

Attachment to CS 39: Draft instrument



ASIC
Australian Securities &
Investments Commission

ASIC Corporations (Amendment) Instrument 2025/XX

I, <insert name>, delegate of the Australian Securities and Investments Commission, make the following legislative instrument.

Date 2025

[DRAFT ONLY – NOT FOR SIGNATURE]

<signature>

<insert name>

Contents

Part 1—Preliminary	3
1 Name of legislative instrument.....	3
2 Commencement	3
3 Authority.....	3
4 Schedules	3
Schedule 1—Amendments	4
<i>ASIC Corporations (Disclosure of Fees and Costs) Instrument 2019/1070</i>	4

Part 1—Preliminary

1 Name of legislative instrument

This is the *ASIC Corporations (Amendment) Instrument 2025/XX*.

2 Commencement

This instrument commences on the day after it is registered on the Federal Register of Legislation.

Note: The register may be accessed at www.legislation.gov.au.

3 Authority

This instrument is made under subsection 1020F(1) of the *Corporations Act 2001*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

ASIC Corporations (Disclosure of Fees and Costs) Instrument 2019/1070

1 Section 5 (notional clause 103A of Schedule 10 to the *Corporations Regulations 2001*)

Omit the notional clause, substitute:

103A Calculating transaction costs

Despite clause 214, *transaction costs* for a product, option, interposed vehicle or derivative financial product disclosed in a Product Disclosure Statement that is available during a particular financial year is to be determined:

- (a) in the case of transaction costs that are stamp duty for a product or option that was offered before the start of the previous financial year:
 - (i) if the product or option was offered from at least 6 years before the start of the previous financial year—based on the average annual stamp duty for the previous 7 financial years; or
 - (ii) otherwise—based on the average annual stamp duty for the period commencing on the day the product or option was first offered and ending at the end of the previous financial year; or
- (b) otherwise:
 - (i) based on the transaction costs for the previous financial year; or
 - (ii) if the product or option was offered from at least 11 months before the end of the previous financial year but for less than a full financial year—based on the transaction costs for that period and adjusted, to reflect a 12 month period; or
 - (iii) if the product or option was not offered from at least 11 months before the end of the previous financial year and not first offered in the current financial year—based on the responsible person's reasonable estimate of the transaction costs for the current financial year at the time the Product Disclosure Statement is prepared; or
 - (iv) if the product or option was first offered in the current financial year—based on the responsible person's reasonable

estimate of the transaction costs for the current financial year at the time the Product Disclosure Statement is prepared, adjusted to reflect a 12 month period.

2 Section 5 (at the end of notional subclause 204(7) of Schedule 10 to the Corporations Regulations 2001)

Add:

Note 1: Paragraphs (a) and (b) do not require a cost or amount to be shown gross of any income tax, GST or stamp duty that is excluded by the definition of the cost or amount. For example, administration fees and costs do not need to be shown gross of stamp duty that is a transaction cost: see the definition of *administration fees and costs* in clause 101.

Note 2: The amount of stamp duty for a transaction cost disclosed in a Product Disclosure Statement is to be determined in accordance with clause 103A.

3 Section 5 (notional paragraph 209(j) of Schedule 10 to the Corporations Regulations 2001)

Omit “such as brokerage and buy-sell spread”.

4 Section 5 (at the end of notional paragraph 209(j) of Schedule 10 to the Corporations Regulations 2001)

Add:

and (vi) where relevant, an explanation of how stamp duty has been calculated for the purposes of determining transaction costs;