



ASIC
Australian Securities &
Investments Commission

CONSULTATION PAPER 357

Remaking relief for business introduction services: ASIC Instrument 2017/186

January 2022

About this paper

This consultation paper sets out ASIC's proposals to amend our relief for business introduction services under *ASIC Corporations (Repeal and Transitional) Instrument 2017/186* (ASIC Instrument 2017/186), which is due to expire on 1 April 2022.

We are seeking feedback from all interested stakeholders including operators of business introduction services on our proposals to:

- allow the relief for Ch 6D securities to expire;
- extend the relief for interests in managed investment schemes to 1 April 2025; and
- amend the relief to clarify that the design and distribution obligations apply to business introduction services.

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 paper was issued on 25 January 2022 and is based on the Corporations Act as at the date of issue.

Disclaimer

The proposals, explanations and examples in this paper do not constitute legal advice. They are also at a preliminary stage only. Our conclusions and views may change as a result of the comments we receive or as other circumstances change.

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The consultation process

You are invited to comment on the proposals in this paper, which are only an indication of the approach we may take and are not our final policy.

As well as responding to the specific proposals and questions, we also ask you to describe any alternative approaches you think would achieve our objectives.

We are keen to fully understand and assess the financial and other impacts of our proposals and any alternative approaches. Therefore, we ask you to comment on:

- the likely compliance costs;
- the likely effect on competition; and
- other impacts, costs and benefits.

Where possible, we are seeking both quantitative and qualitative information. We are also keen to hear from you on any other issues you consider important.

Your comments will help us develop our policy on business introduction services. In particular, any information about compliance costs, impacts on competition and other impacts, costs and benefits will be taken into account if we prepare a Regulation Impact Statement: see Section D, 'Regulatory and financial impact'.

Making a submission

You may choose to remain anonymous or use an alias when making a submission. However, if you do remain anonymous we will not be able to contact you to discuss your submission should we need to.

Please note we will not treat your submission as confidential unless you specifically request that we treat the whole or part of it (such as any personal or financial information) as confidential.

Please refer to our privacy policy at www.asic.gov.au/privacy for more information about how we handle personal information, your rights to seek access to and correct personal information, and your right to complain about breaches of privacy by ASIC.

Comments should be sent by **15 February 2022** to:

email: policy.submissions@asic.gov.au

What will happen next?

Stage 1	25 January 2022	ASIC consultation paper released
Stage 2	15 February 2022	Comments due on the consultation paper
Stage 3	1 April 2022	Commencement of remade instrument

A Background to our proposals

Key points

When considering whether to extend the operation of a legislative instrument or allow it to expire, ASIC will carefully consider the continuing regulatory and financial impact of the instrument and whether it retains its effectiveness in addressing an identified issue or problem.

We will consult affected stakeholders on all ASIC legislative instruments that have more than a minor or machinery regulatory impact.

ASIC's approach to remaking legislative instruments

- 1 ASIC will consult affected stakeholders on all ASIC legislative instruments that have more than a minor or machinery regulatory impact, and are subject to sunseting, to ensure:
 - (a) we carefully consider the continuing regulatory and financial impact of the instrument; and
 - (b) the instrument retains its effectiveness in addressing an identified issue or problem.
- 2 If it is necessary to extend a legislative instrument, our focus is on making it clear and user friendly. We will also, where possible, simplify and rationalise its content and conditions. For example, we will remove or reduce an obligation or burden in a legislative instrument if we are able to do so without undermining ASIC's vision of a fair, strong and efficient financial system for all Australians.
- 3 Generally, a Regulation Impact Statement (RIS) is required for new and amended policy that has a significant regulatory impact: see the [Australian Government's Impact Analysis Framework](#).
- 4 If an instrument no longer serves a regulatory purpose, we are of the view that it should be repealed or allowed to expire. This is because we hope to ensure that only instruments that serve a regulatory purpose are maintained.

B ASIC relief for business introduction services

Key points

ASIC has provided conditional relief for business introduction services from certain requirements under [ASIC Corporations \(Repeal and Transitional\) Instrument 2017/186](#) (ASIC Instrument 2017/186) until 1 April 2022.

As part of our review and consultation on the policy settings under this relief, we are seeking to assess the impact of other regulatory developments on business introduction services, including the introduction of the crowd-sourced funding regime and design and distribution obligations.

What are business introduction services?

- 5 Business introduction services identify potential investors and issuers or sellers by circulating information about investment opportunities. Information is circulated in various ways including through publications (e.g. brochures, bulletins or web platforms) and by holding meetings.
- 6 Circulating information about an investment opportunity may constitute making an offer or invitation to invest in securities or interests in managed investment schemes (scheme interests) and various provisions of the Corporations Act will generally apply.

What relief is available?

- 7 ASIC [Class Order \[CO 02/273\]](#) *Business introduction and matching services* gave conditional relief from the fundraising, financial product disclosure, hawking and advertising requirements in the *Corporations Act 2001* (Corporations Act) that would apply to a person making or calling attention to offers of securities or scheme interests through a business introduction service.
- 8 [ASIC Instrument 2017/186](#) repealed the original [CO 02/273] but preserved its effect for two years until 23 March 2019.
- 9 [ASIC Corporations \(Amendment\) Instrument 2019/216](#) (ASIC Instrument 2019/216) preserved the relief provided by [CO 02/273] until 1 April 2022. This extension was to allow ASIC to review and consult on the policy settings in the original [CO 02/273] and assess the impact of the crowd-sourced funding (CSF) regime on the relief.

Note 1: See [Media Release \(19-067MR\)](#) *ASIC extends relief provided for business introduction services*.

Note 2: In this paper, ‘relief’ means the relief provided by [CO 02/273] as preserved by ASIC Instrument 2017/186, unless otherwise specified.

How does the relief apply?

- 10 ASIC provides conditional relief in ASIC Instrument 2017/186 from certain requirements in the Corporations Act that would otherwise apply to those involved in business introduction services.
- 11 Separate relief is provided for each of the following categories:
- (a) operators of business matching services;
 - (b) persons who propose to issue or sell securities or scheme interests through the use of business introduction services;
 - (c) persons who endorse, verify or provide an assessment of any information about the securities or scheme interests provided by an issuer or seller; and
 - (d) persons who publish any document relating to business introduction services.
- 12 ASIC provides conditional relief in ASIC Instrument 2017/186 from the provisions summarised in Table 1.

Table 1: Relief under [CO 02/273] from Corporations Act requirements

Requirements	Provision	Description
Offer or issue of debentures under Ch 2L	Pts 2L.1–2L.5	Chapter 2L imposes an obligation on the person who makes an offer or issues debentures to enter into a trust deed that complies with certain requirements. Chapter 2L also imposes duties on the trustee, borrower and guarantor.
Fundraising	Pts 6D.2 and 6D.3 in Ch 6D	Chapter 6D establishes the statutory regime applying to fundraising through the offer of securities (including shares and debentures) for issue or sale in Australia. It outlines when a person offering securities for issue or sale must lodge a disclosure document with ASIC and the relevant form, content and procedural requirements applying to that disclosure document. Chapter 6D also sets out certain prohibited conduct in relation to fundraising activity and outlines the circumstances in and extent to which persons may be liable for defective disclosure documents. Chapter 6D also provides certain statutory remedies for investors.
Small-scale personal offers of securities	s708(1) and 1012E	The relief broadens the ability of a body to make small-scale personal offers of securities (20 investors and \$2 million limit) without the need for disclosure under s708(1) or s1012E by enabling up to \$5 million to be raised where such offerings are conducted through a business introduction service.

Requirements	Provision	Description
Financial product disclosure	Pt 7.9 in Ch 7	Part 7.9 sets out the situations which give rise to the obligation to give another person a Product Disclosure Statement (PDS) as well as other disclosure obligations. These obligations may apply to persons involved in giving financial product advice, or an offer relating to the issue or sale of a financial product through business introduction services.
Advertising and publicity	s734 and 1018B	The relief enables a person involved in business introduction services to advertise and publish statements that directly or indirectly refer to an offer or intended offer of securities or other financial products. The publications must meet the requirements in [CO 02/273] for the exemption to apply.
Hawking	s992A(1)	Section 992A(1) prohibits a person from offering financial products for issue or sale during, or because of, an unsolicited meeting with another person.

13 [\[CO 02/273\]](#) does not provide relief from the licensing provisions of the Corporations Act and we do not propose to provide any licensing relief if we extend the operation of [\[CO 02/273\]](#) for an additional three years: see proposal C2(a). Persons relying on the relief for business introduction services should consider whether they require an Australian financial services (AFS) licence.

14 The relief does not require all entities to provide ASIC with a notice of reliance, but it is a condition of our relief that business operators provide ASIC with a notice giving details of publications made by the operator. We propose to require that all entities who rely or cease to rely on the relief provide notice to ASIC: see proposal C2(b).

What are the implications of the crowd-sourced funding regime?

15 In 2017, the crowd-sourced funding (CSF) regime was introduced into Pt 6D.3A of the Corporations Act. Before introducing the regime, the Government consulted widely with industry participants on the design of the regime seeking to balance a need to facilitate fundraising with maintaining appropriate investor protection and minimising the compliance burden.

Note: See Explanatory Memorandum to the *Corporations Amendment (Crowd-sourced Funding) Bill 2016*, paragraph 9.60.

16 In 2018, after further consultation, the Government expanded the CSF regime to proprietary companies and introduced enhanced reporting and governance requirements for proprietary companies who access the regime.

Note: See Explanatory Memorandum to the *Corporations Amendment (Crowd-sourced Funding for Proprietary Companies) Bill 2017*, paragraphs 1.6–1.7.

- 17 The CSF regime aims to facilitate flexible and low-cost access to capital for small to medium sized unlisted companies while ensuring adequate protections for retail investors: see [Regulatory Guide 261](#) *Crowd-sourced funding: Guide for companies* (RG 261) at RG 261.5.
- 18 These investor protections include:
- (a) supervision by a licensed CSF intermediary with gatekeeper obligations;
 - (b) a cap of \$5 million on the amount that may be raised in a 12-month period (including any reliance on s708(1) and 708(10));
 - (c) disclosure requirements;
 - (d) a \$10,000 cap on investment by retail clients; and
 - (e) cooling-off rights for retail clients.
- 19 The CSF regime appears to be operating efficiently and reliance on the regime appears to be increasing. However, the CSF regime does not fully cover business introduction services permitted by the relief. For example, the CSF regime is restricted to offers of fully paid-up shares in a company and, therefore, does not extend to offers of scheme interests.

How do the design and distribution obligations apply?

- 20 Issuers of financial products (e.g. scheme interests) are required to comply with the design and distribution obligations in Pt 7.8A of the Corporations Act.

Note: Generally, fully paid ordinary shares in a company (including a foreign company) are excluded from the design and distribution obligations (unless the company is an investment company or intends the shares to be converted to preference shares). [Regulatory Guide 274](#) *Product design and distribution obligations* (RG 274) explains these requirements in more detail.

- 21 Issuers must prepare a target market determination (TMD) whenever they are required to prepare a disclosure document under Pt 6D.2 of the Corporations Act or a PDS under Pt 7.9: s994B(1)(a)–(b). The TMD must be made before any person engages in ‘retail product distribution conduct’ in relation to the product: s994B(2).

Note: For the meaning of ‘retail product distribution conduct’, see [RG 274](#) at RG 274.29–RG 274.31.

- 22 An issuer of a product who is required to make a TMD must take reasonable steps that will, or are reasonably likely to, result in distribution being consistent with the TMD: s994E(1). An issuer must review a TMD periodically and as necessary (e.g. where a review trigger occurs): see s994C(2)–(5).

Note: For further explanation of what is necessary in reviewing a TMD, see [RG 274](#) at RG 274.148–RG 274.156.

- 23 There is a general prohibition on engaging in retail product distribution conduct in relation to a product that requires a TMD and that is on offer for acquisition by issue, or for regulated sale, unless a TMD has been made: s994D.
- 24 When a TMD has been made and where the product is on offer for acquisition by issue, or for regulated sale, regulated persons who engage in retail product distribution conduct (‘distributors’) in relation to the product must take reasonable steps that will, or are reasonably likely to, result in distribution of the product being consistent with the TMD: s994E(3). Personal advice is excluded from this requirement: see s994E(3) and 994A(1) (definition of ‘excluded conduct’).
- 25 Distributors of financial products also have certain record-keeping and reporting requirements which also apply to persons who provide personal advice: see s994F(3).
- 26 We have noted in [RG 274](#) at RG 274.32, that issuers and distributors must implement and maintain robust and effective product governance arrangements to ensure they comply with the design and distribution obligations.
- 27 The requirement to comply with the design and distribution obligations, in some cases, follows from the requirement to provide disclosure. However, if we grant relief from the requirement to provide disclosure, relief from the design and distribution obligations does not automatically follow: see [RG 274](#) at RG 274.252.

C Our proposals

Key points

We propose to amend the relief for business introduction services in ASIC Instrument 2017/186, which is due to expire on 1 April 2022.

After considering the impact of the CSF regime on the relief, and the introduction of the design and distribution obligations, we propose to:

- allow the relief for Ch 6D securities to expire;
- extend the relief for scheme interests to 1 April 2025; and
- amend the relief to clarify that the design and distribution obligations apply to business introduction services.

Allowing the relief for Ch 6D securities to expire

Proposal

- c1 We have reached the preliminary view that the relief should sunset in relation to Ch 6D securities because the CSF regime allows companies to raise funds with appropriate investor protection features introduced by Parliament. If the relief in relation to Ch 6D is allowed to sunset, the relief in relation to Ch 2L will also be allowed to sunset (since debentures are a form of security under Ch 6D): see s700 and 761A.

Your feedback

- C1Q1 Do you agree with our proposal to allow the relief in relation to Ch 2L and Ch 6D to sunset? Why or why not?
- C1Q2 Have you previously relied on the relief for business introduction services relating to Ch 6D securities? If so, please provide details of any funds raised and when the fundraising occurred.
- C1Q3 Will our proposal significantly impede the ability of companies to raise funds? If so, please explain why the CSF regime is not an appropriate alternative for raising funds.
- C1Q4 Will our proposal have a significant impact on the ability of persons to sell securities in reliance on the relief?
- C1Q5 If you have operated a business introduction service under the relief in relation to Ch 6D securities, do you intend to obtain an AFS licence to operate as a CSF intermediary if the relief sunsets? If not, please explain why.
- C1Q6 Should we provide transitional relief for business introduction services that rely on the relief for Ch 6D securities? If so, would six months be sufficient? If not, why not and what transitional period would be sufficient?

- C1Q7 If the relief for Ch 6D securities is extended (which is not our current proposal), should it only be available for companies or offers that are not eligible to rely on the CSF regime? Please provide reasons for your response.
- C1Q8 What are the anticipated costs associated with our proposal to allow the Ch 6D relief to sunset? Please provide details of one-off and/or annual costs as applicable.
- C1Q9 Do you have any other comments about the proposal?

Rationale

- 28 We reviewed the impact of the CSF regime on the relief and have formed the preliminary view that there is significant overlap between their aims. For example, both regimes are intended to help SMEs efficiently raise up to \$5 million per year.
- 29 We have formed the preliminary view that the CSF regime provides an effective way for these companies to raise funds, with appropriate protections for retail investors determined by Parliament after extensive consultation with industry participants: see paragraphs 15–17.
- 30 The CSF regime is available for both public and proprietary companies who satisfy the eligibility requirements in s738H of the Corporations Act. These eligibility requirements include:
- (a) the company’s principal place of business is in Australia;
 - (b) a majority of the directors ordinarily reside in Australia;
 - (c) the company has consolidated gross assets of less than \$25 million and consolidated annual revenue of less than \$25 million.
- 31 The CSF eligibility requirements are therefore broad. Although listed companies are not eligible to rely on the CSF regime, these companies have a range of other options for low-cost fundraising. Investment companies are also unable to rely on the CSF regime because Parliament has determined that it would be inappropriate for them to rely on the lower disclosure environment to raise funds.
- Note: See Explanatory Memorandum to the *Corporations Amendment (Crowd-sourced Funding) Bill 2016*, paragraphs 2.29–2.30.
- 32 The CSF regime is intentionally restricted to offers of ordinary shares but can be expanded to other securities via regulation if the Government considers this is warranted.
- 33 Through this consultation, we are seeking further information about the extent to which companies have raised funds under the relief and why companies may choose to rely on the relief to raise funds rather than using the CSF regime.

- 34 Although the primary aim of the relief is to facilitate low-cost fundraising by companies, we also seek to understand the impact on persons who provide business introduction services if the Ch 6D relief is allowed to sunset.

Extending the relief for scheme interests

Proposal

- c2 We propose to:
- (a) continue the relief in relation to scheme interests for a maximum period of three years, with some changes to the policy settings;
 - (b) require all persons who rely on the relief from 1 April 2022 to provide usage information to ASIC;
 - (c) update legislative references and definitions; and
 - (d) correct any minor drafting errors.

Your feedback

C2Q1 Do you agree with this proposal? Why or why not?

C2Q2 Did you rely on the relief? If you did:

- (a) how often did you rely on the relief; and
- (b) how much money did you raise in reliance on the relief from the date of reliance to date?

C2Q3 What are the anticipated costs associated with complying with the proposed requirement to notify ASIC of your reliance on the relief? Please provide details of one-off and/or annual costs as applicable.

C2Q4 Do you have any other comments about the proposal?

Rationale

- 35 ASIC has reached a preliminary view that the relief for scheme interests is operating effectively and efficiently and continues to form a necessary and useful part of the legislative framework for managed investment schemes, particularly as these entities recover from the impact of the COVID-19 pandemic.
- 36 To preserve the effect of the relief beyond the expiry date of 1 April 2022, we propose to continue the relief in relation to scheme interests for a maximum period of three years, with some changes to the policy settings. The changes account for the effect of the design and distribution obligations in Pt 7.8A of the Corporations Act: see paragraphs 20–27 and proposal C3.
- 37 We do not intend to continue the relief after the expiration of three years.

Policy rationale remains relevant in post-pandemic recovery

- 38 The purpose of the relief is to facilitate the growth of small and medium sized enterprises (SMEs) by:
- (a) reducing the regulatory and cost burden of small-scale fundraising; and
 - (b) providing commercial certainty by clarifying the extent to which the law regulates business introduction services.
- 39 The relief is also intended to help facilitate investment by opening up the pool of investors that can invest in an SME.
- 40 We have formed the preliminary view that the original policy rationale of the relief remains relevant for entities who cannot rely on the CSF regime as they seek to recover from the impact of the COVID-19 pandemic.
- 41 ASIC has committed to promoting economic recovery as one of our key strategic policies. Extending relief for business introduction services is consistent with ASIC's commitment to supporting Australia's economic recovery from the COVID-19 pandemic.

Information about reliance on relief for business introduction services

- 42 The extent of reliance on the relief is unclear because there has been no requirement for all entities relying on the relief to inform ASIC about their use of the relief.
- 43 To improve information about reliance, we propose to introduce a requirement that persons who rely or cease to rely on the relief from 1 April 2022 provide notice to ASIC. Any notice should include the name of the person relying or ceasing to rely on the relief and be sent by email to applications@asic.gov.au.

Clarifying that the design and distribution obligations apply**Proposal**

- c3 We propose to amend the relief to clarify that the design and distribution obligations apply to conduct covered by the relief.

Your feedback

C3Q1 Do you agree with this proposal? Why or why not?

C3Q2 Are there any practical problems associated with complying with the design and distribution obligations in relation to any aspect of business introduction services? If so, please give details.

- C3Q3 Are you complying, or do you expect to comply in the next six months, with the design and distribution obligations for financial products you issue or distribute, including products initially offered under the relief? If not, why not?
- C3Q4 Are you offering products which are subject to a TMD?
- C3Q5 Are you engaging in retail product distribution conduct? If not, why not?
- C3Q6 What transitional period is required to comply with the design and distribution obligations? Would six months be sufficient? Please provide reasons.
- C3Q7 What are the anticipated costs of complying with the design and distribution obligations? Please provide details of one-off and/or annual costs as applicable.
- C3Q8 Do you have any other comments about the proposal?

Rationale

- 44 The design and distribution obligations in Pt 7.8A of the Corporations Act aim to improve the design and distribution of financial products by requiring financial product firms to develop products that meet the needs of consumers in their target market, and to direct distribution to that target market.
- 45 The obligations require issuers and distributors to develop and maintain effective product governance arrangements across the life cycle of financial products to ensure consumers are receiving products that are likely to be consistent with their likely objectives, financial situation and needs.
- 46 These obligations apply broadly and cover most products across all sectors of the financial services market, including scheme interests and securities (but excluding most fully-paid ordinary shares): see [RG 274](#) at RG 274.20–RG 274.24 and Figure 1.
- 47 ASIC’s position is that the design and distribution obligations should apply to the conduct covered by the relief, consistent with the policy settings introduced by Parliament.
- 48 Our proposal is for the instrument to remove the uncertainty around the application of the design and distribution obligations in relation to business introduction services and clarify that the design and distribution obligations apply to persons who rely on the relief where they would need to presently comply with the obligations under Pt 7.8A of the Corporations Act.
- 49 The revised policy settings will continue to facilitate the growth of SMEs by reducing the regulatory and cost burden of small-scale fundraising, while requiring firms to adhere to product governance requirements under Pt 7.8A. The design and distribution obligations will help ensure high-risk investment opportunities are directed to appropriate consumers.

D Regulatory and financial impact

50 In developing the proposals in this paper, we have carefully considered their regulatory and financial impact. On the information currently available to us we think they will strike an appropriate balance between:

- (a) reducing the regulatory and cost burden of small-scale fundraising in a post-pandemic recovery; and
- (b) providing commercial certainty by clarifying the extent to which the law regulates business introduction services, in particular with regard to the design and distribution obligations.

51 Before settling on a final policy, we will comply with the Australian Government's regulatory impact analysis (RIA) requirements by:

- (a) considering all feasible options, including examining the likely impacts of the range of alternative options which could meet our policy objectives;
- (b) if regulatory options are under consideration, notifying the Office of Best Practice Regulation (OBPR); and
- (c) if our proposed option has more than minor or machinery impact on business or the not-for-profit sector, preparing a Regulation Impact Statement (RIS).

52 All RISs are submitted to the OBPR for approval before we make any final decision. Without an approved RIS, ASIC is unable to give relief or make any other form of regulation, including issuing a regulatory guide that contains regulation.

53 To ensure that we are in a position to properly complete any required RIS, please give us as much information as you can about our proposals or any alternative approaches, including:

- (a) the likely compliance costs;
- (b) the likely effect on competition; and
- (c) other impacts, costs and benefits.

See 'The consultation process', p. 4.

Key terms

Term	Meaning in this document
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 s761A.
ASIC	Australian Securities and Investments Commission
ASIC Instrument 2017/186	<i>ASIC Corporations (Repeal and Transitional) Instrument 2017/186</i>
ASIC Instrument 2019/216	<i>ASIC Corporations (Amendment) Instrument 2019/216</i>
business introduction service	A business that has as one of its objects the promotion or encouragement of investment in SMEs Note: This is a definition contained in [CO 02/273] , Interpretation, item 1.
Ch 6D (for example)	A chapter of the Corporations Act (in this example numbered 6D)
[CO 02/273]	ASIC Class Order [02/273] <i>Business introduction services</i> Note: Legislative instruments made from 2015 are referred to as ASIC instruments.
Corporations Act	<i>Corporations Act 2001</i> , including regulations made for the purposes of that Act
Corporations Regulations	<i>Corporations Regulations 2001</i>
CSF intermediary	An AFS licensee whose licence expressly authorises the licensee to provide a crowd-funding service Note: See s738C of the Corporations Act.
CSF offer	An offer of ordinary shares that is made under the CSF regime in Pt 6D.3A of the Corporations Act Note: See s738B of the Corporations Act.
CSF regime	The statutory regime for crowd-sourced funding in Pt 6D.3A of the Corporations Act regulating CSF offers
Div 2 (for example)	A division of the Corporations Act (in this example numbered 2)
OBPR	Office of Best Practice Regulation
offer	An invitation to apply for a financial product

Term	Meaning in this document
PDS	<p>A Product Disclosure Statement—a document that must be given to a retail client for the offer or issue of a financial product in accordance with Div 2 of Pt 7.9 of the Corporations Act</p> <p>Note: See s761A for the exact definition.</p>
Pt 7.9 (for example)	A part of the Corporations Act (in this example numbered 7.9)
relief	[CO 02/273] as preserved by ASIC Instrument 2017/186, unless otherwise specified
RIS	Regulation Impact Statement
s992A (for example)	A section of the Corporations Act (in this example numbered 992A)
scheme interest	An interest in a managed investment scheme
SMEs	<p>Small and medium sized enterprises—a business which employs up to 250 employees (counting any part-time employee as an appropriate fraction of a full-time equivalent)</p> <p>Note: This is a definition contained in [CO 02/273], Interpretation, item 1.</p>
sunsetting	The practice of specifying a date at which a given regulation or legislative instrument will cease to have effect
TMD	Has the meaning given in s944B of the Corporations Act

List of proposals and questions

Proposal	Your feedback
<p>C1 We have reached the preliminary view that the relief should sunset in relation to Ch 6D securities because the CSF regime allows companies to raise funds with appropriate investor protection features introduced by Parliament. If the relief in relation to Ch 6D is allowed to sunset, the relief in relation to Ch 2L will also be allowed to sunset (since debentures are a form of security under Ch 6D): see s700 and 761A.</p>	<p>C1Q1 Do you agree with our proposal to allow the relief in relation to Ch 2L and Ch 6D to sunset? Why or why not?</p> <p>C1Q2 Have you previously relied on the relief for business introduction services relating to Ch 6D securities? If so, please provide details of any funds raised and when the fundraising occurred.</p> <p>C1Q3 Will our proposal significantly impede the ability of companies to raise funds? If so, please explain why the CSF regime is not an appropriate alternative for raising funds.</p> <p>C1Q4 Will our proposal have a significant impact on the ability of persons to sell securities in reliance on the relief?</p> <p>C1Q5 If you have operated a business introduction service under the relief in relation to Ch 6D securities, do you intend to obtain an AFS licence to operate as a CSF intermediary if the relief sunsets? If not, please explain why.</p> <p>C1Q6 Should we provide transitional relief for business introduction services that rely on the relief for Ch 6D securities? If so, would six months be sufficient? If not, why not and what transitional period would be sufficient?</p> <p>C1Q7 If the relief for Ch 6D securities is extended (which is not our current proposal), should it only be available for companies or offers that are not eligible to rely on the CSF regime? Please provide reasons for your response.</p> <p>C1Q8 What are the anticipated costs associated with our proposal to allow the Ch 6D relief to sunset? Please provide details of one-off and/or annual costs as applicable.</p> <p>C1Q9 Do you have any other comments about the proposal?</p>

Proposal	Your feedback
<p>C2 We propose to:</p> <ul style="list-style-type: none"> (a) continue the relief in relation to scheme interests for a maximum period of three years, with some changes to the policy settings; (b) require all persons who rely on the relief from 1 April 2022 to provide usage information to ASIC; (c) update legislative references and definitions; and (d) correct any minor drafting errors. 	<p>C2Q1 Do you agree with this proposal? Why or why not?</p> <p>C2Q2 Did you rely on the relief? If you did:</p> <ul style="list-style-type: none"> (a) how often did you rely on the relief; and (b) how much money did you raise in reliance on the relief from the date of reliance to date? <p>C2Q3 What are the anticipated costs associated with complying with the proposed requirement to notify ASIC of your reliance on the relief? Please provide details of one-off and/or annual costs as applicable.</p> <p>C2Q4 Do you have any other comments about the proposal?</p>
<p>C3 We propose to amend the relief to clarify that the design and distribution obligations apply to conduct covered by the relief.</p>	<p>C3Q1 Do you agree with this proposal? Why or why not?</p> <p>C3Q2 Are there any practical problems associated with complying with the design and distribution obligations in relation to any aspect of business introduction services? If so, please give details.</p> <p>C3Q3 Are you complying, or do you expect to comply with in the next six months, with the design and distribution obligations for financial products you issue or distribute, including products initially offered under the relief? If not, why not?</p> <p>C3Q4 Are you offering products which are subject to a TMD?</p> <p>C3Q5 Are you engaging in retail product distribution conduct? If not, why not?</p> <p>C3Q6 What transitional period is required to comply with the design and distribution obligations? Would six months be sufficient? Please provide reasons.</p> <p>C3Q7 What are the anticipated costs of complying with the design and distribution obligations? Please provide details of one-off and/or annual costs as applicable.</p> <p>C3Q8 Do you have any other comments about the proposal?</p>