or circumstances in which, securities may be offered for sale or issue without regulated disclosure.

There are various types of disclosure document (prospectuses, short-form prospectuses, transaction-specific prospectuses, offer information statements, profile statements and two-part simple corporate bonds prospectuses). ASIC's role includes reviewing disclosure documents and fundraising activity, seeking to prevent fundraising activity from occurring without appropriate disclosure, providing relief from the law, and enforcing the law.

This guide helps issuers and their advisers understand our interpretation and administration of the procedural aspects of Ch 6D. It seeks to provide greater certainty regarding the obligations of all parties involved in the process of preparing a disclosure document, lodging a disclosure document and offering securities for issue or sale under a disclosure document.

Why we have disclosure documents

RG 254.1 The purpose of a disclosure document is to help retail investors assess the risks and returns associated with an offer of securities for issue or sale and make informed investment decisions.

RG 254.2 While disclosure documents are also used by sophisticated and professional investors, and are an important basis for trading securities on Australia's financial markets, the Ch 6D disclosure regime is focused on the needs of retail investors and their professional advisers.

> Note: In this guide, references to sections (s), chapters (Ch), divisions (Div) and parts (Pt) are to the *Corporations Act 2001* (Corporations Act), unless otherwise specified. References to regulations (reg) and schedules (Sch) are to the *Corporations Regulations 2001* (Corporations Regulations), unless otherwise specified.

RG 254.3 The Corporations Act sets out a framework to regulate disclosure documents. This framework places the responsibility on issuers and sellers to provide the information necessary for investors to make an informed decision, and identifies who is liable for misstatements or omissions in that material. The framework also sets out circumstances where no regulated disclosure is required—which, combined with ASIC's relief powers, are

intended to ensure the fundraising provisions work efficiently, do not result in unnecessary costs or impediments to fundraising, and impose requirements only to the extent necessary to achieve the regulatory benefit sought.

When a disclosure document is required

RG 254.4 The fundraising provisions in Ch 6D set out a framework defined by the following core features, and are based on the italicised terms discussed below:

(a) Ch 6D regulates the *offer* of *securities*;

(b) offers may be for either the *issue* of new securities, or the *sale* of existing securities;

(c) an offer of securities for *issue* will require disclosure unless a specific exemption applies; and

(d) an offer of securities for *sale* will only require disclosure in specific circumstances.

Note: See generally Pt 6D.1 (application of the fundraising provisions) and Div 2 of Pt 6D.2 (offers that need disclosure to investors) of the Corporations Act.

RG 254.5 'Securities' includes shares and debentures issued by a body, or a legal or equitable right or interest in a share or debenture. An option to acquire (by way of issue) any of these securities is itself also a security: see s700(1) and 9 of the Corporations Act.

RG 254.6 When used in relation to an offer of securities, the term 'offer' includes invitations to apply for securities to be issued, and invitations to offer to purchase securities: see s9.

RG 254.7 An offer of securities for issue involves, once the offer is accepted, the creation of new securities registered in the name of the applicant. The person making the offer is the person who has the capacity to issue the securities if the offer is accepted: see s9. This will generally be the issuing body. Unless an exception applies, an offer for issue will require disclosure.

RG 254.8 An offer of securities for sale generally relates to securities already in existence at the date of the offer and, unless an exception applies, only requires disclosure in the following circumstances:

(a) certain off-market sales by controllers (see s707(2) and 50AA for the definition of 'controller');

(b) certain indirect off-market sales by controllers (see s707(5)); and

(c) certain sales amounting to an 'indirect issue' (see s707(3)–(4) and our guidance in Regulatory Guide 173 *Disclosure for on-sale of securities and other financial products* (RG 173)).

RG 254.9 The person making the sale offer is the person who has the capacity to transfer the securities if the offer is accepted: see s9.

RG 254.10 If an offer requires disclosure, that offer must be made in, or accompanied by, a disclosure document. The offeror must not make an offer of securities, or distribute an application form for an offer of securities, without lodging a disclosure document with ASIC: see s721 and 727(1).

> Note: A proprietary company must not make an offer that requires disclosure to investors under Ch 6D, except for an offer of its shares to existing shareholders of the company, or employees of the company or of a subsidiary: see s113(3).

Exceptions where a disclosure document is not required

RG 254.11 A number of exceptions set out certain people to whom, or circumstances in which, securities may be offered for sale or issue without regulated disclosure. These exceptions include:

(a) personal offers to those who may be familiar with the affairs of the company—including 'small scale offerings' (20 issues or sales in 12 months)—and bonus issues, dividend reinvestment plans or offers of debentures to existing security holders (see s708(1)–(7), (12)–(14));

(b) sophisticated and professional investors, including where an Australian financial services (AFS) licensee considers the person to have sufficient previous experience (see s708(8)–(11));

(c) where the offer is made for no consideration (see s708(15)–(16));

(d) where the offer is made as part of another transaction that involves regulated disclosure and/or other measures to provide protection for investors, including under a takeover bid or scheme (see s708(17)–(18)); and

(e) where the offer is made by certain bodies, such as banks (for debentures only), exempt state bodies or public authorities (see s708(19)–(21)).

RG 254.12 Provisions also exist to permit certain offers under placements and rights issues to be made without regulated disclosure, provided a 'cleansing notice' is given to the relevant market operator. The notice sets out limited details about the offer and verifies that the issuer has complied with its continuous disclosure and reporting obligations: see s708A and 708AA, RG 173 and Regulatory Guide 189 *Disclosure relief for rights issues* (RG 189).

The various types of disclosure documents

RG 254.13 Chapter 6D introduces a number of different types of disclosure documents. These are summarised in Table 1.

Table 1: Types of disclosure documents

Type	Brief description	Content requirements
Prospectus	May be used for any offer of securities by a body, with no restriction on the amount raised or the circumstances in which it may be used.	s710, 711
Short-form prospectus	A prospectus that incorporates by reference certain information lodged with ASIC, rather than repeating that information in the document itself.	s710, 711, 712
Transaction-specific prospectus	A prospectus adopting special content rules for continuously quoted securities.	s713, 711
Offer information statement	A shorter form of disclosure document that may be used instead of a prospectus for certain offers to raise less than $10m.	s715
Profile statement	A much shorter form of disclosure document that is prepared in addition to a prospectus, and under which offers may be made. The use of a profile statement requires ASIC approval: see s709(3).	s714
Two-part simple corporate bonds prospectus	A two-part disclosure document (comprised of a base prospectus and an offer-specific prospectus) that must be used for offers of simple corporate bonds.	s713C, 713D, 713E

RG 254.14 Each type of disclosure document is defined at least in part by reference to its lodgement with ASIC: see s9, 713B(5), 713C(1) and 713D(1). As a result, for the purposes of the Corporations Act, a document that purports to be a 'disclosure document' only becomes such a document when it is lodged with ASIC.

> Note: A document is not lodged unless and until it is accepted for lodgement by ASIC. For more information about lodging a disclosure document with ASIC, see Lodging prospectuses and other disclosure documents on the ASIC website.

RG 254.15 For simplicity, and unless otherwise noted, this guide uses the terms 'disclosure document', 'prospectus', 'profile statement' and 'offer information statement' in a more general sense (i.e. with reference to the documents both before and after lodgement with ASIC) rather than in accordance with the strict legal meaning of the terms.

> Note: Because of the specific disclosure regime for simple corporate bonds, such as different expiry and lodgement requirements (including for supplementary and replacement documents), when the expression 'disclosure documents' is used outside of Section E it is not taken to include a two-part simple corporate bonds prospectus.

ASIC's role

RG 254.16 ASIC has general administration of the Corporations Act, including the fundraising provisions in Ch 6D: see s5B. This guide, together with other guidance outlined in Table 9 in the appendix, sets out how we interpret and administer the law and the principles underlying our approach, which involves the following four activities:

(a) reviewing disclosure documents and fundraising activity for compliance with the law;

(b) taking regulatory action to prevent fundraising activity taking place without appropriate disclosure;

(c) providing relief from the law where doing so produces a net regulatory benefit, or any regulatory detriment is minimal and is outweighed by the resulting commercial benefit; and

(d) enforcing the law.

Reviewing disclosure documents and fundraising activity

RG 254.17 Disclosure documents must be lodged with ASIC: see s718. We regularly review lodged disclosure documents to ensure compliance with Ch 6D. Our role in reviewing disclosure documents is discussed further in Section L.

RG 254.18 ASIC has the power to extend the exposure period applying to a disclosure document, to provide us and market participants with more time to scrutinise disclosure documents before they are used for fundraising: see s727(3). The circumstances in which we may use this power are discussed further in Section G.

Preventing fundraising activity without appropriate disclosure

RG 254.19 Where an entity has not complied with some or all of its disclosure obligations in the past, we have the power to make certain determinations to exclude that entity from relying on specified statutory disclosure exemptions: see s713(6), 708A(2) and 708AA(3). Our policy on when we may use ASIC's powers under s713(6) is discussed further in Section C.

RG 254.20 Where a disclosure document does not comply with the law, ASIC has the power to make certain prescribed orders—on an interim or final basis—to prevent that fundraising from taking place: see s739. This power also extends to certain advertisements and publications associated with an offer of securities. The circumstances in which and the reasons why we may use these powers are discussed further in Section L.

Providing relief from the law

RG 254.21 ASIC has the power to provide exemptions from all or specified provisions of Ch 6D or declare that Ch 6D applies as if specified provisions were modified, varied or omitted (ASIC's relief powers): see s741. The circumstances in which we may exercise these relief powers are set out in regulatory guidance—including this guide, the other guidance discussed in Table 9 in the appendix and, in general, Regulatory Guide 51 *Applications for relief* (RG 51).

Enforcing the law

RG 254.22 Chapter 6D sets out a specific liability regime for misstatements in or omissions from disclosure documents (including defences that may be available), and prohibits certain types of advertising or 'hawking' activity in relation to offers of securities: see Div 1 of Pt 6D.3 (prohibitions and liabilities). Other provisions of the Corporations Act and the *Australian Securities and Investments Commission Act 2001* (ASIC Act) impose civil and criminal liability for other unlawful conduct that may be associated with an offer of securities: see particularly Pts 7.10 and 9.4 of the Corporations Act.

RG 254.23 Our review of disclosure documents and other surveillance activities are intended to identify contraventions of the Corporations Act. In appropriate cases, we may take enforcement action to protect investors and promote the confident and informed participation of investors and financial consumers in the financial system more generally.

Scope of this guide and summary of topics covered

RG 254.24 This guide aims to assist issuers and their advisers by improving understanding of our expectations and approach, and providing greater commercial and regulatory certainty to all participants involved in the process of preparing a disclosure document, lodging a disclosure document and offering securities for issue or sale under a disclosure document.

RG 254.25 To achieve this aim, this guide sets out how we interpret Ch 6D in relation to:

(a) the different types of Ch 6D disclosure documents (and when each can be used for different types of offers of securities);

(b) the procedural requirements for an offer of securities for issue or sale under a disclosure document (under Div 5 of Pt 6D.2); and

(c) how, when and why we may exercise ASIC's statutory powers in relation to a disclosure document.

RG 254.26 This guide also covers some of our modifications to, and exemptions from, the provisions of Ch 6D and explains their underlying policy basis. It also outlines some of the circumstances in which we may exercise ASIC's statutory discretions to grant individual relief from the provisions of Ch 6D.

RG 254.27 Table 2 summarises the topics covered in this guide.

Table 2: Summary of our guidance on disclosure documents

Topic	What our guidance covers	Reference
Prospectuses	Offers for issue or sale under a s710 prospectus.	Section B
Short-form prospectuses	Offers for issue or sale under a s712 short-form prospectus.	Section B
Transaction-specific prospectuses	Offers for issue or sale under a s713 transaction-specific prospectus.	Section C
Offer information statements	Offers for issue or sale under a s715 offer information statement.	Section D
Profile statements	Offers for issue or sale under a profile statement.	Section E
Two-part simple corporate bond prospectuses	Offers for issue or sale of simple corporate bonds, which must be offered under a two-part simple corporate bonds prospectus.	Section E
Lodging disclosure documents	The process for lodging disclosure documents with ASIC.	Section F
The exposure period	How the exposure period applies to disclosure documents.	Section G
Supplementary and replacement disclosure documents	When a supplementary or replacement disclosure document may need to be lodged and the process for doing so.	Section H
Minimum subscription and quotation conditions	The operation of the minimum subscription and quotation conditions in s723(2)–(3).	Section I
Advertising and publicity	The general prohibition on advertising and publicity relating to offers of securities that require a disclosure document. This includes our relief to facilitate: • market research; • roadshow presentations; • offers by subsidiaries of listed bodies; • offers for issue of certain foreign securities; and • offers of securities before lodgement of the disclosure document when: – the advertisement or publication includes certain prescribed statements; and – adequate arrangements are in place to ensure that any advertisement or publication remains up to date.	Section J

Topic	What our guidance covers	Reference
Other relief for disclosure documents	Our policy on and relief for certain offers of debentures for issue under a prospectus.	Section K
Our review of disclosure documents	Our process for reviewing disclosure documents lodged with ASIC.	Section L

Other guidance issuers may need to consider

RG 254.28 In most cases, issuers will need a qualified professional adviser to take their particular circumstances into account to determine how the law applies.

RG 254.29 This guide is not our primary guide on the content of disclosure documents. Issuers and their advisers seeking detailed policy guidance on the content of disclosure documents (particularly prospectuses under s710) should consider Regulatory Guide 228 *Prospectuses: Effective disclosure for retail investors* (RG 228) and our more specific guidance summarised in Table 9 in the appendix.

B Prospectuses

Key points

A prospectus satisfying the content requirements in s710 and 711 is the disclosure document that can be used in the broadest range of circumstances for offers of securities for issue or sale that require disclosure under Ch 6D.

Short-form prospectuses are prospectuses that incorporate certain information by reference in accordance with s712.

Prospectuses

RG 254.30 A prospectus is the most common type of disclosure document for an offer of securities for issue or sale that requires disclosure under Ch 6D.

RG 254.31 For certain offers, issuers may be able to comply with the reduced disclosure requirements under the provisions for a transaction-specific prospectus, offer information statement or two-part simple corporate bonds prospectus. Each of these disclosure documents are discussed in depth at Sections C, D and E.

RG 254.32 When preparing a prospectus, issuers must:

(a) word and present it in a 'clear, concise and effective' manner (s715A);

(b) include the information required by the general disclosure test (s710);

(c) make specific disclosures, including disclosure about interests and benefits of persons involved in the offer (s711); and

(d) ensure it is not misleading or deceptive (s728(1)).

Note: See RG 228 for our policy on how each of these content requirements applies.

Form, content and procedure

RG 254.33 Table 3 outlines some of the form, content and procedure requirements that apply to a prospectus.

Table 3: General requirements for prospectuses

Requirement	Explanation	Further guidance
Lodgement	A prospectus must be lodged with ASIC: see s718(1). A prospectus must state that a copy of the prospectus has been lodged with ASIC and that ASIC takes no responsibility for the content of the prospectus: see s711(7).	Section F

Requirement	Explanation	Further guidance
Date	A prospectus must be dated with the date it is lodged with ASIC: see s716(1).	Not applicable
Signature	A prospectus must be signed in accordance with s351.	Not applicable
Terms and conditions	A prospectus must set out the terms and conditions of the offer: see s711(1).	Section H of RG 228
Interests and fees of certain people involved in the offer	A prospectus must disclose the interests held and fees or benefits given or agreed to be given in connection with the issuer's formation, promotion or offer of the securities: see s711(2)–(4).	Section G of RG 228
Quotation of securities	If a prospectus provides an indication that securities may be quoted and traded on a financial market, it must include one of the statements contained in s711(5)(a)–(c).	Section H of RG 228
Expiry date	A prospectus must state that no securities will be issued after the expiry date specified. The expiry date must not be later than 13 months after the date of the prospectus: see s711(6). See also s725.	Not applicable
Consents needed for lodgement	A prospectus may only include a statement by a person, or a statement said to be based on a statement by a person, if: • the person has consented to its inclusion; • the prospectus states that this consent has been given; and • the person has not withdrawn the consent: see s716(2).	Regulatory Guide 55 *Statements in disclosure documents and PDSs: Consent to quote* (RG 55)
Clear, concise and effective	A prospectus must be worded in a 'clear, concise and effective' manner: see s715A.	Section B of RG 228
General disclosure test	A prospectus must contain the information required by the general disclosure test in s710.	RG 228
Not to be misleading or deceptive	A prospectus must not contain a statement that is misleading or deceptive: see s728(1).	Not applicable
Formatting	A prospectus must satisfy the general formatting requirements as set out in reg 1.0.07 of the Corporations Regulations.	Not applicable
Electronic disclosure documents (optional)	An issuer may use electronic disclosure documents and electronic application forms, and distribute these documents by email and the internet.	Regulatory Guide 107 *Fundraising: Facilitating electronic offers of securities* (RG 107)
Exposure period	An issuer must not accept applications for non-quoted securities offered under a prospectus until the exposure period (seven days after lodgement of the disclosure document) has ended. We may extend this period for a further seven days: see s727(3).	Section G

Short-form prospectuses

RG 254.34 Section 712 allows information to be incorporated by reference into a prospectus. Disclosure documents that adopt this practice are known as 'short-form prospectuses'.

> Note: Section B of RG 228 provides detailed guidance on the types of documents that may be incorporated by reference, and the information issuers should disclose in a prospectus about documents incorporated by reference in order to ensure compliance with the requirements of s712.

RG 254.35 The primary purpose of a short-form prospectus is to reduce the length of a prospectus and make it more useful for retail investors. Short-form prospectuses emerged out of a Treasury consultation in 1997, which relevantly stated that:

> Prospectuses should be shorter and more useful to retail investors. This can be achieved by allowing issuers to provide retail investors with the information which will assist them, without unnecessary details. Additional information, which may primarily be of interest to professional analysts and advisers, can be mentioned in the prospectus and made available free of charge to those who request it.
>
> Note: See Treasury, *Fundraising: Capital raising initiatives to build enterprise and employment*, Corporate Law Economic Reform Program Proposals for Reform: Paper No. 2, 1997, pp. 15–18; and Explanatory Memorandum to the Corporate Law Economic Reform Program Bill 1998, p 56 at paras 8.6–8.9.

Lodging incorporated documents with ASIC

RG 254.36 Section 712(1) requires that information incorporated by reference is contained in a document lodged with ASIC. A document incorporated in this way is treated as being included in the prospectus: see s712(3). This ensures that the document is accessible to those who request it. It also makes the incorporated document subject to the content and liability rules under Ch 6D.

RG 254.37 Issuers can lodge a document with ASIC so that they can use incorporation by reference (even if the Corporations Act does not require the document to be lodged): see s712(4). Table 4 sets out the procedure for issuers lodging documents that are not otherwise required to be lodged with ASIC under the Corporations Act.

Table 4: Procedure for lodging documents to be incorporated by reference under s712(4)

Procedure	Explanation
Lodgement	Document must be lodged with ASIC under s712(4).
ASIC Regulatory Portal	Use the ASIC Regulatory Portal to lodge the document under s712(4).
Fee	A fee is payable: see Sch 1 of the *Corporations (Fees) Regulations 2001* (Corporations (Fees) Regulations) and Information Sheet 30 *Fees for commonly lodged documents* (INFO 30).

Procedure	Explanation
Signature	The document must be signed in accordance with s351.
Consents needed for lodgement	The persons listed in s720 must provide consent before a document incorporated by reference is lodged. Consent may also be required for the purposes of s716: see RG 254.41 and RG 55.
General	Must satisfy the general formatting requirements as set out in reg 1.0.07.

RG 254.38 Issuers should also include any incorporated document on their website and, if the issuer is a listed entity, consider providing a copy of the document for publishing on the market announcements platform of the relevant declared financial market, so that it is easy for investors to access.

Incorporated documents must comply with other provisions of the Corporations Act

RG 254.39 Because a document incorporated by reference under s712 is taken to be included in an issuer's short-form prospectus, it is subject to various provisions that apply to disclosure documents. For example, the incorporated document is subject to prohibitions on misleading and deceptive information contained in Ch 6D.

RG 254.40 Documents that are prepared for the purposes of incorporating information into the prospectus should be clear, concise and effective: see s715A. Other documents that have not been prepared for the purpose of incorporation into a prospectus may not, as a standalone document, satisfy the clear, concise and effective requirement (e.g. a contract). We do not consider that these documents are precluded from being incorporated by reference. We consider it unlikely that a court would decide that a prospectus does not comply with s715A merely because a document incorporated by reference is not worded and presented in a clear, concise and effective manner. In fact, the use of incorporation by reference should help to make the prospectus as a whole more clear, concise and effective.

Consent under s716 for incorporation by reference

RG 254.41 If an issuer incorporates a document prepared by another person into its short-form prospectus, the issuer will need to obtain that person's consent under s716(2) for the information required by s712(2) and the document incorporated by reference. For example, consent will be required if an issuer wishes to incorporate by reference an expert's report. The consent requirement allows a person to control whether their document can be incorporated in an issuer's short-form prospectus and the way that short-form prospectus refers to their document.

Note: See also RG 55.

C Transaction-specific prospectuses

Key points

Only disclosing entities offering continuously quoted securities may use transaction-specific prospectuses: see s713.

Transaction-specific prospectuses include specified limited content, because the issuers that use them are subject to the continuous disclosure regime and the market will generally already have the information available to it to make an informed assessment of the offer of continuously quoted securities.

This section sets out:

- how we administer s713;
- the content required in transaction-specific disclosure;
- ASIC's power to exclude an issuer from using transaction-specific disclosure; and
- the relief we give to enable transaction-specific disclosure to be used where an issuer of a prospectus would otherwise be prevented from using such disclosure.

Rationale for transaction-specific prospectuses

RG 254.42 Transaction-specific disclosure is possible only within a regime of continuous disclosure. When an issuer issues continuously quoted securities, or options to acquire continuously quoted securities, the market should generally have the information necessary to reach an informed view about the relevant continuously quoted securities.

RG 254.43 That view will be based on previous disclosures the issuer has made to the market about its activities, financial standing and prospects. The market's view will already be reflected in the price of those continuously quoted securities: see para 254 of the Explanatory Memorandum to the Corporate Law Reform Bill 1993.

RG 254.44 Consequently, the Corporations Act allows for transaction-specific prospectuses under s713.

> Note: Issuers of financial products seeking guidance on how we administer s1013FA regarding a transaction-specific Product Disclosure Statement (PDS) should consider Regulatory Guide 168 *Product Disclosure Statements: Disclosure and other obligations* (RG 168).

RG 254.45 The only new information investors should require in a transaction-specific prospectus is:

(a) the effect of the offer on the entity;

(b) the rights and liabilities attaching to the securities offered;

(c) if the securities are options, the rights and liabilities attaching to:

(i) the options themselves; and

(ii) the underlying securities; and

(d) information not previously disclosed to the market, which covers information excluded from a continuous disclosure notice under the listing rules (see s713(5) and RG 254.74–RG 254.75).

When transaction-specific prospectuses can be used

RG 254.46 Transaction-specific prospectuses can be used by an issuer when offering:

(a) continuously quoted securities; or

(b) options to acquire continuously quoted securities.

RG 254.47 Under s111AC, if any securities of a body are enhanced disclosure (ED) securities, the body is a disclosing entity for the purposes of the Corporations Act. For the definition of ED securities, see RG 254.58 and s111AD.

Continuously quoted securities

RG 254.48 Continuously quoted securities are securities that are:

(a) in a class of securities that were quoted ED securities at all times in the three months before the date of the prospectus; and

Note: Generally, ED securities are issued by a listed company that is subject to the listing rules of a declared financial market (see RG 254.58 and s111AD for further details).

(b) securities of an entity for which, either during the period when the class of securities were quoted or the period 12 months before the date of the prospectus (whichever is shorter), neither the entity nor any person acting as director or auditor of the entity was covered by an:

(i) exemption under s111AS or 111AT or modification under s111AV;

(ii) exemption under s741(1)(a) or declaration under s741(1)(b) for a provision that is a disclosing entity provision for the purposes of Div 4 of Pt 1.2A; or

(iii) order under s340 or 341.

Note: We have granted relief so that the mere presence of certain technical relief does not preclude securities from being continuously quoted securities (see RG 254.85).

RG 254.49 For these purposes, continuously quoted securities are not in different classes merely because of a temporary difference in the dividend or distribution rights attaching to the continuously quoted securities, or because different amounts have been paid up on the continuously quoted securities.

Convertible securities

RG 254.50 A transaction-specific prospectus can be issued for options over continuously quoted securities under s713. However, an issuer offering a security that can be converted into a quoted underlying security, such as a convertible note or convertible preference share, cannot automatically use a transaction-specific prospectus under s713. This is because the convertible security will itself not necessarily be in a relevant class of continuously quoted securities: see para (a) of the definition of 'continuously quoted securities' in s9. This is, of course, unless the convertible security is in a class of securities that have been quoted ED securities at all times in the three months before the issue of the prospectus.

Relief to allow the use of a transaction-specific prospectus

Convertible notes or convertible preference shares

RG 254.51 We have given relief in *ASIC Corporations (Offers of Convertibles) Instrument 2026/97* to allow the use of a transaction-specific prospectus when offering certain convertible notes or convertible preference shares when the issuer:

(a) is able to meet the requirements in s713 for the underlying continuously quoted securities; and

(b) discloses the information required by s713(2) for the convertible notes or convertible preference shares.

RG 254.52 To rely on our relief, the issuer of the convertible note or convertible preference share must be the same as the issuer of the underlying security. Where conversion results in the holder being issued with securities of a different entity, our relief is not available.

RG 254.53 The relief allows the offer of these convertible securities to be made based on information required by s713(2) instead of that required by s710(1). This is because the disclosures required by investors for these convertible securities are similar to those required for the underlying continuously quoted securities (except, of course, that the rights attaching to the convertible securities will be different).

RG 254.54 Our relief is available for offers of both convertible securities (where conversion is at the election of the holder or the issuer of the securities, including where this election may only be made if certain events occur) and converting securities (where conversion can or may occur automatically in accordance with the terms of the security, on particular dates or if certain events occur).

Banks and other prudentially regulated bodies

RG 254.55 We have also given relief in *ASIC Corporations (Regulatory Capital Securities) Instrument 2026/88* to allow the use of a transaction-specific prospectus by authorised deposit-taking institutions, general insurers and life insurers (i.e. banks and other prudentially regulated bodies) when offering 'capital instruments' that may convert into ordinary shares in the issuer, its parent or a potential non-operating holding company.

Note: See Section B of RG 173.

Individual relief for other convertible securities

RG 254.56 We may grant relief if an offer for other convertible securities does not fall within the terms of ASIC Instrument 2026/97 (e.g. where conversion results in the holder being issued with securities of a different entity). Applicants must demonstrate that shareholders have been able to obtain sufficient information under the continuous disclosure regime and a transaction-specific prospectus to make an informed decision about both the nature and risks of the convertible securities, and the underlying continuously quoted securities, that are the subject of the offer.

Effect of suspensions from quotation and trading halts on 'continuously quoted securities'

RG 254.57 One part of the definition of 'continuously quoted securities' in s9 requires that the relevant continuously quoted securities are in a class of securities (as defined in s92) that were quoted ED securities at all times in the three months before the date of the prospectus.

RG 254.58 Securities are in a class of quoted ED securities if:

(a) they are issued by a body corporate that is—with its agreement, consent or acquiescence—included in the official list of a declared financial market; and

(b) the market's listing rules (according to their terms) apply to the body for that class of securities.

RG 254.59 The Explanatory Memorandum to the Financial Services Reform Bill 2001 notes that it is possible—depending on an individual market's listing rules—that continuous disclosure may apply when securities are suspended: see para 18.6. Where this is the case, companies that have had continuously quoted securities suspended may still use transaction-specific disclosure subject to the considerations set out in this guide.

RG 254.60 As in the case of a suspension, a halt in the trading of continuously quoted securities does not prevent an issuer using transaction-specific disclosure. If

the listing rules continue to apply to continuously quoted securities, then the securities may still qualify for the use of transaction-specific disclosure.

Content requirements of transaction-specific prospectuses

RG 254.61 In addition to the information required under s711 (see Table 3), a transaction-specific prospectus must include:

(a) all the information that investors and their professional advisers would reasonably require (and reasonably expect to find in the prospectus) to make an informed assessment of:

(i) the effect of the offer on the body (see RG 254.63–RG 254.67 and s713(2)(a));

(ii) the rights and liabilities attaching to the securities offered (s713(2)(c)); and

(iii) if the securities are options, the rights and liabilities attaching to both the options themselves and the underlying securities (s713(2)(d));

(b) a statement that explains that the body, as a disclosing entity, is subject to regular reporting and disclosure obligations. The statement should also set out that copies of documents that the body has lodged with ASIC may be obtained from, or inspected at, an ASIC office (s713(3));

(c) unless the body's most recently lodged annual financial report (and any documents lodged under the body's continuous disclosure obligations after that financial report was lodged) are supplied with the prospectus, a statement that the annual financial report and any continuous disclosure documents will be supplied on request free of charge (see RG 254.68–RG 254.73 and s713(4)); and

(d) information that has been excluded from a continuous disclosure notice in accordance with the listing rules. This includes information that investors would reasonably expect and reasonably require to be included in the prospectus (see s713(5)).

RG 254.62 The information in a transaction-specific prospectus must be worded and presented in a 'clear, concise and effective' manner: see s715A.

Effect of the offer

RG 254.63 The transaction-specific prospectus must contain information about the effect the offer will have on the entity: see s713(2)(a). This is as opposed to a prospectus issued under s710, which must include information about the entity's assets and liabilities, financial position and performance, profits and losses, and prospects.

RG 254.64 Under the disclosure regime for listed entities, a disclosing entity must periodically and continuously disclose information to the market about its past performance, present activities and future prospects. This makes it unnecessary for the entity to repeat all that information in full detail when issuing a transaction-specific prospectus.

RG 254.65 However, in order to satisfy s713(2), the disclosing entity may have to repeat some information. This is because the entity must still give investors enough information in the transaction-specific prospectus for them to be able to assess the effect of the offer on the entity.

RG 254.66 The amount and type of information required will partly depend on the potential impact of the issue on the entity's structure and operations. This will often vary, depending on the size of the proposed fundraising relative to the entity.

RG 254.67 It is not sufficient to merely state that the effect of the offer is to raise capital. A transaction-specific prospectus should include a pro-forma statement of financial position; however, a pro-forma statement of financial position that has been adjusted only to show the impact of a fully subscribed offer may not be sufficient to describe the effect of the offer. Rather, the statement should describe:

(a) the changed capital of the company;

(b) the use to which the money raised will be put; and

(c) the potential effect of the raising of that money on the future of the company.

Examples of disclosing the effect of the offer

If the aim of the fundraising is to finance the purchase of a new asset that will significantly change the entity's business or finances, then the entity must fully disclose in the transaction-specific prospectus how the fundraising offer will affect it. This will invariably mean that the entity should fully disclose details of the new asset and its effect on the entity. In such circumstances, the disclosure required may be similar to that prescribed by s710(1).

If the fundraising merely aims to retire debt, which will not have a significant effect on the entity's business or finances, then the level and type of information needed will obviously be less than that needed in the example given in the previous paragraph. However, the entity must still explain how its financial structure will change, or if there will be other material changes after the debt is retired.

Right to obtain documents

RG 254.68 A transaction-specific prospectus must either inform people of their right to obtain a copy of any of the following documents, or be accompanied by or include a copy of the following documents:

(a) the issuer's most recently lodged annual financial report;

(b) the issuer's most recently lodged sustainability report (if applicable);

(c) any half-year financial report lodged after that annual financial report; and

(d) any continuous disclosure notices given by the issuer after lodgement of the most recent annual financial report and before the lodgement of the prospectus: see s713(4).

RG 254.69 The issuer must give a copy of a transaction-specific prospectus document free of charge to anyone who asks for it during the application period for the prospectus.

Statement identifying documents

RG 254.70 We consider it is not enough that the issuer simply state that it will supply on request the general types of documents listed in s713(4). At a minimum, the statement must identify each document that is available. It is enough if the entity gives the descriptive title of the document or a description of its content, without summarising the document.

RG 254.71 We consider that a statement made by an entity that identifies a document in a way that only satisfies the requirement of s713(4) will not incorporate the document into a transaction-specific prospectus under s712(1)–(2). We consider that a s713(4) statement is not, of itself, intended to make the issuer liable under Pt 6D.3 for those identified documents. This approach is also supported by para 258 of the Explanatory Memorandum to the Corporate Law Reform Bill 1993.

RG 254.72 The liability provisions in Pt 6D.3 apply if the issuer positively incorporates this information under s712, or if this information is actually included in the prospectus by way of satisfying the requirements in s713(2) to describe the effect of the offer or the rights attaching to the securities, options or underlying securities.

Responding to a request for documents

RG 254.73 An issuer of a transaction-specific prospectus must supply a copy of a document referred to in the s713(4) statement free of charge to a person who asks for it during the application period for the prospectus. The issuer should supply the documents requested within a reasonable time of receiving the

relevant request. This is so the investor has enough time to consider the material before deciding to invest.

Previously excluded information

RG 254.74 An issuer must disclose in its transaction-specific prospectus information that has been excluded from a continuous disclosure notice. This includes information that:

(a) has not been disclosed under the continuous disclosure requirements of the listing rules of a declared financial market because those listing rules expressly or implicitly excluded the information from disclosure (see s713(5)(a)); and

(b) investors and their professional advisers would reasonably require, but only to the extent it is reasonable for the investor and their adviser to expect to find the information included in the transaction-specific prospectus so that they can assess:

(i) the entity's assets and liabilities, financial position and prospects; and

(ii) the rights and liabilities attaching to the securities (this is a reflection of the requirement in s710(1) for historical information that has never been disclosed to the market) (see s713(5)(b)).

RG 254.75 A focus on identifying this information should form part of the due diligence process for reviewing the disclosure document.

Our review of transaction-specific disclosure

RG 254.76 In circumstances where we choose to review a transaction-specific prospectus, we will carefully consider—in addition to the transaction-specific prospectus itself—any other disclosure (including but not limited to marketing material) the issuer makes to the market at or around the time the transaction-specific prospectus is lodged with ASIC.

ASIC's exclusion powers—s713(6)

RG 254.77 ASIC has the power to exclude an issuer from using a s713 prospectus with the result that an issuer cannot use a transaction-specific prospectus during the period ASIC specifies: see s713(6). We may exercise this power whenever we become aware that, in the previous 12 months, the issuer has not complied with any or all of its disclosure obligations to:

(a) prepare audited financial reports (Ch 2M);

(b) correct a defective issuer's cleansing notice (s708AA(10) and 708A(9));

(c) provide continuous disclosure (s674(2), 674A(2), 675(2) and 675A(2));

(d) ensure there are no false or misleading statements (see s1308) in an issuer's 'cleansing notice' required by s708AA(2) or 708A(5);

(e) ensure it does not prepare defective disclosure documents (s724); and

(f) ensure there are no misstatements in, or omissions from, a disclosure document (s728).

RG 254.78 For instance, we might use ASIC's exclusion powers to prevent an issuer from using the transaction-specific prospectus regime if the entity's continuously quoted securities are suspended from quotation or are the subject of a trading halt and we have concerns that the entity has not complied with its continuous disclosure obligations.

RG 254.79 We may use ASIC's exclusion powers after raising concerns with or taking other action against an issuer. However, we do not have to take other action to use ASIC's exclusion powers.

RG 254.80 Before exercising ASIC's exclusion powers, we will generally offer the issuer an opportunity to make submissions about whether the determination should be made. We will not usually regard it as a sufficient argument against making a determination that the breach of the relevant obligation has since been rectified in some way. For example, if an issuer has contravened s319(1) by not lodging its annual financial report within the statutory time period, an argument that the annual financial report has subsequently been lodged will not of itself be sufficient to satisfy our concerns.

RG 254.81 Each determination is required to be published in the *ASIC Gazette*: see s713(6). We will also send the determination to the operator of the market on which the issuer is listed to ensure the operator is aware of the determination for its supervision of listed entities and for market transparency.

RG 254.82 A disclosing entity should consider, at the time it becomes aware of its failure to comply with the provisions and after a determination is made, whether it has an obligation to disclose any information to comply with its continuous disclosure obligations.

RG 254.83 A determination made by us under s713(6) will generally exclude an issuer from using transaction-specific disclosure for 12 months from the date of the determination.

Relief from enhanced disclosure provisions

RG 254.84 An issuer can only use transaction-specific disclosure if it has not received relief from specific disclosure provisions at any time during the 12 months before the issue of the transaction-specific prospectus: see para (b) of the

definition of 'continuously quoted securities' in s9. This means that, without relief, the issuer may not use a transaction-specific prospectus if it received relief under:

(a) s111AS, 111AT or 111AV;

(b) any of the disclosing entity provisions under s741(1); or

(c) s340 or 341.

RG 254.85 We have given relief in section 45 of *ASIC Corporations (Annual and Half-year Reporting) Instrument 2026/468* to allow the use of a transaction-specific prospectus, despite the fact that the disclosing entity is also the beneficiary of certain individual relief under s340 and class relief under s741 and s341 (which is identified in section 45). We consider that disregarding this relief will not detract from the level of information available to the market.

Individual relief to use a transaction-specific prospectus

RG 254.86 We may grant individual relief for an issuer to use a transaction-specific prospectus in cases where:

(a) the securities being offered are in a class of securities that have been quoted for less than three months; or

(b) the issuer:

(i) is disqualified from using transaction-specific disclosure because it has received relief from the specific disclosure provisions under:

(A) s111AS, 111AT or 111AV;

(B) any of the disclosing entity provisions under s741(1); or

(C) s340 or 341; and

(ii) cannot rely on the relief in ASIC Instrument 2026/468.

RG 254.87 Factors that we will take into account when considering relief from the three-month quotation requirement include whether the applicant has been subject to a disclosure regime that we consider to be adequate.

RG 254.88 Factors that we will take into account when considering relief from the enhanced disclosure provisions include whether the previous relief received could have a materially adverse effect on the level of information available to the market.

RG 254.89 Applicants must demonstrate that—based on previous disclosures made to the market about their activities, financial standing and prospects (in compliance with the applicable listing rules and the continuous disclosure requirements contained in s674, 674A, 675 and 675A)—the market

generally should have all information necessary to reach an informed view about the relevant securities.

RG 254.90 We will accept applications for individual relief on the basis that we are free to discuss applications with the operator of any Australian declared financial market on which the entity is listed. This is because the legislature envisaged that, in the case of listed entities:

(a) we and the relevant financial market operators would cooperate in making sure that the market is fully informed; and

(b) issuers of continuously quoted securities would comply with the enhanced disclosure provisions of the Corporations Act.

RG 254.91 Accordingly, we may consult with the operator of any Australian declared financial market on which the entity is listed about the effect of the relief on the level of information available to the market.

D Offer information statements

Key points

An offer information statement may be used instead of a prospectus for an offer of securities in certain circumstances.

A financial report to be included in an offer information statement should meet the form and content requirements set out in Ch 2M, as well as those in s715(2).

The audit required by s715(2)(c) is also to be carried out in accordance with Ch 2M.

We have granted relief from certain discrete elements of the offer information statement provisions.

Rationale for offer information statements

RG 254.92 An issuer undertaking an offer of securities that requires a disclosure document under Ch 6D may use an offer information statement where the amount of money to be raised by the issuer does not exceed $10 million, taking into account all other amounts previously raised by the issuer and its controlled or related entities under previous offer information statements: see s709(4).

RG 254.93 In working out the amount of money previously raised, issuers need to include:

(a) the amount payable for the securities at the time when they are issued;

(b) if the securities are issued partly paid, any amount payable at a future time if a call is made;

(c) if the securities are options, any amount payable on the exercise of the options; and

(d) if the securities carry a right to convert the securities into other securities—any amount payable on the exercise of that right.

Issuers need not include amounts payable for securities, or payable on the exercise of options, if the securities or options are issued under an employee share scheme: see s709(5).

Note: Section 9 defines ‘employee share scheme’.

Content requirements for offer information statements

RG 254.94 Preparing an offer information statement is less onerous than preparing a prospectus. Although an offer information statement provides a lower level of disclosure than a prospectus, it is subject to prescriptive content requirements, including mandated financial information. It must also include a prominent statement that:

(a) it is not a prospectus;

(b) has a lower disclosure requirement than a prospectus; and

(c) investors should obtain professional advice before accepting the offer.

RG 254.95 The content requirements for an offer information statement are set out in s715. In addition to information about the body and the offer of securities, an offer information statement must also include a financial report that is:

(a) for a 12-month period that has a balance date within the six months before the securities are first offered under the offer information statement;

(b) prepared in accordance with the accounting standards; and

(c) audited.

RG 254.96 Offer information statements are a form of disclosure document under the Corporations Act and therefore must comply with all other requirements of Ch 6D, including that the information must be presented in a clear, concise and effective manner in accordance with s715A.

Financial reports for offer information statements

RG 254.97 A financial report included in an offer information statement should be prepared in the same way and subject to the same audit requirements as annual financial reports for companies.

RG 254.98 Under s715(1)(i), an offer information statement for the issue of a body's securities must 'include a copy of a financial report for the body'. Section 715(2) sets out further requirements for these financial reports, including that they be prepared in accordance with accounting standards and be audited.

RG 254.99 We consider that a financial report included in an offer information statement must comply with the requirements of Ch 2M and be prepared on the basis that the body is a reporting entity for the purposes of complying with accounting standards. These requirements apply to all bodies issuing an offer information statement, regardless of whether they otherwise prepare reports under that chapter.

> Note: The Explanatory Memorandum to the Corporate Law Economic Reform Program Bill 1998 indicates that the report is to be 'prepared in accordance with Chapter 2M of the Law': see para 8.8.

RG 254.100 Under Ch 2M, a financial report includes the directors' declaration but not the directors' report and auditor's report: see s295(1).

RG 254.101 Section 715(2)(c) requires the financial report included in an offer information statement to be audited. Such an audit must be conducted in accordance with the requirements of Ch 2M by a registered company auditor. When the body is a company, registered scheme or disclosing entity, the auditor must be the body's auditor in accordance with the provisions of Ch 2M. An auditor's report prepared in accordance with that chapter should be included in the offer information statement.

Comparative financial information

RG 254.102 A financial report included in an offer information statement will generally be required to include comparative financial information in order to satisfy the accounting standards.

RG 254.103 Comparative financial information is to be included for the previous 12-month period ending immediately before the start of the current 12-month period (i.e. the period referred to in s715(2)(a)), unless otherwise permitted or required under the accounting standards. Australian Accounting Standard AASB 101 *Presentation of financial statements* states at paragraph 38 that:

> Except when Australian Accounting Standards permit or require otherwise, an entity shall present comparative information in respect of the previous period for all amounts reported in the current period's financial statements.

Individual relief for financial reports prepared for an offer information statement

Report for a 12-month period

RG 254.104 Section 323D(2) permits directors to determine a financial year that is longer or shorter than 12 months by up to seven days (provided that financial year is not the first financial year for a company). We may grant relief to ensure that a body can include a financial report prepared on this basis in an offer information statement.

RG 254.105 We consider that the requirement for the financial report to cover 12 months reflects a policy that entities seeking to use an offer information statement should have some operational record. Our policy also reflects the explicit reference to a 12-month period in s715(2)(a).

When we will not provide relief

RG 254.106 We consider that an offer information statement is a specific measure aimed at facilitating fundraising by small-to-medium size enterprises. The disclosure and related liability provisions represent a concession on what is required in prospectuses.

RG 254.107 The nature and extent of that concession have been determined by Parliament, reflecting a balance between facilitating small-to-medium size enterprise fundraising and ensuring an adequate level of investor protection.

RG 254.108 We consider that the requirements for financial reports provide important safeguards for investors. In particular:

(a) the application of Ch 2M and the Australian accounting standards ensures that the financial information contained in an offer information statement is of the same quality as that generally expected by the investing public; and

(b) the requirement for a financial report with a balance date within the last six months before securities are first offered under the offer information statement ensures currency of financial information for investors to assess the offer.

RG 254.109 Accordingly, we will generally not give relief from the requirements that:

(a) the financial report cover a period that is longer or shorter than 12 months by no more than seven days;

(b) the financial report be prepared in accordance with Australian accounting standards and the other requirements of Ch 2M; or

(c) the financial report have a balance date within the last six months before securities are first offered under the offer information statement.

E Other disclosure documents

Key points

Under Ch 6D we may approve the making of certain kinds of offers of securities under a profile statement.

Chapter 6D also provides for the use of a two-part prospectus for the offer of simple corporate bonds.

Profile statements

RG 254.110 We may approve the use of profile statements for offers of securities of a particular kind: see s709(2) and (3). In circumstances where we have approved its usage, a profile statement for an offer may be prepared in addition to a prospectus.

RG 254.111 As at the date of this regulatory guide, there are currently no approved uses for profile statements.

Two-part simple corporate bonds prospectuses

RG 254.112 In offering corporate bonds for issue, listed entities need to comply with:

(a) the fundraising provisions in Ch 6D;

(b) the requirements relating to offers of debentures in Ch 2L; and

(c) the listing rules of the declared financial market on which the entity is listed.

RG 254.113 Offers of corporate bonds to retail investors generally require full prospectus disclosure. In contrast, a listed issuer generally only requires a transaction-specific prospectus for offers of quoted shares, options over quoted shares and certain securities that are convertible into quoted shares: see s713 and ASIC Instrument 2026/97.

RG 254.114 A specific disclosure regime applies to offers of 'simple corporate bonds', which must be offered under a two-part simple corporate bonds prospectus.

RG 254.115 A simple corporate bond is a debenture with terms of issue that meet, and the offer of which meets, certain criteria set out in s713A. These criteria include that the securities are or will be quoted on a declared financial market, and that the issuer is a body that has continuously quoted securities or is a wholly owned subsidiary of such a body that has or agrees to guarantee repayment of principal and interest.

RG 254.116 A two-part simple corporate bonds prospectus consists of:

(a) a base prospectus with a life of three years, which must include general information about the issuer that is unlikely to change over the three-year life of the document (and that may be released in advance of an actual offer of simple corporate bonds); and

(b) an offer-specific prospectus for each offer, which must include details of the offer and may update information contained in the base prospectus.

RG 254.117 Despite the terms 'base prospectus' and 'offer-specific prospectus', neither document alone is taken to be a prospectus for the purposes of the Corporations Act—rather, a two-part simple corporate bonds prospectus is the combination of a base prospectus that covers the period during which the offer is made and the offer-specific prospectus for the offer. This combined document is a 'prospectus'—and therefore a 'disclosure document'—for the purposes of the Corporations Act: see s713B.

Note: Because of the specific disclosure regime for simple corporate bonds, including different expiry and lodgement requirements (including for supplementary and replacement documents), when the expression 'disclosure documents' is used in other sections of this guide it is not taken to include a two-part simple corporate bonds prospectus.

RG 254.118 The base prospectus and the offer-specific prospectus each have prescribed content (including prescribed financial ratios) and may incorporate by reference other material lodged with ASIC.

RG 254.119 For the content that must be included in a base prospectus, see s713C and reg 6D.2.04. For the content that must be included in an offer-specific prospectus, see s713D and reg 6D.2.05. For the key financial ratios relevant to the issuing body, see reg 6D.2.06. Material may be incorporated by reference as set out in s713E, which is similar to the provisions in s712 that apply to prospectuses and transaction-specific prospectuses.

F Lodging disclosure documents

Key points

Disclosure documents must be lodged with ASIC.

Issuers preparing a disclosure document should familiarise themselves with the basic statutory requirements and the relevant administrative procedure.

An application form can only be distributed if it is included in or accompanies the disclosure document: see s723 and 727.

We have provided relief from the application form requirement in certain scenarios: see RG 254.131–RG 254.135.

How to lodge a disclosure document

RG 254.120 Issuers intending to make an offer of securities, or distribute an application form for an offer of securities, must first lodge a disclosure document for the offer with ASIC: see s727(1).

RG 254.121 Disclosure documents should be lodged through the ASIC Regulatory Portal using the 'Lodge fundraising disclosure documents or statements' transaction. Fees will apply for lodgement of these documents. We have provided details about payment options in the portal. For more information, see How you lodge fundraising and corporate finance documents on the ASIC website.

RG 254.122 We may refuse to accept a disclosure document for lodgement if it:

(a) falls in the categories noted in s1274(8)(a)–(e);

(b) is not dated the same day as the date the document is lodged with us, unless it is a two-part simple corporate bonds prospectus (s716(1)–(1B); or

(c) is not signed (s351).

Our approach to withdrawing an offer under a disclosure document

RG 254.123 There may be instances where issuers wish to withdraw an offer made under a lodged disclosure document—for example, because of a change in market conditions or an inability by the issuer to meet a condition of the offer.

RG 254.124 We consider that an offer can be withdrawn by following the procedure set out in s719 for lodging a supplementary or replacement document. In addition to the form, content and procedure requirements set out in Table 3

and Table 6, we consider that a supplementary or replacement document that withdraws an offer should include the following statements and information (where applicable):

(a) the issuer withdraws the offer;

(b) no securities have been, or will be issued on the basis of the disclosure document;

(c) the process and date by which application money will be refunded; and

(d) the expiry date of the disclosure document is brought forward to the date of the supplementary or replacement document.

Changes to disclosure documents following lodgement

RG 254.125 In certain circumstances issuers may consider it necessary or desirable to make very minor changes to the presentation or content of a disclosure document after it is lodged with ASIC (e.g. to address typographical errors).

RG 254.126 To address this, we consider the Corporations Act permits differences between the disclosure document lodged with ASIC and the disclosure document distributed to investors relating to:

(a) the presentation of the document (e.g. its general layout and formatting), as long as the changes do not make the disclosure document deficient; and

(b) the content of the document, if these differences are trivial (e.g. typographical and spelling errors, and corrections of those errors, if they do not affect the sense).

RG 254.127 This applies to both electronic and paper copies of disclosure documents distributed to investors.

Application forms

RG 254.128 An application form can only be distributed if it is included in or accompanies the disclosure document: see s723 and 727. This includes a supplementary or replacement document by virtue of s719(4)–(5).

RG 254.129 Issuers are not required to include an application form in a disclosure document lodged with ASIC unless the form is in effect part of the disclosure document because it:

(a) contains information incorporated by reference into the disclosure document under s712; or

(b) is both an application form and a supplementary document under s719.

RG 254.130 Except as set out at RG 254.129, we regard an application form as a separate document: see s727(2) and 728(1)(a). There is no express requirement for it to be lodged, and no provision under which it may be lodged other than s712(4) or 719.

Note: See RG 107 for our policy on electronic application forms.

Relief for application forms

Personalised application forms

RG 254.131 Issuers are able to personalise application forms without relief from us where the personalised application form is sent out with the disclosure document. *ASIC Corporations (Application Form Requirements) Instrument 2017/241* provides relief for the sending out of application forms that were created by or personalised by an AFS licensee. For further information on personalised application forms, see Section C of RG 107.

Pro-rata grant of bonus options for no consideration

RG 254.132 We have also provided relief from the application form requirement in s723(1) in circumstances where an issuer grants bonus options pro rata to existing shareholders for no consideration (but where, in accordance with its terms, consideration must be paid to exercise the option): see ASIC Instrument 2017/241.

RG 254.133 Our relief enables an issuer to lodge a disclosure document and then issue this type of bonus option to existing shareholders without having first received a completed application form from the shareholder to whom the option is to be issued.

Reconstructions and capital reductions

RG 254.134 Under ASIC Instrument 2017/241, we have granted relief from the application form requirement in s723(1) where a disclosure document is lodged because an offer of securities is made for the purposes of Ch 6D as part of a broader capital reduction or reconstruction transaction.

RG 254.135 Application forms are inappropriate where securities or interests are issued or transferred as a result of a vote on a reconstruction or capital reduction: see Regulatory Guide 188 *Disclosure in reconstructions* (RG 188) at RG 188.44.

RG 254.136 We will also consider applications for individual relief from the application form requirement in s723(1) in capital reduction or reconstruction transactions not covered by *ASIC Corporations (Capital Reductions and Reconstructions—Technical Disclosure Relief) Instrument 2017/242* where

we are satisfied that the underlying policy of the application form requirements and Ch 6D are not offended.

Note: See RG 188 for further detail.

G The exposure period

Key points

The exposure period is intended to provide us and market participants with the opportunity to scrutinise disclosure documents before they are used for fundraising.

ASIC has the power to extend the exposure period from seven to 14 days and we will advise issuers in writing when we have decided to do so.

This section explains an issuer's responsibility to provide access to disclosure documents during the exposure period, what we will do to facilitate that access, and what issuers must do with applications received during the exposure period.

Exposure period requirements

RG 254.137 A person must not accept an application for, or issue or transfer, non-quoted securities offered under a disclosure document until the period of seven days after lodgement of the disclosure document (the exposure period) has ended. We may extend this period for a further seven days to end no later than 14 days after the date of lodgement: see s727(3).

RG 254.138 In calculating the relevant date on which the exposure period ends (whether or not we have extended it), issuers must not count the day the disclosure document is lodged with ASIC in calculating the number of days: see s105. The exposure period is intended to provide us and market participants with the opportunity to scrutinise disclosure documents before they are used for fundraising. For effective scrutiny to take place:

(a) the market must be able to find out that the document has been lodged;

(b) the document must be generally available to those likely to want to scrutinise it; and

(c) there must be a reasonable period in which the document can be scrutinised.

Access to disclosure documents

RG 254.139 The Explanatory Memorandum to the Corporate Law Economic Reform Program Bill 1998 states at p 64, para 8.19:

> The 7 to 14 day period gives ASIC and the market an opportunity to consider the disclosure document before the commencement of subscriptions for the securities on offer. Where the disclosure document was defective, the market could draw it to the attention of ASIC or

aggrieved parties could, if appropriate, seek injunctions preventing the fundraising.

RG 254.140 Issuers are expected to make their disclosure document generally available during the exposure period in a manner that reflects the circumstances of the intended offer.

RG 254.141 In determining how best to make a document 'generally available', issuers should consider the nature of the offer and the likely interest in it. We consider that a disclosure document for an offer that is expected to be open to the investing public or otherwise widely circulated will have been generally available where it is both:

(a) posted on a website that is accessible to the public; and

(b) available (on request) to members of the public by way of paper copy or by email.

Note: RG 107 provides detailed guidance on electronic disclosure documents, electronic application forms and the distribution of these documents by email and the internet.

RG 254.142 Regardless of the method of communication selected, the disclosure document should generally be made available no later than the business day after it is lodged.

What we do to facilitate access to disclosure documents

RG 254.143 We have established a database detailing all disclosure documents lodged with ASIC to ensure that the people interested in examining a disclosure document during the exposure period will be able to readily find out what documents are being exposed at any point in time. This database is called the Offer Notice Board.

RG 254.144 The Offer Notice Board records all disclosure documents for fundraising offers lodged with ASIC under Ch 6D and facilitates access to these disclosure documents during the exposure period. The Offer Notice Board can be accessed via our website free of charge.

RG 254.145 The Offer Notice Board provides the following information about a disclosure document:

(a) the document number;

(b) the date the document was received by ASIC;

(c) the document type and name;

(d) the name and Australian Company Number (ACN), Australian Registered Body Number (ARBN) and/or Australian Registered Scheme Number (ARSN) of the issuer;

(e) any related documents, such as stop orders, supplementary and replacement disclosure documents, and notices of extension of exposure period;

(f) the first date an investor can apply to invest (known as the effective date), if applicable; and

(g) how persons can obtain a copy of the disclosure document.

RG 254.146 We also provide access to copies of disclosure documents (including any documents incorporated by reference) through ASIC Connect or through our recognised information brokers. We endeavour to expedite making available all disclosure documents lodged with ASIC. It should be noted that our publication of disclosure documents on the Offer Notice Board is not to be taken as an endorsement or recommendation by us of any offer. We take no responsibility for the content of any disclosure document referred to on the Offer Notice Board.

Where we will extend the exposure period

RG 254.147 We may extend the seven-day exposure period for a further seven days to end no later than 14 days after the date of lodgement: see s727(3). Table 5 sets out the circumstances in which we will extend the exposure period and our underlying policy reasoning for doing so.

Table 5: Where we will extend the exposure period

Circumstance	Explanation
We are not satisfied that the disclosure document has been made 'generally available'	The ASIC Regulatory Portal provides a mechanism for the issuer to indicate to us how it intends to make the document available during the exposure period. If issuers do not provide us with these details or if the details indicate that insufficient steps are being taken to provide access to the disclosure document, we may conclude that we are not satisfied that the document will be made generally available. We may also consider that a document is not generally available if it comes to our attention that copies of the document are not being made available on a timely basis on request or if unreasonable charges are being applied. Where we are not satisfied that a disclosure document is made generally available we will notify the issuer of the extension of the exposure period by the seventh day of the period.
A national public holiday falls within the first seven days	We will extend the exposure period for as many days as there are national public holidays. This is consistent with the legislative intent that a document is exposed for at least five business days.

Circumstance	Explanation
A supplementary or replacement disclosure document is lodged within the first seven days	If a supplementary or replacement disclosure document is lodged during the first seven days of the exposure period for the original document (i.e. the document that is being supplemented or replaced), we may extend the exposure period for that original document to 14 days. This extension may be needed to ensure that the purpose of the exposure period is not undermined.
Disclosure document may be deficient	Where we have reason to believe a disclosure document may at face value not satisfy the relevant disclosure requirements, we will extend the exposure period from seven to 14 days. See RG 254.317–RG 254.328 for further details on our approach to scrutinising disclosure documents lodged with ASIC.
The issuer requests that the period be extended	Where an issuer makes a written request to us to extend the exposure period applicable to a disclosure document, and we do not otherwise propose to extend the exposure period, we will grant the request and notify them of the extension. Issuers may make such a request either at the time of lodgement or otherwise during the first seven days of the exposure period. This extension will ordinarily be from seven to 14 days.

RG 254.148 When we decide to extend the exposure period for a disclosure document, we will notify the issuer (or their adviser) in writing and we will record particulars of the new expiry date of the exposure period on the Offer Notice Board.

RG 254.149 It should be recognised that a number of factors may warrant the extension of an exposure period applicable to a disclosure document. Even where an extension is based on our preliminary view that a disclosure document is affected by *prima facie* deficiencies, notification of the extension will not amount to the taking of remedial action in relation to the document but will merely be an administrative mechanism to permit additional time for resolution of concerns. The *prima facie* deficiencies may or may not be ultimately established.

RG 254.150 We consider that persons dealing with an issuer should not draw any undue adverse implications from the mere fact of an extension of the exposure period applicable to a disclosure document. For example, we do not anticipate that an extension of the exposure period should, of itself, form the basis for an underwriter to terminate its obligations under an underwriting agreement.

RG 254.151 As we may only extend the exposure period once, extensions will be for a period of seven days in almost all cases unless we are extending the period because a national public holiday falls within the first seven days: see Table 5. This provides certainty to the market and the best opportunity to resolve any disclosure concerns before the offer can be accepted. For the same reason, once extended, we will generally only consider revoking an extended exposure period where our concerns have been addressed early in the extended period and, even then, only in exceptional circumstances.

Relief from the exposure period

RG 254.152 The exposure period required under s727(3) applies to all disclosure documents other than for offers of quoted securities. The stated rationale for the exemption for quoted securities is that these securities 'have an established market price and are subject to the continuous disclosure regime': see Explanatory Memorandum to the Corporate Law Economic Reform Program Bill 1998 at para 8.20. Furthermore, any disclosure document for quoted securities will be available to the market and the market reaction to it can be expected to be factored into the price of the securities.

RG 254.153 We consider that the approach taken in the legislation reflects a policy that an exposure period is necessary except in circumstances where there is adequate alternative scrutiny of the offer.

RG 254.154 Where a disclosure document is exempt from exposure either by virtue of the legislation or our relief, the prohibition against misleading or deceptive statements or omissions and the requirements of Ch 6D will, of course, continue to apply to it.

Supplementary and replacement disclosure documents

RG 254.155 If a supplementary or replacement disclosure document is lodged with ASIC, it is arguable that an exposure period applies to that document by virtue of s719(4)–(5). To avoid doubt, we have issued relief to ensure that supplementary and replacement disclosure documents are not subject to an exposure period: see *ASIC Corporations (Exposure Period) Instrument 2026/90*. This is consistent with a policy of facilitating the prompt use of supplementary or replacement disclosure documents where they may be necessary to ensure proper disclosure in relation to an offer that is taking place.

> Note: If a supplementary or replacement disclosure document is lodged during the exposure period of the disclosure document being supplemented or replaced, the supplementary or replacement disclosure document is subject to an exposure period until the exposure period of the original disclosure document expires.

Options over quoted securities

RG 254.156 We have given relief from the exposure period for issuers undertaking an offer of options to acquire quoted securities under a disclosure document: see ASIC Instrument 2026/90.

RG 254.157 In this particular circumstance, we consider there is a sufficient connection between an option to acquire a quoted security and the quoted security itself to warrant the exposure period relief.

Further issue of quoted securities

RG 254.158 We have also given relief so that a disclosure document will not be subject to an exposure period if the securities being offered are of a class already quoted: see ASIC Instrument 2026/90.

RG 254.159 Without this relief, a disclosure document lodged by an issuer listed on a declared financial market—where the offer is for securities in a class already quoted—would be subject to an exposure period if there is no automatic right of quotation for securities. This is because, even if those securities are of a class that is already quoted, they are regarded as non-quoted for the purposes of s727(3) at the time of the offer.

RG 254.160 In the case of renounceable rights issues of quoted securities where the rights themselves are traded, we do not consider that the exposure period applies to any disclosure document dealing with those rights as the rights are not securities: see s700(1) and definition of 'security' in s9.

Extension of life of disclosure document for continuous issuers

RG 254.161 We realise that an extension of an exposure period may cause particular problems for continuous issuers of securities. We may give individual relief to extend the life of a disclosure document that is about to expire beyond 13 months when a new disclosure document for the same securities has its exposure period extended.

RG 254.162 Arrangements for the publication of a new disclosure document may be made on the basis that there will be no extension of an exposure period and any extension may mean that there is a short period during which the securities cannot be offered.

RG 254.163 In these circumstances we will assess, on a case-by-case basis, whether an existing disclosure document should have its life extended in conjunction with the extension to the exposure period. Ordinarily, however, we would expect that issuers would take into account the possibility of an extension to the exposure period for their documents.

Applications for securities during the exposure period

RG 254.164 Under s727(3), issuers must not accept an application for, or issue or transfer, non-quoted securities offered under a disclosure document until after the exposure period. We consider that this prohibition is wider than accepting an offer in in the contractual sense. The heading of s727(3) refers to the 'processing' of applications.

RG 254.165 We consider that requirements relating to defective disclosure documents in s724 apply in relation to applications received during the exposure period. Accordingly, if the disclosure document is found to be deficient, issuers must either return the application money or give the applicant the supplementary or replacement document and the opportunity to withdraw their application.

No preference

RG 254.166 As the exposure period is for the purpose of enabling the market to scrutinise the documents, we consider that accepting an application includes conferring a preference on those application forms received during the exposure period. We consider that issuers should not treat those applications any more favourably than the applications received on the first day after the end of the exposure period.

RG 254.167 For example, if completed application forms are received by the issuer or dated during the exposure period they must not be taken into account if a 'first in, first served' method of allocating securities is adopted, as this would lead to a preference being given to them.

RG 254.168 If issuers circulate an application form with a disclosure document during the exposure period and receive applications before the end of that period, we consider that issuers must not:

(a) process those applications before the end of the period; or

(b) do anything else that would have the effect of conferring preference on those applications or any other applications dated or sent during the exposure period.

Funds received with applications during exposure period

RG 254.169 Issuers may deposit any application money they receive during the exposure period into a trust account with a financial institution. This will not constitute processing of the application but rather is a means of complying with the requirement in s722 to hold any application money on trust.

Warnings to investors

RG 254.170 Should issuers elect to circulate an application form with a disclosure document, we consider it appropriate that issuers warn investors of the risks involved in lodging applications during the exposure period. These warnings may, but need not, be included in the disclosure document itself. Rather, issuers may provide a warning in a prominent manner consistent with the means by which they make the copy of the disclosure document available. For example, the warning could be included in a covering letter if issuers are posting the disclosure document, or on the same page of the website from which the disclosure document may be downloaded.

RG 254.171 Such warnings must make it clear to potential investors that:

(a) issuers will not process any applications received until after the exposure period;

(b) no preference will be conferred on applications received in the exposure period; and

(c) the purpose of the exposure period is to enable the disclosure document to be examined by market participants before the raising of funds. The examination of the disclosure document may result in the identification of deficiencies in the disclosure document and, in these circumstances, any application that has been received may need to be dealt with in accordance with s724.

H Supplementary and replacement disclosure documents

Key points

Issuers may lodge with ASIC a supplementary or replacement disclosure document to correct deficiencies in an original disclosure document or to otherwise update investors about an offer.

In some circumstances, the Corporations Act prohibits the making of offers, or the issue or transfer of securities, as a result of an application made in response to a disclosure document unless investors are provided with a supplementary or replacement disclosure document.

As noted elsewhere in this guide, because of the specific disclosure regime for simple corporate bonds, which includes modified arrangements for lodging supplementary or replacement documents, the guidance in this part does not apply to a two-part simple corporate bonds prospectus.

RG 254.172 A supplementary disclosure document accompanies or is attached to an original disclosure document. A replacement disclosure document replaces an original disclosure document.

RG 254.173 Supplementary and replacement disclosure documents provide issuers with a mechanism to update a disclosure document and/or provide new information to investors.

RG 254.174 The supplementary and replacement disclosure document regime is a key element of the broader and fundamental underlying policy of Ch 6D—that investors make informed investment decisions on the basis of a current disclosure document containing or incorporating all material and relevant information about the securities being offered and about the person offering the securities for issue or sale.

RG 254.175 In our view, supplementary and replacement disclosure documents generally serve the same function, and in effect, a replacement disclosure document is merely an integrated version of a supplementary and an original disclosure document.

When a supplementary or replacement disclosure document is required

RG 254.176 A supplementary or replacement disclosure document may be lodged with ASIC if the person making the offer becomes aware of any of the following

circumstances that are materially adverse from the point of view of an investor:

(a) a misleading or deceptive statement in the disclosure document;

(b) an omission from the disclosure document of information required by s710, 711, 712, 713, 714 or 715; or

(c) a new circumstance that has arisen since the disclosure document was lodged and would have been required by s710, 711, 712, 713, 714 or 715 to be included in the disclosure document if it had arisen before the disclosure document was lodged (see s719(1)).

RG 254.177 Issuers should apply an objective test when considering whether a misleading or deceptive statement, an omission, or a new circumstance is 'materially adverse from the point of view of an investor'. That is, it should be considered from the point of view of a hypothetical reasonable investor.

RG 254.178 This approach is consistent with comments in *Roadship Logistics v Tree* (2007) NSWSC 1084 at [8] where Barrett J stated (in the context of s724(1)(c)–(d)) that:

> the 'investor' referred to in the expression 'is materially adverse from the point of view of an investor' is, if you like, a hypothetical reasonable investor, not a particular idiosyncratic investor. In other words, the test is an objective test …

RG 254.179 A supplementary or replacement disclosure document may also be lodged with ASIC if the issuer becomes aware that information in the disclosure document is not worded and presented in a clear, concise and effective manner: see s719(1A) and RG 228.

RG 254.180 The circumstances described in RG 254.176 can arise in relation to a disclosure document that has previously been supplemented or replaced, and also in relation to material that is incorporated by reference under s712: see notes 2 and 4 of s719(1).

RG 254.181 It is an offence to make offers under a disclosure document after an issuer has become aware of a misleading or deceptive statement, an omission, or a new circumstance that is materially adverse from the point of view of an investor, unless the deficiency is corrected using a supplementary or replacement disclosure document: see s728.

RG 254.182 Accordingly, the law in effect requires lodgement of a supplementary or replacement disclosure document in such circumstances.

RG 254.183 Once an issuer becomes aware of a circumstance identified in s719(1) (noted in RG 254.176) that is materially adverse from the point of view of an investor, s724 prevents an issue of securities in response to an application unless, among other things, a supplementary or replacement disclosure document is provided to the applicant.

RG 254.184 A supplementary or replacement disclosure document must also be used to 'refresh' the time periods within which to comply with a minimum subscription or quotation condition: see *ASIC Corporations (Minimum Subscription and Quotation Conditions) Instrument 2026/87* and Section I.

When a supplementary or replacement disclosure document can be lodged voluntarily

RG 254.185 A supplementary or replacement disclosure document may also be used in other circumstances. For example, to:

(a) correct a deficiency in the original disclosure document that is not material;

(b) update the original disclosure document by providing information about something that has happened since the disclosure document was prepared. This is the case whether or not the information is material; or

(c) provide additional information, whether or not the information is new or material.

Form, content and procedure requirements

RG 254.186 We consider that the issuer is best placed to decide whether to use a supplementary or replacement disclosure document to comply with their obligations under the Corporations Act. When making this decision, issuers should be aware of the clear, concise and effective disclosure requirements in s715A and the underlying policy objectives of Ch 6D.

RG 254.187 Table 6 outlines the form, content and procedure requirements that apply to supplementary and replacement disclosure documents, in addition to the requirements for prospectuses set out in Table 3.

RG 254.188 Each procedure identified in Table 6 as a 'statutory requirement' must be satisfied for the disclosure document to be lodged in accordance with the Corporations Act. Unless marked otherwise, each procedure applies to both supplementary and replacement disclosure documents.

Table 6: Procedure for supplementary and replacement disclosure documents

Procedure	Explanation
ASIC Regulatory Portal	Supplementary or replacement disclosure documents should be lodged through the ASIC Regulatory Portal on our website.
Offer Notice Board	Details of the offer will be exposed to the public on the Offer Notice Board as part of the portal lodgement process.
Fee	A fee is payable: see Corporations (Fees) Regulations and INFO 30.

Procedure	Explanation
Content—replacement disclosure documents (statutory requirement)	A replacement disclosure document should have the same wording as the original disclosure document except for the provision of new or additional information and the correction of deficiencies in the original disclosure document.
Exposure period	There is no exposure period for a supplementary or replacement disclosure document lodged after expiry of the exposure period applying to the document being supplemented or replaced. However, if a supplementary or replacement disclosure document is lodged during the exposure period of the original document, the supplementary or replacement disclosure document will be subject to an exposure period until the exposure period for the original disclosure document expires: see ASIC Instrument 2026/90 and RG 254.155.
Our review	We may review supplementary and replacement disclosure documents. See our guidance on reviewing disclosure documents in Section L.
Statements—supplementary disclosure documents (statutory requirement)	At the beginning of a supplementary document, there must be: • a statement that it is a supplementary document; • an identification of the disclosure document it supplements; • an identification of any previous supplementary documents lodged with ASIC in relation to the offer; and • a statement that it is to be read together with the disclosure document it supplements and any previous supplementary documents: see s719(2).
Statements—replacement disclosure documents (statutory requirement)	At the beginning of a replacement document, there must be: • a statement that it is a replacement document; and • an identification of the disclosure document it replaces: see s719(3).

Note: See Table 3 for the general requirements that apply to prospectuses.

Consequences of lodging a supplementary or replacement disclosure document

RG 254.189 Chapter 6D outlines certain consequences that follow when a person making an offer of securities under a disclosure document lodges a supplementary or replacement disclosure document.

RG 254.190 The specific nature of these consequences depends on several factors:

(a) when an offer to an investor was or is made (i.e. before or after the lodgement of the supplementary or replacement disclosure document);

(b) the reason why the person making the offer lodged the supplementary or replacement disclosure document;

(c) whether the person making the offer has received any applications from investors at the time of lodgement of the supplementary or replacement disclosure document; and

(d) whether any securities have been issued or transferred in response to those applications received.

RG 254.191 Table 7 outlines several common situations requiring lodgement of a supplementary or replacement disclosure document and, by way of example, illustrates the consequences for issuers and applicants where the issuer holds unprocessed applications.

RG 254.192 Table 7 does not purport to be exhaustive or cover all possible situations that may arise during the course of an offer where lodgement of a supplementary or replacement disclosure document may be required. Issuers should consult a qualified professional adviser to determine how Ch 6D applies in their particular circumstances.

Table 7: Lodging supplementary and replacement disclosure documents: consequences for issuers and applicants in certain common situations

Situation	Issuer	Applicant's rights
The issuer becomes aware of: • a new circumstance; • a misleading or deceptive statement; or • an omission from the disclosure document. This circumstance, statement or omission is materially adverse from the point of view of an investor: s724(1)(c)–(d).	The issuer must: • not make any further offers unless the deficiency is corrected (s728(1)); and • deal with unprocessed applications in accordance with one of the choices in s724(2). To continue with the offer, the issuer must also: • lodge a supplementary or replacement disclosure document correcting the deficiency (s719(1)); and • use the new application forms accompanying the supplementary or replacement disclosure document for any further offers (s723(1), 728(1) and 719(4)–(5)).	The applicant must either: • be repaid their application money; or • be provided with the supplementary or replacement disclosure document and one month to withdraw and be repaid. If the issuer proceeds to issue securities without correcting the deficiency or otherwise complying with s724, the applicant has a right to return the securities and be repaid: see s737(1). The applicant can exercise this right by giving written notice to the issuer within one month after the date of issue: see s737(2).

Situation	Issuer	Applicant's rights
The issuer considers it unlikely that the minimum subscription (s723(2)) or quotation condition (s723(3)) will be satisfied before expiry of the relevant time periods. The issuer wishes to continue with the offer.	The issuer may refresh the time periods by lodging a supplementary or replacement disclosure document under notional s724(3G)(a), as inserted by ASIC Instrument 2026/87 (a 'refresh document', as discussed in Section I) with ASIC. To continue with the offer, the issuer must: • give the refresh document to applicants; • offer existing applicants one month to withdraw (notional s724(3G)(b)); and • otherwise proceed in accordance with the option in notional s724(3G). The refresh document must be used for any further offers: see s723(1), s728(1) and s719(4)–(5). See Section I for further details on our policy on minimum subscription and quotation conditions.	The applicant must be provided with: • the refresh document; and • one month to withdraw and be repaid. If the applicant elects to withdraw, their application money should be returned by the issuer as soon as practicable. If the applicant elects not to withdraw, they are taken to have applied under the refresh document (notional s724(3G)(c)–(d), as inserted by ASIC Instrument 2026/87).
The issuer wishes to update the disclosure document. The update is not materially adverse from the point of view of an investor.	The issuer: • may lodge a supplementary or replacement disclosure document to provide updated disclosure (note 3 to s719(1)); and • must use the new applications forms accompanying the supplementary or replacement disclosure document for any further offers (s723(1) and 719(4)–(5)).	If the applicant: • made an application before lodgement, they should (as a matter of good practice) be provided with a copy of any supplementary or replacement disclosure document; or • makes an application after lodgement, they must be provided with any supplementary or replacement disclosure document (s723(1) and s719(4)–(5)).

RG 254.193 Issuers should take appropriate steps to ensure that they are able to distinguish which version of a disclosure document an application is based on. RG 107 provides specific guidance (including a good practice guide) on supplementary and replacement disclosure documents, particularly in the context of electronic offers of, and applications for, securities.

Relief to consolidate supplementary disclosure documents

RG 254.194 We have given relief for issuers who issue a number of supplementary disclosure documents (see *ASIC Corporations (Substituted Supplementary*

Disclosure Documents) Instrument 2026/92). The relief allows an issuer to issue one supplementary disclosure document and substitute or consolidate it with other supplementary disclosure documents from time to time.

RG 254.195 This relief supports the policy of clear, concise and effective disclosure for investors. In circumstances where issuers elect to rely on it, investors will receive the latest version of the consolidated supplementary disclosure document instead of a number of successively issued supplementary disclosure documents.

RG 254.196 The relief applies where the latest supplementary disclosure document:

(a) discloses at the beginning that it is issued in substitution for the old supplementary document or documents, as clearly identified; and

(b) contains all the substantive information in the old supplementary document or documents except to the extent that the new supplementary document corrects deficiencies in or updates that substantive information or provides additional information.

I Minimum subscription and quotation conditions

Key points

A quotation condition is a statement (either express or implied) in a disclosure document that the securities offered will be quoted on a financial market. The quotation condition must be satisfied within three months of the date of the disclosure document.

A minimum subscription condition is a statement in a disclosure document that securities will not be issued or transferred unless the issuer receives applications for a minimum number of securities. The minimum subscription condition must be satisfied within four months of the date of the disclosure document.

If an offer contains a quotation condition, an issuer should not issue securities to applicants until there is a high degree of certainty that they will be admitted to quotation. If an offer contains a minimum subscription condition, an issuer must not issue securities to applicants until that condition is satisfied.

We have provided relief to streamline the process for issuers to extend the time periods within which the quotation and minimum subscription conditions must be satisfied and to clarify the point in time at which the relevant time periods commence.

Quotation condition

RG 254.197 The Corporations Act contains a range of provisions dealing with circumstances where an issuer states or implies that the securities offered under a disclosure document are to be quoted on a financial market. We consider the fundamental policy underpinning these provisions is that, where such representations are made by an issuer, applicants will receive one of two things: the quoted securities or the option of having their application money returned within a reasonable time.

RG 254.198 If an issuer states or implies in a disclosure document that the offered securities are to be quoted on a financial market (whether in Australia or elsewhere), then the issuer must:

(a) apply to the financial market for permission to admit securities to quotation within seven days after the date of the disclosure document (the first part of the condition); and

(b) have the securities admitted to quotation within three months after the date of the disclosure document (the second part of the condition).

These parts make up the quotation condition: see s723(3)(a) and (b).

RG 254.199 Section 723(3) does not expressly require the issuer or its directors to apply for and obtain permission within the seven-day and three-month periods (respectively). Instead, it prescribes the adverse consequences of failure to apply within the relevant period: see *In the matter of Insurance Australia Group Ltd* [2003] FCA 581 at [26].

> Note: See Section H of RG 228 for our policy on the specific disclosure requirements (in s711(5)) for statements about the quotation of securities in a prospectus.

When the quotation condition is activated

RG 254.200 The quotation condition is activated when the disclosure document 'states or implies' that the securities are to be quoted. We consider these words should be read broadly and the quotation requirement will be triggered if any implication can be drawn from the document that an application would be made for quotation.

RG 254.201 This is consistent with the judicial approach to the requirement as Lindgren J noted in *Re NuSep Ltd* [2007] FCA 613 (at [26]):

> Clearly, s723(3) is referring to something less than 100% certainty that the securities will be quoted. The appropriate shade of meaning is conveyed by the idea that the disclosure document reveals to those reading it that it is intended, contemplated or expected that the securities will be quoted.

RG 254.202 The quotation requirement applies to an Initial Public Offering (IPO) and also any subsequent offering of securities under a disclosure document. In both cases, the issuer will need to comply with the quotation requirement if the disclosure document states or implies that the securities being offered are to be quoted.

RG 254.203 Where multiple classes of securities are being offered under a disclosure document, the issuer should state definitively whether each class of securities is to be quoted. In our view, statements that the application for quotation of a particular class of securities has been or will be made, and that quotation is contingent on certain events occurring (or, alternatively, that those securities will not be quoted unless certain events occur) do in fact imply that those securities will be quoted for the purposes of s723(3).

Example of how quotation condition applies to attaching options

When an issuer makes an offer of quoted shares, together with 'free' attaching quoted options, the issuer cannot avoid s723(3) applying to the options by stating that the options will not be quoted unless certain events occur (such as achieving the required spread of option holders), as this still implies that the options are to be quoted.

Satisfying the quotation condition

Application to financial market within seven days

RG 254.204 The first part of the quotation condition requires that an application for quotation be made within seven days *after* the date of the disclosure document (the seven-day application condition). A disclosure document must be dated and the date of the disclosure document is the date on which it is lodged with ASIC: see s716(1).

> Note: The date of the disclosure document is not counted as one of the seven days: see s105. If the last day of the seven-day period falls on a public holiday in the place where the disclosure document was lodged, the seven-day period ends on the first day following that is not a Saturday, Sunday, public holiday or bank holiday in that place: see s36(2) of the *Acts Interpretation Act 1901* (Acts Interpretation Act).

Example of a seven-day period that ends on a public holiday

If the date of a disclosure document falls on a Monday, the application for the admission of the securities or financial products to quotation must be made no later than the following Monday. However, if Monday is a public holiday, the application may be made no later than the next business day (e.g. Tuesday). A public holiday or a day on which a financial market is closed that falls during the seven-day period is not, however, taken to extend this time period.

Admitted to quotation within three months

RG 254.205 A period of three months after the date of the disclosure document is calculated to end at midnight on the corresponding day in the third month after the date of the disclosure document. For example, if the disclosure document is dated 15 January, the three-month period ends at midnight on 15 April.

> Note: However, if the last day for a period is a Saturday, Sunday, public holiday or bank holiday in the place of lodgement, the period ends on the first day following that is not a Saturday, Sunday, public holiday or bank holiday in that place: see s36(2) of the Acts Interpretation Act.

RG 254.206 The second part of the quotation condition is met when the securities are admitted to official quotation (the three-month quotation condition). It is not when the financial market advises the issuer that the securities will be admitted to quotation (or, when relevant, that the issuer will be admitted to the official list).

RG 254.207 This is because the financial market may often advise issuers that securities will be admitted to quotation (and, when relevant, that the issuer will be admitted to the official list) subject to specified conditions.

RG 254.208 A financial market may not grant admission to official quotation until any relevant conditions have been met. It is only after fulfilment of these conditions that the securities will be admitted to quotation for the purposes of s723(3).

RG 254.209 The quotation requirement does not impose or imply any obligation on a financial market to grant permission to quote to an issuer: *Brolga Minerals Ltd v The Stock Exchange of Perth Ltd* (1971–1973) CLC 40-057.

> Note: For example, the ASX Listing Rules state that admission to the official list is at the ASX's absolute discretion: see Listing Rule 1.19.

RG 254.210 We consider that securities admitted to quotation on a financial market on a deferred settlement or conditional trading basis satisfy the second part of the quotation requirement if it occurs by the requisite time.

Our approach to the quotation condition

RG 254.211 We consider that when an issuer offers securities to the public and represents that they will be quoted on the relevant financial market, investors reasonably expect to get two things:

(a) a marketable investment; and

(b) the offered securities or their application money returned within a reasonable time.

RG 254.212 We expect that a statement of an issuer's intention to obtain quotation of the offered securities is one of the matters on which an issuer depends to sell the issue. Accordingly, it is appropriate that issuers are required to fulfil this promise or intended course of action. The alternative is that if the securities have been allotted and quotation approval for them is refused or a final decision on the application for quotation is deferred, the holders find that their investment is practically unmarketable: see the Board of Trade (UK), *Report of the Committee on Company Law Amendment*, Cmd 6659, 1945, at paragraphs 23–28.

RG 254.213 Investors expect to get a marketable investment if and when the issue of securities goes ahead. We expect that investors are attracted by:

(a) the greater marketability and liquidity of quoted securities;

(b) the issuer being subject to the scrutiny of the relevant financial market operator and its financial, spread and other conditions (although the relevant financial market operator does not express any view as to the merits of an issuer or an offer of securities); and

(c) the fact that the listing requirements will apply once the issuer is listed, including continuous disclosure obligations.

RG 254.214 In this regard, the Takeover Panel's comments in *In the matter of Pinnacle VRB Ltd (No. 9b)* [2001] ATP 26 (at [42]) are relevant:

> An ASX listing provides Australian investors with a familiar, convenient and, usually, liquid market for their securities. It also attracts ASX disclosure rules and ASX supervision of the listed entity. It would be reasonable to expect that the loss of those attributes of an ASX listing would have a material effect on the price or value of the securities.

RG 254.215 Our policy and general approach to the provisions as they apply to all financial markets, including the exercise of any of our discretionary powers, is framed around these principles.

Minimum subscription condition

RG 254.216 A 'minimum subscription condition' is a statement in a disclosure document that securities will not be issued or transferred unless the issuer receives applications for a minimum number of securities or raises a minimum amount: see s723(2).

RG 254.217 Disclosure documents should state whether there are any minimum or maximum subscription amounts. This is because the amount to be raised and the use of funds are important considerations for investors.

RG 254.218 If a disclosure document contains a minimum subscription condition, the issuer cannot issue or transfer any securities until that condition is satisfied: see s723(2). In working out whether the condition is satisfied, a person who has agreed to take securities as an underwriter is taken to have applied for those particular securities.

Relief for calculating time periods

RG 254.219 We have modified s723 to make it clear that the minimum subscription and quotation condition time periods are calculated based on the date of the original disclosure document: see notional s723(2A) and (3A), as inserted by ASIC Instrument 2026/87.

RG 254.220 Our relief eliminates the unduly burdensome effect of s719(4)–(5) on issuers subject to minimum subscription and quotation conditions. Without our relief, the operation of s719(4)–(5) would mean that, for applications received in response to an offer under:

(a) the original disclosure document, the minimum subscription and quotation condition time periods are calculated based on the date of the original disclosure document; and

(b) a supplementary or replacement disclosure document, the minimum subscription and quotation condition time periods are calculated based on the date of that supplementary or replacement disclosure document.

As a result, the time periods under s723(3) and 724(1) would apply inconsistently to applicants when a supplementary or replacement disclosure document was lodged before the expiry of the relevant time period (and applications were received in response to both the original and that supplementary or replacement).

RG 254.221 Our relief ensures that the time periods applying to applications are synchronised and operate consistently, promoting certainty for issuers, investors and operators of any declared financial market on which the issuer seeks quotation of the securities that are the subject of the offer.

RG 254.222 If an issuer refreshes the time periods for complying with the minimum subscription and/or quotation conditions, our relief ensures that the relevant time periods are reset for all applicants and commence from the date of the supplementary or replacement disclosure document that effects the refreshment of the time periods (refresh document).

> Note: See RG 254.234–RG 254.238 for guidance on the process for refreshing the minimum subscription and quotation condition time periods and how our relief operates to 'reset' the date for calculating those time periods for all applicants.

Consequences of the minimum subscription condition and/or quotation condition not being satisfied

RG 254.223 The consequences of failing to satisfy the minimum subscription or quotation conditions are largely determined by whether securities have been issued to applicants when the relevant condition (or part of the condition, in the case of the quotation condition) becomes incapable of satisfaction (i.e. the statutory time periods expire).

RG 254.224 RG 254.226–RG 254.233 set out our guidance on these consequences, including the operation of our relief in ASIC Instrument 2026/87.

RG 254.225 Table 8 summarises a range of scenarios that may arise when applications for securities have been received and the minimum subscription and/or quotation conditions are not (or not likely to be) satisfied within the relevant time periods. It briefly sets out the position of the issuer for each and provides a cross reference to our more detailed guidance.

Table 8: Minimum subscription and quotation conditions

Position of issuer	Consequences and options	Our guidance
Seven-day application condition not satisfied before the time period expires. Securities have been issued or transferred.	The issue or transfer is void: see s723(3)(c). The issuer must return application money to applicants as soon as practicable: see s723(3)(d). Issuers may seek an order from the court under s1322 to extend the period by which the application condition must be satisfied. Our legislative instrument relief has no effect in this scenario.	RG 254.226–RG 254.228

Position of issuer	Consequences and options	Our guidance
Three-month quotation condition not satisfied before the time period expires. Securities have been issued or transferred.	The issue or transfer is void: see s723(3)(c). The issuer must return application money to applicants as soon as practicable: see s723(3)(d). Issuers may seek an order from the court under s1322 to extend the period by which the quotation condition must be satisfied. Our legislative instrument relief has no effect in this scenario.	RG 254.226–RG 254.228
Minimum subscription condition not satisfied before the time period expires. Securities have been issued or transferred.	A contravention of s723(2) has occurred; issuers must not issue or transfer securities *until* the minimum subscription condition is satisfied. Our legislative instrument relief has no effect in this scenario.	RG 254.226–RG 254.228
The issuer is unlikely to satisfy: • the seven-day application condition; • the three-month quotation condition; or • the minimum subscription condition. The relevant time period has not yet expired. Securities have *not* been issued or transferred.	If the issuer intends to refresh the time periods and proceed with the offer, they must: • lodge a refresh document (which includes the information and statements prescribed in notional s724(3H), as inserted by ASIC Instrument 2026/87); • give the refresh document to applicants; • offer existing applicants one month to withdraw; and • otherwise proceed in accordance with the option in notional s724(3G), as inserted by ASIC Instrument 2026/87. The refreshed time period(s) will apply consistently to all applicants, whether they applied under the original disclosure document or apply subsequently under a refresh document. Otherwise, if the issuer intends to withdraw the offer, they should: • lodge a supplementary or replacement document (which includes the statements set out at RG 254.124 confirming the offer has been withdrawn); • give the supplementary or replacement document to applicants; and • return application money to applicants.	RG 254.229–RG 254.245

Position of issuer	Consequences and options	Our guidance
Seven-day application condition not satisfied before the time period expires. Securities have *not* been issued or transferred.	If the issuer intends to refresh the seven-day period and proceed with the offer, they must: • lodge a refresh document (which includes the information and statements prescribed in notional s724(3H)); • give the refresh document to applicants; • offer existing applicants one month to withdraw; and • otherwise proceed in accordance with the option in notional s724(3G). Otherwise, once the seven-day application period has expired, the issuer must return any application money to applicants as soon as practicable: see notional s724(3E), as inserted by ASIC Instrument 2026/87.	RG 254.229–RG 254.245
Three-month quotation condition or minimum subscription condition not satisfied before the relevant time period expires. Securities have *not* been issued or transferred.	The issuer may not proceed with the offer. The issuer must return any application money to applicants as soon as practicable: see notional s724(3A) or notional 724(3C), both as inserted by ASIC Instrument 2026/87. Issuers may seek an order from the court under s1322 to extend the relevant time period.	RG 254.246

Applications received and securities issued or transferred

RG 254.226 If a disclosure document contains a minimum subscription condition, an issuer cannot issue or transfer any securities in response to applications received until that condition is satisfied: see s723(2).

Note: An offence based on s723(2) is a strict liability offence: see s723(4).

RG 254.227 If a disclosure document contains a quotation condition, the issuer has issued or transferred securities under the disclosure document, and that quotation condition is not met within the seven-day or three-month period (as applicable), that issue or transfer is void and the issuer must return any application money received to the applicant as soon as practicable: s723(3)(c)–(d). We consider s723(3)(c)–(d) shows a clear legislative intention that issuers should refrain from issuing securities in response to applications received under a disclosure document unless the quotation conditions have been satisfied, or there is a very high degree of confidence that they will be satisfied.

RG 254.228 Our legislative instrument does not provide relief from the minimum subscription or quotation conditions (or the effect of s723(2) and 723(3)(c)–(d)) when an issuer has issued securities to applicants. Some issuers may instead elect to seek an order from the court under s1322 extending the relevant time period under s723(3).

Applications received and securities have not been issued or transferred

RG 254.229 It may become apparent to an issuer that:

(a) the offered securities will not be admitted to quotation within three months after the date of the disclosure document;

(b) an application for admission to quotation will not be made (or was not made) within seven days after the date of the disclosure document; or

(c) the minimum subscription condition will be not satisfied within four months after the date of the disclosure document.

RG 254.230 If the issuer, in accordance with the underlying policy of the minimum subscription and quotation conditions, has not issued securities under the offer, they may be able to rely on our relief in ASIC Instrument 2026/87 to refresh the relevant time periods before they expire.

Note: See RG 254.234–RG 254.238 for guidance on the operation of s723(2)–(3) when the minimum subscription and quotation condition time periods are refreshed.

Quotation of attaching securities

RG 254.231 If an issuer makes an offer of primary securities and attaching securities that are both subject to a quotation condition, we consider a reasonable investor would consider the offers as a bundle or package and would have made an investment decision on that basis.

RG 254.232 If the quotation condition is not met for the attaching securities:

(a) the attaching securities cannot be issued unquoted; and

(b) issuers should follow the procedure in s724 for both the primary securities and the attaching securities and either:

(i) repay the money received from applicants for the primary securities and attaching securities; or

(ii) if this option is available (see Table 8), give applicants a refresh document and one month to withdraw their application and be repaid.

RG 254.233 This is because investors applying for primary securities and attaching securities that are both subject to a quotation condition expect to get quoted primary securities and quoted attaching securities. If the quotation condition cannot be met for one of the offers, the consequences should apply to both offers.

Relief to provide refresh documents

RG 254.234 In many cases, an issuer who has not issued or transferred securities and is likely to fail to satisfy the minimum subscription or quotation condition time periods will seek to refresh those time periods in order to continue with the offer.

RG 254.235 To facilitate this, and remove ambiguity about the operation of s719(4)–(5) when read together with s723(2)–(3) and 724, we have provided relief in ASIC Instrument 2026/87.

RG 254.236 Our relief modifies s724 to prescribe certain information and statements that must be included in a refresh document. All refresh documents must be accompanied by a one-month period in which applicants may withdraw their application and be repaid, during which the offer must remain open.

Note: RG 254.205 discusses the calculation of time periods.

RG 254.237 The purpose of this prescribed disclosure is to ensure investors are provided with not only the new dates by which the minimum subscription and/or quotation conditions must be met (noting that dates relating to each condition may be extended by the same refresh document), but also particular information regarding the progress of the offer (e.g. the number and amount of applications received to date, and any indication provided by the declared financial market concerning quotation of the securities) to enable them to make an informed decision about whether to exercise their withdrawal rights. While we have prescribed this disclosure to ensure these matters are addressed in a consistent way in each refresh document, we consider this information would also be required under s710.

RG 254.238 Our relief also clarifies how the time periods in s723(2)–(3) apply to supplementary and replacement disclosure documents generally, and how they apply differently to refresh documents.

Information and statements that must be included in a refresh document

RG 254.239 A supplementary or replacement disclosure document must include the prescribed information and statements set out at RG 254.241–RG 254.242 to:

(a) operate as a refresh document, and

(b) effect any purported change to the terms of an offer to refresh the dates by which minimum subscription and/or quotation conditions must be met.

RG 254.240 All refresh documents must also include statements to the effect that:

(a) applicants have one month to withdraw their application and be repaid, and set out the means by which this may be done; and

(b) the offer will remain open until at least the expiration of this one-month period.

Refresh document relating to a minimum subscription condition

RG 254.241 Where the offer was subject to a minimum subscription condition, the following information and statements must be included in the refresh document:

(a) the number of securities for which applications have been received as at the date of the refresh document;

(b) details of any changes to the minimum subscription condition (including whether the terms of the offer are no longer subject to the condition); and

(c) if the terms of the offer remain subject to a minimum subscription condition (the new minimum subscription condition), the date by which the new minimum subscription condition must be satisfied (this must be no later than four months after the date of the refresh document).

Refresh document relating to a quotation condition

RG 254.242 Where the offer was subject to a quotation condition, the following information and statements must be included in the refresh document:

(a) whether an application for admission to quotation of the securities was made within seven days after the date of the original disclosure document for the offer (and, if no application was made, that an application will be made within seven days after the date of the refresh document);

(b) whether the securities have been admitted to quotation as at the date of the refresh document;

(c) whether the operator of the financial market has indicated that securities will not be admitted to quotation, or will be admitted to quotation subject to certain conditions being satisfied (in which case, a summary of the conditions that have not yet been satisfied must also be included);

(d) details of any changes to the quotation condition (including whether the terms of the offer are no longer subject to the condition);

(e) if the terms of the offer remain subject to a quotation condition (the new quotation condition), the date by which the new quotation condition must be satisfied (this must be no later than three months after the date of the refresh document); and

(f) the number of securities for which applications have been received as at the date of the refresh document.

The effect of refresh documents on the time periods for minimum subscription and quotation conditions

RG 254.243 Our relief operates to differentiate a refresh document (which must include the prescribed information and statements) from all other supplementary or replacement disclosure documents, and ensures that only refresh documents restart the time periods in s723(2)–(3) for both existing applications and subsequent applications.

> Note: A refresh document can also contain other information that would ordinarily be included in a supplementary or replacement disclosure document.

RG 254.244 Our relief also ensures that:

(a) an existing applicant who elects not to withdraw in accordance with the choice offered in notional s724(3G)(b)(ii), as inserted by ASIC Instrument 2026/87, is taken to have made an application under the refresh document (and therefore enjoys the protection of s723(2) and (3) in relation to the refreshed minimum subscription and quotation condition periods); and

(b) all applicants will get an opportunity to withdraw each time an issuer lodges a refresh document that changes the terms of the offer that relate to minimum subscription or quotation conditions.

RG 254.245 Without our relief, issuers would be required to contend with the administrative burden arising from multiple minimum subscription and quotation condition time periods for the same offer (because existing applicants would be treated differently to applicants under subsequently lodged replacement or supplementary documents).

When the time periods can be refreshed

RG 254.246 The minimum subscription and three-month quotation condition time periods may only be extended before those periods expire. The issuer may do this by lodging a refresh document changing the relevant condition and offering withdrawal rights. If the issuer does not do so, and these time periods expire before those conditions are met, the issuer must repay the money received from applicants as soon as practicable after the end of the relevant period: see notional s724(3A) and 724(3C) as inserted by ASIC Instrument 2026/87.

RG 254.247 The seven-day application condition time period may be extended by the issuer lodging a refresh document and offering withdrawal rights before that period expires. If the issuer does not do so, and has not applied for quotation within seven days after the date of the disclosure document, the issuer must either:

(a) lodge a refresh document changing the seven-day application period and offering withdrawal rights; or

(b) repay the money received from applicants as soon as practicable (notional s724(3E), as inserted by ASIC Instrument 2026/87).

RG 254.248 We consider that our relief can be relied on by issuers to refresh the minimum subscription and quotation condition time periods multiple times, up to the expiry date of the disclosure document.

Note: The expiry date for a prospectus is 13 months after the date of the original prospectus (s711(6)). Securities cannot be issued to applicants after expiry of the prospectus.

J Advertising and publicity

Key points

This section deals with advertising and publicity for offers of securities that require a disclosure document, including how we enforce the law on advertising and publicity of such securities and the relief available.

The Corporations Act imposes a general prohibition on the advertising or publicity of offers of securities that require a disclosure document.

We have granted relief from the prohibitions against advertising and other publicity about offers of securities before an issuer lodges the disclosure document. The relief applies to:

- roadshow presentations and market research;
- listed bodies to make announcements to the market operator about an offer or intended offer by the body's subsidiary or proposed subsidiary; and
- offers of securities where the advertisement or publication includes certain prescribed statements.

Where advertisements or marketing activities are misleading or deceptive, we may take action against the issuer or third party.

General prohibition on advertising and publicity

RG 254.249 The Corporations Act imposes a general prohibition on the advertising or publicity for offers of securities that require a disclosure document. If an offer or intended offer of securities needs a disclosure document, a person must not:

(a) advertise the offer or intended offer; or

(b) publish a statement that:

(i) directly or indirectly refers to the offer or intended offer; or

(ii) is reasonably likely to induce people to apply for the securities (s734(2)).

Note: Under the Corporations Act, there is also a general prohibition against persons offering financial products for issue or sale in the course of, or because of, an unsolicited meeting or telephone call (the hawking provisions). For further information on the prohibition against hawking, see Regulatory Guide 38 *The hawking prohibition* (RG 38).

RG 254.250 The advertising or publicity for offers of securities that require a disclosure document is restricted in order to:

(a) prevent drip-feeding of selective information to the market;

(b) discourage inadequate analysis of disclosure documents by individual investors and the market generally; and

(c) discourage investment decisions being made on the basis of an advertising campaign and other publicity rather than on the basis of the disclosure document.

RG 254.251 The Corporations Act provides certain statutory exceptions to this general prohibition. These exceptions only permit very basic information about an offer of securities that requires a disclosure document to be advertised or published:

(a) for advertising and publicity before a disclosure document is lodged, see s734(5);

(b) for advertising and publicity after a disclosure document is lodged, see s734(6); and

(c) for other general exceptions, including those available for independent reports and news reports or commentary in the media, see s734(7).

Independent reports

RG 254.252 A report that is published by a genuinely independent person and that is not reasonably likely to induce investors to apply for securities under an offer is permitted by s734(7)(e) of the Corporations Act.

RG 254.253 We will ensure that the policy underlying the restrictions relating to disclosure document advertising—particularly to prevent drip-feeding of information—is not compromised by the publication of independent reports that are not genuinely independent of the issuing body in accordance with s734. If we consider that the report is not genuinely independent, we may take action to ensure adequate investor protection.

RG 254.254 Section 734(7)(e) expressly permits independent reports referring to a proposed offer to be published before a disclosure document is lodged as long as these conditions are met:

(a) the report must not be published by or on behalf of:

(i) the issuing body;

(ii) a director of the issuing body;

(iii) a person who is acting at the instigation of, or by arrangement with, the issuing body or its directors; or

(iv) a promoter or other person who has an interest in the success of the securities issue; and

(b) the person publishing the report must not receive or be entitled to receive a benefit from any person interested in the securities issue before or after the report is published.

RG 254.255 The independent report does not have to be based on publicly available information.

RG 254.256 Reports—other than reports expressly permitted by s734(7)—that are reasonably likely to induce persons to apply for securities must not be published whether or not they are in writing.

Pathfinder documents

RG 254.257 'Pathfinder' documents are draft disclosure documents in relation to an offer of securities that are distributed to persons who do not require a disclosure document under s708(8) or (10) (sophisticated investors) or s708(11) (professional investors). The distribution of 'pathfinder' documents is also exempt from the advertising prohibitions: see s734(9).

Relief for advertising and publicity

RG 254.258 We have granted relief from the prohibitions against advertising and other publicity about offers of securities before an issuer lodges the disclosure document. The relief applies to:

(a) roadshow presentations;

(b) market research; and

(c) offers of securities where the advertisement or publication includes certain prescribed statements.

RG 254.259 We have granted this relief because an absolute prohibition on advertising offers before lodgement of a disclosure document may impose unreasonable and commercially impractical constraints on issuers. The policy and associated relief seek to balance investor protection with the efficient operation of capital markets. It permits ordinary preparatory activities (such as roadshows and market research) and allows issuers to communicate with employees, existing security holders, potential investors and the broader market in a controlled and accountable manner. This relief reduces the risk of misinformation and enables the timely correction or clarification of inaccurate information by issuers.

RG 254.260 We have also granted limited relief from the prohibition against advertising and publicity for offers by a subsidiary of a listed company and the issue of certain foreign securities.

Offers of unquoted securities prior to lodgement of a disclosure document

RG 254.261 We recognise that, when relied on for the purposes of an IPO, the exception in s734(5)(b) permits an issuer to disclose only limited factual information. As a result, issuers may avoid pre-lodgement advertising or publicity due to the risk of inadvertently breaching the advertising restrictions.

RG 254.262 *ASIC Corporations (Pre-Prospectus Advertising and Publicity) Instrument 2026/807* provides relief from the general prohibition on advertising or publicity about offers of securities before an issuer lodges the disclosure document.

RG 254.263 The relief only applies where the advertisement or publication includes a statement that:

(a) if the securities are likely to be available by way of issue—identifies the issuer of the securities;

(b) if the securities are likely to be available pursuant to sale offers to which s707 will apply—identifies the issuer of the securities and the seller of the securities;

(c) in any case—a disclosure document for the offer will be made available when the securities are offered;

(d) indicates when and where the disclosure document is expected to be made available;

(e) a person should consider the disclosure document in deciding whether to acquire the securities; and

(f) anyone who wants to acquire the securities will need to complete the application form that will be in or will accompany the disclosure document.

RG 254.264 Our relief imposes an obligation on issuers to have adequate arrangements in place to ensure that any advertisement or publication is kept up to date.

RG 254.265 ASIC Instrument 2026/807 more closely aligns the advertising and publicity provisions that apply before an issuer lodges the disclosure document with those that apply after lodgement.

> Note: Section 734(6) provides an exception to the general prohibition for an advertisement or publication about an offer of securities after the disclosure document is lodged.

RG 254.266 We recognise that an issuer may advertise and send publicity communications through a variety of media (e.g. written, verbal and digital communications). Issuers should ensure that all advertisements and publicity, regardless of the medium, comply with the requirements and prescribed statements in ASIC Instrument 2026/807.

RG 254.267 ASIC Instrument 2026/807 and *ASIC Corporations (Market Research and Roadshows) Instrument 2026/93* operate alongside each other but serve different purposes. ASIC Instrument 2026/807 facilitates broader pre-lodgement advertising and publicity. It permits issuers to advertise or publicise the securities to any person, subject to certain prescribed statements being included in the advertisement or publication. In contrast, ASIC Instrument 2026/93 provides targeted relief for specific market research, roadshows and related communications.

Roadshow presentations

RG 254.268 Verbal or written material on offers of financial products may be presented to AFS licensees and their representatives, before a disclosure document is lodged with ASIC, under the conditions set out in ASIC Instrument 2026/93.

RG 254.269 Our relief restricts the class of persons to whom information about the offer may be disclosed before the disclosure document is made public. The class of persons can be bound by confidentiality agreements and will be subject to the insider trading restrictions, protecting the information being presented from being leaked to the market or from investors making a decision before they are presented with the disclosure document.

RG 254.270 Our relief is only available to the issuing body. People conducting roadshow presentations must be authorised by the issuing body to conduct the presentation. The relief is not available to licensees or other persons acting on their own behalf.

Market research

RG 254.271 A listed issuer or a genuine market research organisation who is engaged by, but not otherwise associated with, the issuer may conduct market research before a disclosure document is lodged with ASIC in accordance with the conditions set out in ASIC Instrument 2026/93.

RG 254.272 Under the terms of our relief, the research must be directed to ascertaining:

(a) if applicable, the number of disclosure documents that should be printed to meet anticipated public demand;

(b) to whom the intended offer should be marketed; and

(c) the type and extent of marketing that should be undertaken in relation to the offer.

RG 254.273 Market research activities may use any number of surveys, but they must not survey more than 5000 people.

RG 254.274 The restrictions attached to our relief are intended to ensure that surveys are not used to induce investments in the securities or to identify individuals with an interest in subscribing to the issue.

RG 254.275 Research activities may refer to the proposed offer, proposed advertisements, or proposed disclosure document only to the extent necessary to enable participants to participate in the market research activities.

RG 254.276 Our relief prohibits the market research organisation from disclosing information on a particular participant to any other person, including the issuing body.

Offers by subsidiaries of listed bodies

RG 254.277 We have also granted relief for listed bodies to make an announcement to the market operator about an offer or intended offer by the body's subsidiary or proposed subsidiary. The relief applies only to the extent that the market operator requires disclosure to be made.

> Note: Section 734(7)(a) provides an exception for an advertisement or publication about an offer of securities of a listed body consisting of a notice or report by the body, or one of its officers, about its affairs to the relevant market operator.

RG 254.278 ASIC Instrument 2026/93 provides relief from the general advertising prohibition when the offer or proposed offer is undertaken by a subsidiary of the listed body. Our relief applies where:

(a) the statement consists of a notice or report by the listed body, or one of its officers, about its affairs to the relevant market operator; and

(b) that statement contains material that is required by law, or by the operating rules of the relevant financial market, to be contained in the statement and nothing more.

Pre-IPO communications: IPO and prospectus preparatory work

RG 254.279 When preparing for an IPO, issuers generally appoint a team of professional advisers to assist them with the IPO process and the disclosure document—for example, conducting due diligence and verification of the prospectus. These advisers may include legal advisers, underwriters and lead managers, accountants, and technical experts such as geologists, share registry, printers, designers and desktop publishers.

RG 254.280 As IPO preparatory work is a critical part of preparing for an IPO and the disclosure document, we do not consider the communications between the issuer and its advisers for the bona fide purpose of conducting preparatory work related to an IPO to be the type of communications prohibited by s734(2).

Pre-IPO communications: Individual relief

RG 254.281 Where appropriate, we may provide individual relief to exempt a company from complying with s734(2) for the purpose of communicating factual information in connection with a proposed IPO for other types of information and recipients. We will only grant individual relief where we are satisfied that the communication is necessary and does not relate to the merits of the offer.

RG 254.282 Before applying for individual relief, issuers should first consider whether:

(a) the general prohibition in s734(2) applies to the communication;

(b) any of the statutory exceptions may apply; and

(c) any other relief may apply.

Limited relief for foreign securities

RG 254.283 We have also granted limited relief from the general prohibition against advertising and publicity for advertisements and other notices relating to foreign securities that are only incidentally circulated or published in Australia: see *ASIC Corporations (Foreign Securities—Incidental Advertising) Instrument 2025/615*, *ASIC Corporations (Foreign Securities—Publishing Notices) Instrument 2025/616* and Regulatory Guide 72 *Foreign securities: Disclosure relief* (RG 72).

> Note: The advertisement must still comply with the law in the foreign jurisdiction and the other provisions of the Corporations Act (e.g. the s1041H prohibition on misleading and deceptive conduct).

How we monitor compliance with the advertising prohibitions

RG 254.284 It is not our policy to pre-vet advertisements or intended marketing activities for compliance with the relevant provisions of the Corporations Act. We consider it the responsibility of the issuing body to ensure that they are aware of, and adhere to, the requirements of the Corporations Act.

RG 254.285 Advertising of offers and proposed offers of securities is primarily regulated by s734. However, the general prohibitions against misleading or deceptive conduct in s1041H also apply to advertising or other publications (including market research). Section 1041H prohibits any person engaging in conduct that is misleading or deceptive, or likely to mislead or deceive, in relation to a dealing in a financial product. ASIC does not have power to grant relief from s1041H.

RG 254.286 Where advertisements or marketing activities are misleading or deceptive, we may take action against the issuing body or appropriate party: see Section D of Regulatory Guide 234 *Advertising financial products and services (including credit)* (RG 234).

RG 254.287 In considering whether it is appropriate for us to take action against an issuing body or third party in relation to advertisements or market research activities that may contravene s734 or 1041H, we will take into consideration:

(a) the content, timing, frequency of publication or mode of publication of the advertisement;

(b) whether the issuing body has taken all reasonable steps to ensure that the advertisement or market research has been published in such a way that it would not be likely to be associated with the offer or proposed offer by the average person in possession of common knowledge; and

(c) whether the conduct, when taking into account the surrounding circumstances (including the advertising campaign, all other publicity and the structure of the securities issue), is likely to materially compromise the policy objectives of the Corporations Act.

RG 254.288 We are more likely to take action where the market research or the publication of the advertisement would significantly reduce investor protection and be likely to:

(a) result in the market being drip-fed selective information usually contained in the disclosure document (as opposed to information usually conveyed to customers of the issuing body);

(b) discourage adequate analysis of the disclosure document by individual investors and the market generally; or

(c) result in investment decisions being made on the basis of the advertising campaign and other publicity, rather than on the basis of the disclosure document.

K Other relief for disclosure documents

Key points

This section sets out our policy on and relief for certain offers of debentures for issue under a prospectus.

We have provided relief to allow a continuous debenture issuer to offer debentures using a prospectus that does not specify the interest rate and term information applicable to the debenture being offered, where the prospectus is accompanied by the most recent application form, which has been lodged with ASIC, and either contains this information or has space for the applicant to insert this information.

Debenture prospectuses

RG 254.289 A body that issues debentures in the ordinary course of business (a continuous debenture issuer) may be able to rely on certain relief we have provided in relation to Ch 6D.

RG 254.290 It is the nature of the business of continuous debenture issuers that interest rates may change during the life of a prospectus and, to a lesser extent, the term of the debenture being offered. Given this volatility, there are logistical burdens and costs involved in frequently changing application forms or updating disclosure to facilitate these changes. Our relief is aimed at ensuring that both applicants and issuers can respond quickly to changes in the market without incurring excessive costs.

RG 254.291 Relief is not required where it is clearly disclosed in the prospectus that the interest rate of the debenture will vary during its term. This is because it is clear from the nature of the product that an interest rate cannot be specified in advance. The prospectus should advise how the interest rate will be calculated and how applicants can find out the interest rate from time to time.

RG 254.292 *ASIC Corporations (Debenture Prospectuses) Instrument 2026/91* provides relief for continuous debenture issuers who are unable to set out the interest rate and term information in the prospectus for the reasons outlined in RG 254.290, in two different scenarios:

(a) where the interest rate and term information is included on the application form; and

(b) where the interest rate and term information is not included on the application form.

Interest rate and term information included on application forms

RG 254.293 ASIC Instrument 2026/91 provides relief for a continuous debenture issuer to offer debentures using a prospectus that does not specify the interest rate and term information applicable to the debenture being offered, where the prospectus is accompanied by the most recent application form containing this information and the application form has been lodged with ASIC.

RG 254.294 Relief is required for issuers to include this information on application forms instead of in the prospectus itself due to the operation of s712. Section 712 allows a prospectus to incorporate information by reference to other documents or parts of other documents, where these documents are lodged with ASIC. However, s712 does not provide for incorporation by reference of documents that are lodged with ASIC from time to time; it requires a document to have already been lodged with ASIC. The relief allows a prospectus to incorporate by reference interest rate and term information set out in an application form that has been lodged with ASIC from time to time.

Note: For more information on incorporation by reference, see Section B of RG 228.

RG 254.295 For an issuer to rely on the relief offered by the instrument to include interest rate and term information in the application form, the prospectus must:

(a) make it clear that the interest rate and/or term of the debenture may change from time to time;

(b) state that the current interest rate and term of the debenture at any time will be set out in the application form most recently lodged with ASIC; and

(c) explain that the applicant may have rights to a refund of application money if the application is made on an out-of-date application form.

Interest rate and term information not included in the application form

RG 254.296 ASIC Instrument 2026/91 also provides relief for continuous debenture issuers to offer debentures using a prospectus and application form that do not contain the interest rate or term of the debenture. The applicant must insert the applicable interest rate and term of the debenture on the application form when it is being completed.

RG 254.297 We have provided relief because—under s710–711 and s713 (which outline the prospectus content requirements)—issuers must set out in the prospectus, or in documents incorporated by reference, all information that investors and their advisers would reasonably require to make an informed assessment of the offer. The required information would include the terms and conditions of the offer and the interest rate and term of the debenture being offered.

RG 254.298 The relief offered by the instrument provides issuers with the option to omit the interest rate and term information from the prospectus and application form, where the following conditions are satisfied:

(a) the term of the debenture is for no more than five years;

(b) the prospectus clearly and prominently:

(i) explains how a prospective applicant can find out the applicable interest rate and term;

(ii) advises the applicant to confirm the currency of any interest rate before completing the application; and

(iii) explains the applicant's right to a refund of application money if the application form incorrectly specifies the applicable interest rate for the debenture of the amount and term specified by the applicant;

(c) the means by which an applicant can ascertain the interest rate and term is easily accessible and free of charge, given the kinds of persons likely to consider applying for the debenture;

(d) on any change in the interest rate or term of a debenture, the issuer:

(i) advertises in any media in which interest rates and changes in interest rates have been regularly advertised; and

(ii) promptly notifies each person from whom a copy of the prospectus is available who regularly processes applications for debentures under the prospectus; and

(e) the application form makes provision for the applicant to specify or select the interest rate and term applicable to the debenture.

Refunds for out-of-date, incorrect or incomplete application forms

RG 254.299 The process for issuers who receive out-of-date, incorrect or incomplete application forms from applicants is set out in detail in ASIC Instrument 2026/91.

RG 254.300 In summary, where an issuer is relying on relief under the instrument and the issuer receives an out-of-date, incorrect or incomplete application form from an applicant, the issuer must:

(a) repay the money received from the applicant; or

(b) issue the debentures at the current interest rate and notify the applicant that their application was made on an out-of-date application form or on the basis of incorrect or incomplete information, provide a copy of the up-to-date or correct interest rate information, and provide the applicant one month to withdraw their application and be repaid.

RG 254.301 The process for issuers who receive an out-of-date, incorrect or incomplete application does not apply where the interest rate specified in the application is higher than the correct interest rate and the issuer elects to issue the debentures applied for at the higher interest rate.

L Our review of disclosure documents

Key points

We conduct selective compliance reviews of disclosure documents following their lodgement. We do not generally review drafts of disclosure documents before they are lodged.

When we review a disclosure document, we will analyse what information the Corporations Act requires in the context of the issuer and the offer.

We are able to exercise a range of administrative powers, including stop orders, in circumstances where we identify disclosure concerns.

Pre-lodgement review of disclosure documents

RG 254.302 It is the responsibility of issuers to ensure that their disclosure documents comply with the law and are otherwise suitable for dissemination before lodging documents with ASIC.

RG 254.303 We are unable to allocate resources to consider or provide advice on draft disclosure documents or otherwise assist intending issuers in the preparation of disclosure documents before they are submitted for lodgement, other than in exceptional circumstances. We do not verify the content of disclosure documents before lodgement.

Post-lodgement review of disclosure documents

RG 254.304 The primary objectives of the post-lodgement review program are to ensure adequate protection for investors and maintain investor confidence. In reviewing, we are concerned only with disclosure deficiencies and contraventions of the Corporations Act. Our review of the document does not consider whether the securities offered are desirable investments.

RG 254.305 RG 254.322–RG 254.323 provide further guidance on what we look for when reviewing disclosure documents, with a particular focus on our review of prospectuses containing the disclosure required by s710.

Selecting disclosure documents for review

RG 254.306 We do not always review all disclosure documents. For example, we may use a form of risk rating to determine which type of disclosure documents we focus on.

RG 254.307 We will conduct selective compliance reviews of disclosure documents following their lodgement (whether or not they are subject to an exposure period). We may commence a review either before or after the end of the exposure period (if there is one).

RG 254.308 We may decide to review a disclosure document if we receive credible information from external sources that warrants the undertaking of such a review. We may also decide to review some disclosure documents at random.

Review during the exposure period

RG 254.309 If a disclosure document has an exposure period, we aim to review it during the period but may commence a review at any time: see Section G. We may also raise concerns at any point if we consider this is necessary to protect retail investors or market integrity.

RG 254.310 We may also conduct surveillance activity to assess how the disclosure document was prepared. We may ask the issuer to show us the due diligence and verification procedures implemented to ensure the disclosure document complies with the Corporations Act. Based on our experience, where a disclosure document is defective, it is often the case that the issuer cannot demonstrate appropriate due diligence and verification procedures.

RG 254.311 Where valid *prima facie* deficiencies are detected or brought to our attention within the first seven days, we will usually attempt to resolve these with the issuer during that period. If it becomes apparent that the issues cannot be resolved, the exposure period will be extended to 14 days.

Note: We may also extend exposure period for other reasons: see Table 5.

Review after exposure period or when there is no exposure period

RG 254.312 If we begin to review a disclosure document during its exposure period, we will not necessarily complete that review by the end of the period. In those cases, we will continue to review the document after the exposure period.

RG 254.313 As with apparent deficiencies identified during the exposure period, if we identify apparent deficiencies after that period, and we consider that delay may be prejudicial to the public interest, we will issue an interim stop order without reference to the issuer to limit any unnecessary risks to the investing public.

RG 254.314 We will also take this approach where we identify apparent deficiencies in disclosure documents for which there is no exposure period.

Defective disclosure documents lodged with ASIC

RG 254.315 If a defective disclosure document has been lodged with ASIC and we have accepted it, we will not allow this document to be withdrawn. A supplementary or replacement disclosure document should be lodged to ensure that no securities are issued on the basis of the defective disclosure document; otherwise, we may issue a stop order for the defective document.

RG 254.316 In limited circumstances, we may accept an enforceable undertaking provided by the issuer that the disclosure document will not be used for fundraising. We will only consider accepting such an undertaking where our substantive concerns with the disclosure document have been addressed, and only minor concerns remain outstanding (which the issuer intends to address to our satisfaction within a short period of time).

What we look for when reviewing a disclosure document

RG 254.317 When we review a disclosure document, we will analyse what information the Corporations Act requires in the context of the issuer and the offer. We will take into account our policy in RG 228, which outlines the information that will generally be required under Ch 6D, but we will not apply our policy as a checklist. We will also consider any other regulatory guide on disclosure that is relevant to the offer or the issuer.

RG 254.318 Issuers are generally best placed to determine what information the Corporations Act requires for their disclosure document. Because we do not have extensive background information about the company and the offer and were not involved in preparing the disclosure document, we may need to ask issuers questions about the disclosure document.

RG 254.319 We do not raise concerns about the same things in all disclosure documents because whether something is misleading depends on the content of the statement and all the circumstances surrounding the issuer and the offer.

RG 254.320 When we review a disclosure document, we may also review any related advertisements, media articles, broker reports, and continuous disclosure announcements.

RG 254.321 RG 254.322–RG 254.323 set out the areas we focus on when reviewing a prospectus. Our review of disclosure documents other than prospectuses follows the same approach, taking into account the differing requirements.

Reviewing prospectuses

RG 254.322 Our guidance in RG 228 covers key issues that would ordinarily be expected to be included in a prospectus. We may also raise issues specific to the issuer's offer that are not covered in our guidance.

RG 254.323 If we review a prospectus, the areas we generally focus on are:

(a) the sections at the front of the prospectus, to ensure that:

(i) the prospectus highlights key information about the offer to help retail investors make informed investment decisions; and

(ii) the disclosure of benefits and risks is balanced (see Section C of RG 228);

(b) the risk disclosure, to ensure that the directors have identified key risks and that these are highlighted and clearly explained. We check that the prospectus does not deflect attention from key risks by giving undue prominence to very general risks (see Section E of RG 228);

(c) any significant forward-looking statements, especially those relating to the issuer's financial prospects, to check these statements have reasonable grounds, otherwise they are taken to be misleading (see s728(3), Regulatory Guide 170 *Prospective financial information* (RG 170) and Section F of RG 228);

Note: While the guidance in RG 170 is intended to apply to prospective financial information, it is useful for all forward-looking statements in a prospectus.

(d) the wording and presentation to ensure the prospectus is clear, concise and effective; and

(e) any disclaimers, to ensure they are not inconsistent with the liability regime in Pt 6D.3.

What we do when there are disclosure concerns

RG 254.324 If we have concerns with a disclosure document, we may seek corrective disclosure and extend the exposure period (if relevant): see s727(3).

RG 254.325 If we have concerns and either the extended exposure period has expired or there is no exposure period, we will generally notify the issuer and submit our concerns to an ASIC delegate. The delegate may impose an interim stop order under s739(3).

RG 254.326 If our concerns are not resolved, we will usually hold a hearing within 21 days after issuing the interim stop order, in accordance with s739(2). After considering any submissions by the issuer or any other interested party, an ASIC delegate may:

(a) revoke the original interim stop order (if it does not expire that day without a formal revocation);

(b) make a further interim stop order under s739(4); or

(c) issue a final stop order under s739(1A) on the basis that we are satisfied that information in a prospectus is not worded and presented in a 'clear, concise and effective' manner, or that the prospectus contains a misleading or deceptive statement or omits required information.

RG 254.327 If the issuer is required to give corrective disclosure under s724(1), we will also ensure the issuer gives investors any withdrawal rights required by s724.

RG 254.328 The fact that we have not raised any concerns with a disclosure document should not be taken as an indicator that we consider that the prospectus complies with the disclosure requirements. It also does not preclude us from starting an investigation.

Stop orders

RG 254.329 A stop order is an administrative mechanism that allows us to prevent the offer, issue, sale or transfer of securities under a disclosure document lodged with ASIC where, in our view:

(a) the document contains a misleading or deceptive statement;

(b) there has been an omission of information required to be provided under the legislation;

(c) a new circumstance has arisen since the disclosure document has been lodged; or

(d) the disclosure is not worded and presented in a clear, concise and effective manner: see s739.

RG 254.330 We are also able to make orders so that issuers must not engage in specified conduct in relation to securities to which an advertisement or publication relates. In order to do so, we must be satisfied that the advertisement or publication is defective. Our assessment will consider the factors identified at RG 254.329(a)–RG 254.329(c), and consider whether the advertisement contains any forward-looking statements without a reasonable basis.

Hearings

RG 254.331 Before we make either of the orders mentioned at RG 254.329–RG 254.330, we are obliged to hold an administrative hearing and give a reasonable opportunity for interested persons to make verbal or written submissions to us on whether the order should be made.

RG 254.332 Hearings are conducted by one of our staff members to whom the power to hold hearings has been delegated. The delegate has all the powers given to ASIC under Div 6 of Pt 3 of the ASIC Act. The delegate decides whether to exercise ASIC's powers after considering the evidence and submissions put by the issuer, among other relevant matters.

RG 254.333 In conducting a hearing the delegate exercises a true administrative function and not a quasi-judicial function: *Boucher v ASC* (1996) 71 FCR 122 at 127. It follows that the traditional rules of procedure of courts or quasi-judicial bodies do not apply to our administrative hearings.

RG 254.334 Regulatory Guide 8 *Administrative hearings: Principles and conduct* (RG 8) sets out in detail the guiding principles and procedures we adopt in the conduct of administrative hearings.

Interim stop orders

RG 254.335 There will always be a delay between the point in time that we determine that the grounds for a stop order are satisfied and the point in time that an administrative hearing can reasonably be held (given our requirement to give interested parties a reasonable opportunity to make submissions and the general principles of natural justice).

RG 254.336 Accordingly, ASIC has the power under s739(3) to make an interim stop order that no offers, issues, sales or transfers of the securities the subject of a disclosure document can be made for a period of up to 21 days. We can only do so in circumstances where we consider that a delay in making a stop order pending the holding of an administrative hearing would be prejudicial to the public interest.

RG 254.337 We may make an interim stop order without holding an administrative hearing. To make an interim order, a delegate must be satisfied that one of the circumstances outlined in RG 254.329 has occurred: see s739(1).

RG 254.338 ASIC has the power to revoke an interim stop order at any time, but not the power to revoke a final order. To revoke an interim order, the delegate must be satisfied that the disclosure concerns have been adequately addressed in a supplementary or replacement disclosure document lodged with ASIC.

Scope of stop-order powers

RG 254.339 There has been judicial consideration of the scope of ASIC's stop-order powers under s739. Branson J in *Thompson v ASIC* (2002) FCA 512 stated at [30]:

> It seems to me that that power given to ASIC by s739(1) is intended to come into effect upon the lodging of the relevant disclosure document with ASIC and to continue until it is no longer possible for any of the things that a stop order may interdict to take place in respect of the offer to which that disclosure document relates.

RG 254.340 Once a disclosure document has been lodged with ASIC, we consider that ASIC's stop order powers are able to be exercised at any time up until it is no longer possible for any offers, issues, sales or transfers of relevant securities to be made. For example, we consider that we can issue a stop order in circumstances where an offer has closed but securities are yet to be issued or transferred.

Appendix: Other relevant regulatory guidance

Table 9: Other guidance that may be relevant to you

Regulatory guide	How this guidance may assist you
RG 8 *Administrative hearings: Principles and conduct*	We discuss the principles and procedures we adopt in conducting administrative hearings held for the purpose of giving a person their statutory right to be heard.
RG 38 *The hawking prohibition*	We provide guidance on how we administer the prohibition on hawking in s992A, including the circumstances in which we consider a telephone call or meeting may be 'unsolicited'.
RG 49 *Employee incentive schemes*	We discuss our policy on relief from the disclosure and licensing provisions of the Corporations Act for employee incentive schemes.
RG 51 *Applications for relief*	We provide guidance for applicants and advisers who are applying to us for relief from provisions of the Corporations Act.
RG 55 *Statements in disclosure documents and PDSs: Consent to quote*	We provide guidance for persons who prepare disclosure documents about how we administer the consent requirements under s716(2) and 1013K(1).
RG 67 *Real estate companies*	We provide guidance on our general policy on relief from certain provisions of the Corporations Act for the sale and valuation of shares in a real estate company.
RG 69 *Debentures and notes: Improving disclosure for retail investors*	We provide guidance for issuers and others involved with the issue of mortgage debentures, debentures, secured notes, and unsecured notes or unsecured deposit notes.
RG 70 *Prospectuses for cash box and investment companies*	We explain how we will apply the Corporations Act in circumstances where the issuer of a prospectus has not formulated or only partially formulated an investment plan.
RG 72 *Foreign securities: Disclosure relief*	We provide guidance for foreign companies and their advisers involved in the offer of securities to Australian investors.
RG 87 *Charitable schemes and school enrolment deposits*	We provide guidance on relief available from various Corporations Act provisions (including Ch 6D) in relation to certain charities and for school enrolment deposits.
RG 107 *Fundraising: Facilitating electronic offers of securities*	We provide guidance on the use of the internet and email to make offers of securities under Ch 6D.
RG 125 *Share and interest purchase plans*	We provide an explanation on the conditional relief we have given to allow offers of shares (or interests) to existing members without a prospectus (or PDS).

Regulatory guide	How this guidance may assist you
RG 141 *Offers of securities on the internet*	We provide guidance on how we intend to regulate offers, invitations and advertisements of securities that appear on the internet and can be accessed in Australia.
RG 170 *Prospective financial information*	We provide guidance on our approach to the use of prospective financial information in a disclosure document or PDS.
RG 173 *Disclosure for on-sale of securities and other financial products*	We provide guidance for listed companies and listed managed investment schemes in relation to the circumstances in which we will give relief from the disclosure requirements for the on-sale of securities and other financial products.
RG 188 *Disclosure in reconstructions*	We provide guidance on how the prospectus provisions apply to reconstructions and capital reductions involving the issue or transfer of securities, including the relief we may provide.
RG 189 *Disclosure relief for rights issues*	We provide guidance for listed companies and managed investment schemes (and their advisers) about rights issues and the disclosure exemptions in s708AA and 1012DAA.
RG 190 *Offering financial products in New Zealand and Australia under mutual recognition*	We provide guidance on the trans-Tasman mutual recognition scheme for both New Zealand and Australian issuers offering securities or interests in managed or collective investment schemes in both countries.
RG 228 *Prospectuses: Effective disclosure for retail investors*	We provide guidance for issuers and advisers on how to word and present prospectuses and other documents in a clear, concise and effective manner. We also provide guidance on how a prospectus can satisfy the content requirements in s710 of the Corporations Act.
RG 234 *Advertising financial products and services (including credit)*	We provide good practice guidance to help promoters of financial products comply with their legal obligations not to make false or misleading statements or engage in misleading or deceptive conduct.
RG 253 *Fundraising: Facilitating offers of CHESS Depository Interests*	We provide guidance on when CHESS Depository Interests (CDIs) may be treated as offers of securities under Ch 6D.

Key terms

Term	Meaning in this document
Acts Interpretation Act	*Acts Interpretation Act 1901*
AFS licence	An Australian financial services licence under s913B of the Corporations Act that authorises a person who carries on a financial services business to provide financial services Note: This is a definition contained in s9.
AFS licensee	A person who holds an AFS licence under s913B of the Corporations Act
ASIC	Australian Securities and Investments Commission
ASIC Act	*Australian Securities and Investments Commission Act 2001*
Ch 6D (for example)	A chapter of the Corporations Act (in this example numbered 6D), unless otherwise specified
cleansing notice	A notice to the relevant market operator under s708AA or 708A of the Corporations Act
continuous disclosure regime (or continuous disclosure obligations)	The continuous disclosure provisions in s674, 674A and 675 of the Corporations Act
continuously quoted securities	Has the meaning given in s9 of the Corporations Act
Corporations Act	*Corporations Act 2001*, including regulations made for the purposes of that Act
Corporations (Fees) Regulations	*Corporations (Fees) Regulations 2001*
Corporations Regulations	*Corporations Regulations 2001*
declared financial market	Has the meaning given in s9D(1) of the Corporations Act. Until the time the first declaration is made under s9D(2), a market that was prescribed as a prescribed financial market by former reg 1.0.02A of the Corporations Regulations is taken to be a declared financial market: see s1705F. Note: References to 'prescribed financial market' or 'prescribed financial markets' in any ASIC instrument (e.g. ASIC Instrument 2023/688) should be read as 'declared financial market' or 'declared financial markets'. See s1705G
disclosing entity	Has the meaning given by s111AC of the Corporations Act

Term	Meaning in this document
disclosure document	For an offer of securities, this includes a prospectus, a transaction-specific prospectus, a short-form prospectus, a two-part simple corporate bonds prospectus, a profile statement and an offer information statement.
Div 2 (for example)	A division of the Corporations Act (in this example numbered 2), unless otherwise specified
ED securities	Enhanced disclosure securities—has the meaning given by s111AD of the Corporations Act
exposure period	The period of time after lodgement of a disclosure document in which the issuer must not accept an application for, or issue or transfer, non-quoted securities under the disclosure document
fundraising provisions	The provisions set out in Ch 6D of the Corporations Act
individual relief	Relief given by ASIC to individual parties on application to ASIC
listing rules	Has the meaning given by s9 of the Corporations Act
notional s724(3G) (for example)	A section of the Corporations Act, notionally inserted by legislative instrument (in this example numbered s724(3G))
offer information statement	A disclosure document that complies with the disclosure requirements in s715 of the Corporations Act
Offer Notice Board	A database of all disclosure documents for fundraising offers lodged with ASIC under Ch 6D of the Corporations Act and for some disclosure documents required to be lodged under Pt 7.9
PDS	A Product Disclosure Statement—a document that must be given to a retail client in relation to the offer or issue of a financial product in accordance with Div 2 of Pt 7.9 of the Corporations Act Note: See s9 for the exact definition.
profile statement	A disclosure document that complies with the disclosure requirements in s721 of the Corporations Act
prospectus	A prospectus that complies with the disclosure requirements in s710 of the Corporations Act
Pt 5.1 (for example)	A part of the Corporations Act (in this example numbered 5.1), unless otherwise specified
refresh document	A supplementary or replacement disclosure document under notional s724(3G)(a), as inserted by ASIC Instrument 2026/87, that refreshes the time periods of minimum subscription or quotation conditions for an offer

Term	Meaning in this document
reg 1.0.07 (for example)	A regulation of the Corporations Regulations (in this example numbered 1.0.07)
RG 228 (for example)	An ASIC regulatory guide (in this example numbered 228)
s708A (for example)	A section of the Corporations Act (in this example numbered 708A), unless otherwise specified
securities	Has the meaning given to that term for the purposes of Ch 6D in s92(4) of the Corporations Act
short-form prospectus	A prospectus that complies with the disclosure requirements in s712 of the Corporations Act
sustainability report	An annual sustainability report required under s292A of the Corporations Act Note: This is a definition contained in s9.
transaction-specific prospectus	A prospectus that complies with the disclosure requirements in s713 of the Corporations Act
two-part simple corporate bonds prospectus	A prospectus used for the offer of simple corporate bonds that complies with the disclosure requirements in s713A of the Corporations Act

Related information

Headnotes

advertising and publicity, application form, debenture prospectus, disclosure document, exposure period, issuer, lodgement, minimum subscription condition, offer information statement, profile statement, prospectus, quotation condition, replacement disclosure document, securities, short-form prospectus, supplementary disclosure document, transaction-specific prospectus, two-part simple corporate bonds prospectus

Regulatory guides

RG 8 *Administrative hearings: Principles and conduct*

RG 38 *The hawking prohibition*

RG 51 *Applications for relief*

RG 55 *Statements in disclosure documents and PDSs: Consent to quote*

RG 72 *Foreign securities: Disclosure relief*

RG 107 *Fundraising: Facilitating electronic offers of securities*

RG 168 *Product Disclosure Statements: Disclosure and other obligations*

RG 170 *Prospective financial information*

RG 173 *Disclosure for on-sale of securities and other financial products*

RG 188 *Disclosure in reconstructions*

RG 189 *Disclosure relief for rights issues*

RG 228 *Prospectuses: Effective disclosure for retail investors*

RG 234 *Advertising financial products and services (including credit)*

Information sheets

INFO 30 *Fees for commonly lodged documents*

Consultation papers

CP 390 *Proposed reform to the pre-lodgement advertising and publicity regime*

Legislative instruments

ASIC Corporations (Application Form Requirements) Instrument 2017/241

ASIC Corporations (Capital Reductions and Reconstructions—Technical Disclosure Relief) Instrument 2017/242

ASIC Corporations (Foreign Securities—Incidental Advertising) Instrument 2025/615

ASIC Corporations (Foreign Securities—Publishing Notices) Instrument 2025/616

ASIC Corporations (Minimum Subscription and Quotation Conditions) Instrument 2026/87

ASIC Corporations (Regulatory Capital Securities) Instrument 2026/88

ASIC Corporations (Exposure Period) Instrument 2026/90

ASIC Corporations (Debenture Prospectuses) Instrument 2026/91

ASIC Corporations (Substituted Supplementary Disclosure Documents) Instrument 2026/92

ASIC Corporations (Market Research and Roadshows) Instrument 2026/93

ASIC Corporations (Offers of Convertibles) Instrument 2026/97

ASIC Corporations (Annual and Half-year Reporting) Instrument 2026/468

ASIC Corporations (Pre-Prospectus Advertising and Publicity) Instrument 2026/807

Legislation

Acts Interpretation Act 1901, s36(2)

Australian Securities and Investments Commission Act 2001, Div 6 of Pt 3

Corporations Act 2001, Chs 2L, 2M and 6D; Pt 1.2A, Div 4; Pt 6D.1; Pt 6D.2, Divs 2 and 5; Pt 6D.3; Pt 7.10; Pt 9.4; s5B, 9, 50AA, 92, 105, 111AC, 111AD, 111AS, 111AT, 111AV, 113, 295, 319, 323D, 340, 341, 351, 674, 674A, 675, 675A, 700, 707, 708, 708A, 708AA, 709, 710, 711, 712, 713, 713A, 713B, 713C, 713D, 713E, 714, 715, 715A, 716, 718, 719, 720, 721, 722, 723, 724, 725, 727, 728, 734, 737, 739, 741, 992A, 1012DAA, 1013FA, 1013K, 1041H, 1274, 1308 and 1322; notional s723(2A) and (3A) and notional s724(3A), (3C), (3E), (3G) and (3H)

Corporations (Fees) Regulations 2001, Sch 1

Corporations Regulations 2001, regs 1.0.07, 6D.2.04, 6D.2.05 and 6D.2.06

Explanatory Memorandum to the Corporate Law Economic Reform Program Bill 1998, paras 8.6–8.9, 8.19–8.20

Explanatory Memorandum to the Corporate Law Reform Bill 1993, paras 254, 258

Explanatory Memorandum to the Financial Services Reform Bill 2001, para 18.6

Cases

Boucher v ASC (1996) 22 ACSR 503

Brolga Minerals Ltd v The Stock Exchange of Perth Ltd (1971–1973) CLC 40-057

In the matter of Insurance Australia Group Ltd [2003] FCA 581

In the matter of Pinnacle VRB Ltd (No. 9b) [2001] ATP 26

Re NuSep Ltd [2007] FCA 613

Roadship Logistics v Tree (2007) NSWSC 1084

Thompson v ASIC (2002) FCA 512

Australian accounting standards

AASB 101 *Presentation of financial statements*