

# Attachment 2 to CS 54: Draft instrument



**ASIC**  
Australian Securities &  
Investments Commission

---

## **ASIC Corporations (Auditing) Instrument 2026/XXX**

---

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

Date 2026

[DRAFT ONLY – NOT FOR SIGNATURE]

<signature>

<insert name>

---

## Contents

<b>Part 1—Preliminary</b>	<b>3</b>
1 Name of legislative instrument.....	3
2 Commencement .....	3
3 Authority.....	3
4 Schedules .....	3
5 Simplified outline of this instrument .....	3
6 Definitions .....	3
<b>Part 2—Auditor independence declaration and retail CCIV auditor relief</b>	<b>5</b>
7 Simplified outline of this Part.....	5
8 Definitions in this Part .....	5
9 Relief from requirement to disclose certain contraventions in the auditor’s independence declaration.....	6
10 Notifying ASIC when an auditor for a CCIV is appointed .....	7
<b>Part 3—Audit exemptions in relation to certain proprietary companies</b>	<b>8</b>
11 Simplified outline of this Part.....	8
12 Definitions in this Part .....	8
13 Audit relief for large proprietary companies and small foreign controlled proprietary companies .....	9
14 Where the audit relief applies .....	10
15 Conditions for the audit relief.....	16
<b>Part 4—Savings and transitional</b>	<b>17</b>
16 Application of Part 3.....	17
17 Application of <i>ASIC Corporations (Audit Relief) Instrument 2016/784</i> .....	17
<b>Part 5—Repeal</b>	<b>18</b>
<i>ASIC Corporations (CCIV Auditors) Instrument 2024/668</i> .....	18
<i>ASIC Corporations (Auditor Independence) Instrument 2021/75</i> .....	18
<i>ASIC Corporations (Audit Relief) Instrument 2016/784</i> .....	18

## Part 1—Preliminary

### 1 Name of legislative instrument

This is the *ASIC Corporations (Auditing) Instrument 2026/XXX*.

### 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](http://www.legislation.gov.au).

### 3 Authority

This instrument is made under subsection 341(1) and paragraph 1243(2)(b) 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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

### 5 Simplified outline of this instrument

This instrument sets out exemptions and declarations in relation to auditing requirements under Chapters 2M and 8B of the Act.

This instrument provides:

- (a) an exemption for lead auditors from requirements to disclose certain contraventions in the auditor's independence declaration; and
- (b) a modification confirming notification obligations in relation to the appointment of an auditor of a retail CCIV; and
- (c) exemptions for large proprietary companies and small proprietary companies controlled by a foreign company from certain audit requirements.

The exemptions in this instrument apply in particular circumstances and are subject to various conditions.

### 6 Definitions

In this instrument:

***Act*** means the *Corporations Act 2001*.

***control*** has the same meaning as in Accounting Standard AASB 10 *Consolidated financial statements*.

## Part 2—Auditor independence declaration and retail CCIV auditor relief

### 7 Simplified outline of this Part

This Part sets out relief for lead auditors from the requirement under Part 2M.3 of the Act to declare certain non-material financial interests in an entity (or a controlled entity) audited by an audit firm where the interest is held by any other partner of the firm, their spouse (or equivalent) or their dependant. The relief applies if certain requirements are met in relation to the interest.

The Part also modifies section 1232R of the Act to confirm that the corporate director of a retail CCIV must lodge an approved form with ASIC within 14 days of appointing an auditor of a retail CCIV.

### 8 Definitions in this Part

In this Part:

**audit engagement team**, in relation to an audit or review of a financial report of a relevant entity for a relevant period, means the persons performing work on the audit or review of the financial report of the relevant entity for the relevant period.

**CCIV provisions** has the same meaning as in section 1243 of the Act.

**Code** means the APES 110 *Code of Ethics for Professional Accountants (including Independence Standards)* as in force as at the date of this instrument.

**controlled entity**, in relation to a relevant entity for a relevant period, means an entity controlled by the relevant entity during or since the relevant period.

**engagement partner** has the meaning given by the Code.

**financial interest** means:

- (a) a 'direct financial interest' within the meaning of the Code; or
- (b) an 'indirect financial interest' within the meaning of the Code and which is material.

**relevant period** means a financial year or half-year of a relevant entity.

**relevant person** means a person specified in paragraph R510.4(c) of the Code.

## 9 Relief from requirement to disclose certain contraventions in the auditor's independence declaration

- (1) This section applies in relation to an audit or review conducted by an audit firm or audit company of the financial report of a company, registered scheme, registrable superannuation entity or disclosing entity (each a **relevant entity**) for a relevant period.
- (2) The lead auditor for the audit is relieved from the requirement to set out in a written declaration under paragraph 307C(3)(d) of the Act details of a contravention of paragraph R510.4(c) of the Code in relation to a financial interest held by a relevant person in the relevant entity or a controlled entity.
- (3) The relief in subsection (2) applies where all of the following are satisfied:
  - (a) the fair value of the financial interest has not exceeded \$10,000 at any time during or since the relevant period;
  - (b) the engagement partner is satisfied that the financial interest was not material to the relevant person;
  - (c) the relevant person has given a written confirmation to the lead auditor that the financial interest:
    - (i) began to be held by the relevant person without the relevant person knowing that it was a financial interest in the relevant entity or a controlled entity; and
    - (ii) was divested as soon as possible, and no later than 7 days, after the relevant person became aware that it was a financial interest in the relevant entity or a controlled entity;
  - (d) the lead auditor has given a written report to the directors of the relevant entity stating that the relevant person held the financial interest in contravention of paragraph R510.4(c) of the Code;
  - (e) the directors of the relevant entity have passed a resolution to the effect that the holding of the financial interest by the relevant person did not affect the independence and objectivity of the audit firm, audit company, lead auditor, review auditor or any member of the audit engagement team;
  - (f) as at the time the lead auditor signs the auditor's independence declaration in accordance with paragraph 307C(5)(b) of the Act in

relation to the relevant entity for the relevant period, the relevant person does not hold the financial interest.

## **10 Notifying ASIC when an auditor for a CCIV is appointed**

The CCIV provisions apply in relation to retail CCIVs as if section 1232R of the Act were modified or varied by inserting after subsection 1232R(2):

“(3) The corporate director of a retail CCIV must lodge a notice in the approved form telling ASIC of the appointment by the CCIV of an auditor of the CCIV under section 331AAA or 331AAB of the Act (as applicable to the CCIV because of subsection (2)) within 14 days of the appointment.”.

## Part 3—Audit exemptions in relation to certain proprietary companies

### 11 Simplified outline of this Part

This Part sets out exemptions from requirements under Ch 2M of the Act for certain proprietary companies if various requirements are met. Subject to meeting these requirements and subject to certain conditions, affected proprietary companies are exempted from the requirements to:

- (a) have the company's financial report audited (subsection 301(1)); and
- (b) provide an auditor's report to members (subparagraph 314(1)(a)(iii) and subsection 316(2)); and
- (c) provide a statement by the auditor in relation to any concise financial report (paragraph 314(2)(c)).

This Part also sets out an exemption for auditors of affected proprietary companies from the requirement to report on any discussion and analysis included in a concise financial report under subsection 314(3). The auditor exemption applies if the requirements applying to the above exemptions for affected proprietary companies are satisfied.

### 12 Definitions in this Part

In this Part:

***approved subordinated debt*** means, in relation to a company, debt of the company which:

- (a) has been subordinated under an agreement which has:
  - (i) been executed by the company and the creditor and lodged with ASIC before the commencement of the relevant financial year; and
  - (ii) been approved by ASIC for the purposes of this Part, *ASIC Corporations (Audit Relief) Instrument 2016/784* or ASIC Class Order [CO 98/1417]; and
- (b) is not provided by an entity controlled by the company and is not funded directly or indirectly by the company or one of its controlled entities.

***borrower in relation to debentures*** means a company that is or will be liable to repay money under a debenture, but does not include a company

that only has debentures on issue that were issued or allotted because of offers which did not need disclosure to investors under Part 6D.2 of the Act because of subsection 708(1) of the Act.

**closed group** has the same meaning as in *ASIC Corporations (Wholly-owned Companies) Instrument 2016/785*.

**extended closed group** has the same meaning as in *ASIC Corporations (Wholly-owned Companies) Instrument 2016/785*.

**group** has the same meaning as in Accounting Standard AASB 10 *Consolidated Financial Statements*.

**Law** means in relation to a company, the former Corporations Law of the State or Territory under which the company was registered immediately before the commencement of the Act; and includes a separate reference to the former Corporations Law of each other State and Territory.

**management accounts** means accounts which include an income statement, a statement of changes in equity, balance sheet and cash flow statement.

**prescribed accountant** means each of the following:

- (a) a qualified accountant referred to in paragraphs 5(a) to (c) of *ASIC Corporations (Qualified Accountant) Instrument 2016/786*;
- (b) another accountant approved by ASIC for the purpose of compiling financial reports under this instrument and who reasonably believes that he or she complies with such requirements as may be specified by ASIC.

**quarter** means one of the periods of no more than 3 months into which the relevant financial year of a company is divided, as determined by the directors of the company.

**relevant financial year**: see subsection 13(1).

**unapproved subordinated debt** means any subordinated debt which is not approved subordinated debt.

### **13 Audit relief for large proprietary companies and small foreign controlled proprietary companies**

- (1) A company does not have to comply with any of the following in relation to the company's financial report for a financial year (**relevant financial year**):
  - (a) subsection 301(1) of the Act;

- (b) subparagraph 314(1)(a)(iii) of the Act;
  - (c) paragraph 314(1)(b) of the Act to the extent that a concise report required to be given under that paragraph must include:
    - (i) a statement by an auditor referred to in paragraph 314(2)(c) of the Act; or
    - (ii) a statement that the auditor's report will be sent to a member free of charge if the member asks for it;
- Note: See paragraph 314(2)(e) of the Act.
- (d) subsection 316(2) of the Act to the extent that it requires the company to send a member an auditor's report on its financial report.
- (2) The auditor (if any) of the company does not have to comply with subsection 314(3) of the Act in relation to the company's financial report for the financial year.

#### **14 Where the audit relief applies**

The relief in section 13 is available to a company and its auditor in relation to a relevant financial year where all of the following are satisfied as at 4 months after the end of the relevant financial year:

##### *Nature of company*

- (a) the company was:
  - (i) a large proprietary company for the relevant financial year; or
  - (ii) a small proprietary company to which paragraph 292(2)(b) of the Act applies in relation to the relevant financial year;
- (b) the company was not, at any time during the relevant financial year, any of the following:
  - (i) a disclosing entity;
  - (ii) a borrower in relation to a debenture;
  - (iii) the guarantor of such a borrower;
  - (iv) a financial services licensee;

##### *Previous audits*

- (c) the company has not had its financial report or financial statements audited for a financial year ending during 1993 or any later financial

year (except for a financial year which ended after 9 December 1995 and before 24 April 1997 if the company was a small proprietary company for that financial year and was controlled by a foreign company for all or part of that financial year);

*Resolutions by members and directors, and notice to ASIC*

- (d) within the period commencing 3 months before the commencement of the relevant financial year and ending 4 months after the end of the relevant financial year, the following have occurred:
  - (i) all of the directors of the company have passed a unanimous resolution that the company's financial report for the relevant financial year should not be audited; and
  - (ii) all of the members of the company (irrespective of whether they hold voting or non-voting shares) have passed a unanimous resolution that the company's financial report for the relevant financial year should not be audited.; and
  - (iii) unless the company relied on the relief available under section 13 or, if applicable, *ASIC Corporations (Audit Relief) Instrument 2016/784* in respect of the financial year immediately preceding the relevant financial year, a notice of the resolutions mentioned in subparagraphs (i) and (ii) signed by a director or company secretary has been lodged with ASIC using ASIC Form 382 as in force at the date of this instrument;
- (e) before passing the resolution referred to in subparagraph (d)(ii), the members of the company were provided, either in the notice of meeting or in material accompanying a proposed resolution under section 249A of the Act, with a statement by the directors stating whether, in their opinion, the cost of having the financial statements audited outweighs the expected benefits of the audit and setting out their reasons for that opinion;

*Notice requiring an audit*

- (f) the company has not been given written notice that the relief under section 13 is not to apply to the company for the relevant financial year by:
  - (i) a director, at any time before the directors' statement for the relevant financial year is signed; or
  - (ii) members who control 5% or more of the votes which might be cast at a general meeting of the company (as calculated as at the close of business on the day before the members serve the notice), at any time up to:

- (A) one month before the end of the relevant financial year;  
or
  - (B) a later time if ASIC has given written notice to the company approving that time; or
- (iii) any person who is owed approved subordinated debt by the company, at any time up to:
- (A) one month before the end of the relevant financial year;  
or
  - (B) a later time if ASIC has given written notice to the company approving that time; or
- (iv) ASIC;

*Solvency declarations*

- (g) the directors' declarations made under subsections 295(4) and (5) of the Act and former subsections 295(4) and (5) of the Law in respect of each financial year which ended on or after 1 July 1998 up to, and including, the relevant financial year contained unqualified statements that in the directors' opinion there were, when the declaration was made, reasonable grounds to believe that the company would be able to pay its debts as and when they become due and payable;

*Procedures to assess solvency*

- (h) the company has had procedures in place from the commencement of the relevant financial year which enable all the directors to assess whether the company is able to pay all its debts as and when they become due and payable (including, without limiting the generality of this requirement, any debts for which the company may become liable by virtue of any deed of cross guarantee to which the company is party for the purposes of relief to its wholly-owned entities in *ASIC Corporations (Wholly-owned Companies) Instrument 2016/785*) and the nature and frequency of those procedures were adequate for that purpose, having regard to the business and financial circumstances of the company;

*Quarterly management accounts*

- (i) to enable the directors to make the resolution required in paragraph (j), the directors of the company have caused management accounts covering the company to be prepared for each quarter:
- (i) within one month after the end of the quarter; or

- (ii) by a later time if ASIC has given the company written notice approving that time;
- (j) within one month after the end of each quarter, or by a later time if ASIC has given the company written notice approving that time:
  - (i) the directors have considered:
    - (A) the management accounts prepared for that quarter; and
    - (B) all information that has become available since the end of the quarter about the company's affairs which is material to the assessment of the management accounts for that quarter; and
  - (ii) having regard to the management accounts and that information, the directors have resolved that, at the end of the quarter and at the time the resolution was made:
    - (A) the total liabilities of the company did not exceed 70% of total tangible assets of the company; and
    - (B) the company was able to pay its debts as and when they become due and payable;
- (k) if the company prepared management accounts on a consolidated basis for any quarter during the relevant financial year, at the end of any such quarter and at the time a resolution is made in accordance with paragraph (j), the total consolidated liabilities did not exceed 70% of the total consolidated tangible assets;
- (l) if, at the end of any quarter during the relevant financial year, the company is a party to any deed of cross guarantee for the purposes of relief to its wholly-owned entities under *ASIC Corporations (Wholly-owned Companies) Instrument 2016/785*, the directors have resolved that, at the end of any such quarter and at the time the resolution is made in accordance with paragraph (j), the total consolidated liabilities did not exceed 70% of the total consolidated tangible assets in respect of:
  - (i) if the company prepares management accounts on a consolidated basis covering those (and only those) entities comprising the closed group—those entities; and
  - (ii) if the company prepares management accounts on a consolidated basis covering those (and only those) entities comprising the extended closed group—those entities;

*Annual financial requirements*

- (m) at the time the directors' declaration was made under subsections 295(4) and (5) of the Act for the relevant financial year, the directors considered:
- (i) the financial report of the company for the relevant financial year (including any consolidated financial statements required by accounting standards); and
  - (ii) all information that has become available since the end of the relevant financial year about the company's affairs, which is material to the assessment of the financial report of the company, and, where relevant, the assessment of the consolidated financial statements;

and, having regard to this information, the directors resolved that, at the end of the relevant financial year and at the time the resolution was made:

- (iii) the total liabilities of the company did not exceed 70% of total tangible assets of the company;
  - (iv) if relevant, the total consolidated liabilities did not exceed 70% of the total consolidated tangible assets for the company and its controlled entities; and
  - (v) if the company is a party to any deed of cross guarantee for the purposes of relief to its wholly-owned entities under *ASIC Corporations (Wholly-owned Companies) Instrument 2016/785*, the total consolidated liabilities did not exceed 70% of total consolidated tangible assets in respect of:
    - (A) those (and only those) entities comprising the closed group; and
    - (B) those (and only those) entities comprising the extended closed group;
- (n) for either the relevant financial year or the financial year immediately preceding the relevant financial year, the company made a profit after related income tax expense on the following bases:
- (i) a single entity basis;
  - (ii) if the company is a party to any deed of cross guarantee for the purposes of relief to its wholly-owned entities under *ASIC Corporations (Wholly-owned Companies) Instrument 2016/785*, on a consolidated basis separately for both:

- (A) those (and only those) entities comprising the closed group; and
- (B) those (and only those) entities comprising the extended closed group; and
- (iii) if the company is required under the Act or another ASIC order under section 340 or 341 of the Act to prepare consolidated financial statements, on a consolidated basis for the company and its controlled entities;
- (o) assets, liabilities, and profit after related income tax expense for the purposes of paragraphs (j) to (n) have been determined in accordance with accounting standards (as if the company, any controlled entities and the group were reporting entities) except that liabilities must include any unapproved subordinated debt and may exclude approved subordinated debt;

*Compilation of the financial reports*

- (p) the directors of the company:
  - (i) have caused the financial report for the relevant financial year of the company to be compiled by a prescribed accountant; and
  - (ii) reasonably believe that the accountant has undertaken the compilation in accordance with APES 315 *Compilation of Financial Information (APES 315)*; and
  - (iii) have attached the compilation report to the relevant financial report and included the compilation report with all copies of the relevant financial report distributed to members, lodged with ASIC or provided to any other person;

*Lodgement of financial reports*

- (q) the financial report and directors' report for the relevant financial year:
  - (i) substantially comply with Chapter 2M of the Act; and
  - (ii) are or were lodged with ASIC in accordance with subsection 319(1) and paragraph 319(3)(b) of the Act;

*Statement in directors' report*

- (r) in the directors' report for the relevant financial year, the directors state that the financial report for that relevant financial year has not

been audited, in reliance on this instrument, and that the requirements of this instrument have been complied with;

*Compliance with conditions*

- (s) the company has complied with the conditions in section 15 as they apply to the company.

**15 Conditions for the audit relief**

*Ceasing to rely on relief*

- (1) If a company:
  - (a) relies on the relief available under subsection 13(1) in respect of a financial year; and
  - (b) does not rely on that relief in respect of the immediately following financial year (*first non-reliance year*);

the company must lodge with ASIC a notice signed by a director or company secretary that the company has ceased to rely on the relief using ASIC Form 396 as at the date of this instrument.

- (2) A notice required under subsection (1) must be lodged during the period commencing 3 months before the commencement of the first non-reliance year and ending 4 months after the end of the first non-reliance year.

*Requests for management accounts*

- (3) If:
  - (a) a member or a person who is owed approved subordinated debt requests, in writing, a copy of the management accounts mentioned in paragraphs 14(i), (k) or (l) or a copy of the directors' resolution mentioned in paragraph 14(j) for a quarter specified in the request; and
  - (b) the request is made within 7 years after the end of the quarter to which the management accounts or directors' resolution relates;

the company must make a copy of the management accounts or the resolution (as the case may be) available to that person, free of charge, at the company's registered office or by sending these documents by pre-paid ordinary post:

- (c) within 14 days after receiving the request or 14 days after the resolution is passed, whichever is later; or

- (d) by a later time if ASIC has given the company written notice approving that time.

## **Part 4—Savings and transitional**

### **16 Application of Part 3**

Part 3 applies in relation to a financial year that ends on or after 1 September 2026.

### **17 Application of *ASIC Corporations (Audit Relief) Instrument 2016/784***

*ASIC Corporations (Audit Relief) Instrument 2016/784* continues to apply, despite its repeal, in relation to a financial year ending before 1 September 2026, provided that the condition in subsection 7(1) of that instrument applies as if “or the relief in subsection 15(1) of *ASIC Corporations (Auditing) Instrument 2026/XXX*” were inserted after “that relief” in paragraph 7(1)(b) of that instrument.

Note: The condition in subsection 7(1) of *ASIC Corporations (Audit Relief) Instrument 2016/784* imposes an ongoing obligation on a company that relies on relief under that instrument in relation to a financial year ending before 1 September 2026. This continues to apply after the company has obtained the benefit of that relief.

## **Part 5—Repeal**

### ***ASIC Corporations (CCIV Auditors) Instrument 2024/668***

#### **1 The whole of the instrument**

Repeal the instrument.

### ***ASIC Corporations (Auditor Independence) Instrument 2021/75***

#### **2 The whole of the instrument**

Repeal the instrument.

### ***ASIC Corporations (Audit Relief) Instrument 2016/784***

#### **3 The whole of the instrument**

Repeal the instrument.