



# Summary of feedback to CP 384 and ASIC's response

In Consultation Paper 384 *Employee redundancy funds* ([CP 384](#)), we sought feedback on proposed changes to our definition of employee redundancy funds and possible options for the future regulation of employee redundancy funds.

We received 19 submissions from a range of stakeholders, including fund operators, employer and industry organisations, unions and a charity that is currently funded by contributions from employee redundancy funds. Most responses advocated for an increased level of regulation, although the responses were mixed as to the preferred degree of regulation and what (if any) exceptions should apply.

This document summarises the feedback we received and ASIC's response to that feedback. It is not intended to be a comprehensive summary of all feedback or all changes to our regulatory approach.

Note: Non-confidential submissions are published on the landing page for CP 384.

## Section B: Definition of 'employee redundancy funds'

Feedback	ASIC's response	Reference in CP 384
<p><b>Our proposed definition</b></p> <p>Most respondents were broadly supportive of changes to the definition. Two submissions did not agree.</p> <p>Some respondents said we should replace the word 'redundancy' in the proposed definition with the words 'termination of employment', as redundancy has connotations under other legislation outside of the <i>Corporations Act 2001</i> (Cth) (Corporations Act). Some respondents wanted the reference to 'incidental to employment' to be removed or clarified.</p>	<p>We will consider any necessary drafting amendments as we finalise the definition of 'employee entitlement schemes', and seek further stakeholder feedback as appropriate.</p>	<p>B1Q1</p>

Feedback	ASIC's response	Reference in CP 384
<p><b>Other employee entitlements that should be included in the definition</b></p> <p>Some respondents considered that ASIC should expand its definition beyond employee redundancy and long-service leave funds to include any fund operated to make work entitlement payments to employees. Other respondents said that the focus should remain on genuine employee redundancy funds. Some said that funds operated for other entitlement payments should be subject to additional obligations based on the nature of the fund.</p>	<p>We are aware of funds operated for the purpose of payment of redundancy or long-service leave entitlements to employees. We do not consider it appropriate to adopt a broader definition to capture any possible funds that may be operated. We will consider our approach to other types of funds on a case-by-case basis.</p>	<p>B1Q2</p>
<p><b>Alternative definitions that should apply and whether a reference to the fringe benefits tax regime should be included</b></p> <p>There were some suggestions to further amend the ASIC definition.</p> <p>Many respondents supported a link to the definition of 'approved worker entitlement fund' in s58PB of the <i>Fringe Benefits Tax Assessment Act 1986</i> (Cth) (FBT Act). Other respondents raised concerns that there should not be a link as this is a separate legislative framework and definition.</p> <p>Some respondents took the view that fund operators should be required to provide employers and employees with the flexibility to choose a fund and adopt an equal representation board governance model, similar to superannuation.</p>	<p>We will not include a reference to a fund being an 'approved worker entitlement fund' in our definition of 'employee entitlement schemes'. We have taken on board feedback that the definition of 'approved worker entitlement fund' applies under a separate legislative framework. Further, it is a matter for government as to whether any broader amendments are made to the definition of 'approved work entitlement fund'.</p> <p>The establishment of a regime providing for choice of fund and requiring an equal representation governance model would be beyond ASIC's remit.</p>	<p>B1Q3</p>
<p><b>Exclusions from the definition</b></p> <p>Some respondents sought clarification on whether statutory portable long-service leave funds would be excluded from the definition.</p>	<p>We will exclude statutory portable long-service leave funds from the category 'employee entitlement schemes'. Requirements under the Corporations Act will not apply to such funds. This approach will avoid duplication in regulation and provide certainty on the treatment of statutory funds.</p>	<p>B1Q4</p>

Feedback	ASIC's response	Reference in CP 384
<p><b>Further limitations that should be imposed</b></p> <p>Some respondents considered that ASIC should include additional restrictions on the use of money by the funds. Other respondents considered that ASIC should not restrict the use of funds.</p>	<p>We do not propose to impose restrictions on funds' use of money because the Corporations Act does not impose these types of restrictions on managed investment schemes. Under the new arrangements, funds will need to have appropriate arrangements for managing conflicts of interest and will need to comply with disclosure requirements in respect of use of money.</p>	<p>B1Q4</p>

## Section C: Options for regulation – Option 1 Allow the relief to expire and require full compliance

Feedback	ASIC's response	Reference in CP 384
<p><b>Option 1</b></p> <p>Three respondents preferred Option 1. Respondents supported Option 1 on the basis that the funds are major providers of financial services and it is appropriate they are regulated as such. These respondents cited the growth in funds under management as a reason for their support, as well as raising questions about the skills, qualifications and capacities of board members.</p> <p>Other respondents opposed Option 1, suggesting that it is misaligned with the nature of redundancy funds, operationally unworkable, costly for employers and unnecessary. Some respondents also suggested that removing ASIC's relief would cause hardship for smaller funds.</p>	<p>On balance, we have determined that the compliance burden associated with full regulation under Option 1 outweighs the benefit to fund members. Our view is that Option 2(b) is a more proportionate and appropriate approach.</p>	<p>C1Q1, C1Q2</p>

Feedback	ASIC's response	Reference in CP 384
<p><b>Impact on smaller funds:</b> Some respondents suggested that Option 1 would result in compliance costs and implementation challenges which would likely impact the survival of smaller funds. Some of these submissions noted that smaller funds have not generated similar concerns as larger funds and should not have their operations and cost structures burdened by unnecessary regulation.</p> <p>Some respondents suggested that applying Option 1 to smaller funds would force consolidation, reduce competition and increase fees, increase systemic risk, and reduce training options and support for mental health initiatives.</p>	<p>We acknowledge these submissions. Our view is that Option 2(b) is a more proportionate and appropriate approach than Option 1.</p>	<p>C1Q3</p>
<p><b>Practical difficulties associated with Option 1</b></p> <p>Some respondents suggested that Option 1 would raise practical difficulties for funds to comply, particularly in relation to:</p> <ul style="list-style-type: none"> <li>• incompatibility of the withdrawal and liquidity provisions of Part 5C.6 of the Corporations Act with the purpose and operation of employee redundancy funds;</li> <li>• unsuitability of voting provisions in light of the board structure and membership of employee redundancy funds; and</li> <li>• timing restrictions around hawking, provision of PDSs and cooling off periods.</li> </ul>	<p>We took these considerations into account in adopting Option 2(b).</p>	<p>C1Q3</p>
<p><b>Compliance costs of Option 1</b></p> <p>Some respondents provided estimates of compliance costs that would be incurred if Option 1 was adopted. Estimates ranged from \$350,000 to \$950,000 in one-off upfront costs, plus \$350,000-\$500,000 in annual ongoing costs.</p>	<p>We note the information provided by respondents and we have factored these estimates into our assessment of the options.</p>	<p>C1Q4</p>
<p><b>Transition to Option 1</b></p> <p>One respondent who supported Option 1 suggested that ASIC's proposed transition period up to 1 September 2026 provided ample time for funds to ensure compliance. Other respondents suggested that additional time would be necessary to implement compliance arrangements.</p>	<p>We took the impact of transition to Option 1 into account in our assessment of the options.</p>	<p>C2Q1, C2Q2</p>

## Section D: Options for regulation – Option 2 Grant relief from specific obligations

Feedback	ASIC's response	Reference in CP 384
<p><b>Option 2</b></p> <p>Two respondents preferred Option 2(a). Six respondents preferred Option 2(b). One respondent preferred Option 2 for larger funds but not smaller funds.</p> <p>One respondent who preferred Option 2(a) considered that it would enhance transparency and accountability, avoid overregulation and build public confidence without undermining operational viability. In contrast, the respondent saw Option 2(b) as focused on minimal governance enhancements without materially increasing disclosure, accountability or oversight. The other respondent who preferred Option 2(a) considered it was appropriate to extend to employee redundancy funds the provisions in the Corporations Act that are relevant to retail investors.</p> <p>Respondents who preferred Option 2(b) considered it was the most balanced approach, and was fit for purpose regulation suitable for the nature and scale of employee redundancy funds. In contrast, they saw Option 2(a) as potentially being impractical or unachievable for smaller funds, or imposing duplicative or ill-fitting requirements.</p> <p>One respondent did not support Option 2 because they considered the obligations under Option 1 were reasonable and appropriate.</p>	<p>We consider that Option 2(b) is a proportionate and appropriate approach to introducing transparency and accountability requirements for employee entitlement schemes, having regard to the growth in funds under management and the broadening of the scope of activities undertaken by some funds. Although feedback was mixed, this option received the most support from respondents.</p> <p>Option 2(b) will align the requirements for employee entitlement scheme operators more closely with those that apply to other retail managed investment schemes while recognising the difference between them. Bringing operators into the AFS licensing regime will strengthen oversight, transparency and accountability, and ensure that conduct obligations are imposed directly under the Corporations Act (as opposed to through conditions of relief).</p> <p>We will consider the feedback provided when deciding what relief will apply under Option 2(b) and the conditions of that relief.</p>	<p>D1Q1, D2Q1</p>

Feedback	ASIC's response	Reference in CP 384
<p><b>Feedback on relief to be granted under Option 2</b></p> <p>Respondents who preferred Option 2(a) and 2(b) were generally supportive of the proposed relief for their preferred options.</p> <p>Two respondents provided a detailed list of additional requirements from which ASIC should grant relief, including the client money rules in s1017E of the Corporations Act, and application form requirements.</p> <p>One respondent supported the following conditions of relief: clear and accessible information on fund operations, benefits and governance and public access to key documents on the fund's website.</p> <p>One respondent suggested relief should be granted from membership of the Australian Financial Complaints Authority (AFCA) scheme on the basis that AFCA was ill-equipped to act as an external dispute resolution scheme for employee redundancy funds given the relatively small number of providers and its limited knowledge of these funds. Others questioned whether AFCA was an appropriate forum for disputes relating to employee redundancy funds and submitted that AFCA membership would impose a disproportionate administrative and financial burden on funds.</p>	<p>We will consider this feedback when determining what relief we will grant when implementing Option 2(b) and will seek further stakeholder feedback as appropriate.</p> <p>In relation to external dispute resolution, we are considering the feedback received and in early 2026 will provide an update on the external dispute resolution requirements that will apply.</p>	<p>D1Q2, D1Q5, D2Q2, D2Q5</p>
<p><b>Feedback on practical difficulties of Option 2</b></p> <p>In relation to both Option 2(a) and Option 2(b), respondents mentioned practical difficulties associated with the requirement for responsible managers to demonstrate relevant experience.</p>	<p>In early 2026, we will publish guidance to assist operators with the AFS licence application process to comply with Option 2(b).</p>	<p>D1Q6, D2Q6</p>
<p><b>Compliance costs of Option 2</b></p> <p>Estimated costs of compliance for Option 2(a) ranged from \$422,000-\$676,000 in upfront costs and \$296,000-\$455,000 in annual ongoing costs.</p> <p>Estimated costs of compliance for Option 2(b) ranged from \$372,000-\$628,000 in upfront costs and \$131,000-\$415,000 in annual ongoing costs.</p>	<p>We note the information provided by respondents and we have factored these estimates into our assessment of the options.</p>	<p>D2Q7, D1Q7</p>

Feedback	ASIC's response	Reference in CP 384
<p><b>Transition period to Option 2</b></p> <p>All respondents who provided feedback on a transition period for Option 2(a) and/or Option 2(b) supported having such a period.</p> <p>Three respondents considered that a longer transition period than 1 September 2026 would be needed for Option 2(a), with suggestions ranging from a minimum of 12 months to 14 months.</p> <p>Two respondents considered that a longer transition period than 1 September 2026 would be needed for Option 2(b), with suggestions ranging from a minimum of 10 months to a minimum of 12 months. One respondent considered that the transition period for Option 2(b) should depend on the date ASIC determines which option will apply, but did not provide a suggested timeframe.</p> <p>One respondent considered that a 1 September 2026 deadline for lodging AFS licence applications may be achievable if ASIC actively engages with funds through the AFS licence application process and considers the unintended consequences and concerns raised in submissions.</p>	<p>We have determined that operators will have until 1 September 2026 to lodge an AFS licence application. This will give operators approximately nine months from the date our final position is announced to prepare their applications, which we consider reasonable. In early 2026, we will publish tailored guidance about the AFS licence application process. This will supplement ASIC's existing guidance on the AFS licence application process.</p> <p>Operators do not have to comply with Option 2(b) until their AFS licence applications are determined. Information on the timing of AFS licence application assessments can be found in the <a href="#">ASIC service charter</a>.</p> <p>Between the expiry of our current relief on 1 April 2026, and the determination of an operator's AFS licence application, Option 3 will apply as a transitional arrangement. Where possible, we will align the conditions of the transitional relief under Option 3 and the forthcoming requirements under Option 2(b) to minimise the burden on operators.</p>	D3

## Section E: Options for regulation – Option 3 Remake the existing relief with additional conditions

Feedback	ASIC's response	Reference in CP 384
<p><b>Option 3</b></p> <p>Four respondents preferred Option 3, although one of these respondents supported maintaining the status quo for smaller funds. Feedback included that this option was proportionate and would achieve a governance uplift without imposing excessive costs on fund operators. Some respondents submitted that removing the relief could result in the removal of smaller, lower cost funds or a reduction in benefits provided by these funds to employees.</p> <p>Other respondents submitted that this option would not provide adequate protection to fund members and that maintaining the existing relief no longer meets public expectations.</p>	<p>We are aware of the potential competition impact on smaller funds of removing the existing relief. However, we consider that Option 2(b) is a more proportionate and appropriate approach, having regard to the growth in funds under management and a broadening of the scope of activities undertaken by some funds.</p> <p>As noted above, Option 3 will apply as a transitional arrangement between 1 April 2026 (when the existing relief expires) and when an operator's AFS licence application is determined by ASIC under Option 2(b).</p>	E1Q1, E1Q4
<p><b>Conditions of relief under Option 3</b></p> <p>Several respondents supported the conditions we proposed. Some respondents considered additional conditions should be imposed. Examples included an equal representation model for trustee governance, limitations on the use of investment earnings, requirements to implement risk and compliance frameworks and greater disclosure requirements.</p>	<p>We have considered the feedback provided on our proposed conditions. During the transitional period, we consider that the conditions described in Proposal E1 of <a href="#">CP 384</a> should apply as well as additional conditions for the fund operator to perform its obligations honestly and with reasonable care and diligence and to treat members equally and fairly. We will seek further stakeholder feedback as appropriate.</p>	E1Q2, E1Q3
<p><b>Feedback on practical difficulties of Option 3</b></p> <p>Several respondents did not foresee any practical difficulties with this option or said it was the most practical option.</p>	<p>We have taken this feedback into account in adopting Option 3 for our transitional arrangements for fund operators prior to Option 2(b) applying.</p>	E1Q5
<p><b>Compliance costs of Option 3</b></p> <p>Estimated costs of compliance ranged from \$25,000-\$130,000 in upfront costs and \$10,000-\$85,000 in annual ongoing costs.</p>	<p>We note the information provided by respondents and we have factored these estimates into our assessment of the options.</p>	E1Q6



Feedback	ASIC's response	Reference in CP 384
<b>Transition period to Option 3</b>  Several respondents supported ASIC's proposal that no transition period would apply for this option, stating that they already comply with most proposed conditions. One respondent submitted that a transition period of at least four months should apply if Option 3 was adopted.	We do not consider that a transitional period is required before Option 3 will apply from 1 April 2026, having regard to feedback from several operators that they are already complying with the proposed conditions of relief.	E2Q1