

Attachment to CS 44: Draft instrument



ASIC
Australian Securities &
Investments Commission

ASIC Corporations (Intra-Fund Transfers) Instrument 2026/XX

I, Pippa Lane, delegate of the Australian Securities and Investments Commission,
make the following legislative instrument.

Date 2026

[DRAFT ONLY – NOT FOR SIGNATURE]

<signature>

Pippa Lane

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Part 1—Preliminary

1 Name of legislative instrument

This is the *ASIC Corporations (Intra-Fund Transfers) Instrument 2026/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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

5 Simplified outline of this instrument

This instrument provides relief to trustees of regulated superannuation funds from the application form and cooling-off requirements in Part 7.9 of the Act when issuing a superannuation product in the course of an intra-fund transfer.

Various requirements must be satisfied in order for the relief to apply.

6 Definitions

In this instrument:

Act means the *Corporations Act 2001*.

intra-fund transfer, in relation to a regulated superannuation fund, means each of the following:

- (a) a disposal of an interest in the fund and the acquisition of an interest in the fund of a different class in substitution for the interest disposed of;

- (b) any other circumstance where a person's membership of the fund in relation to a financial product or a sub-plan changes to membership of the fund in relation to another financial product or sub-plan.

Part 2—Exemptions

7 Application forms

A trustee of a regulated superannuation fund does not have to comply with section 1016A of the Act in relation to the issue of a superannuation product in the course of an intra-fund transfer in the circumstances specified in subsection 1019A(1A) of the Act.

Note: Subsection 1019A(1A) is notionally inserted into the Act by this instrument.

Part 3—Declaration

8 Cooling-off periods

Part 7.9 of the Act applies in relation to a superannuation product as if section 1019A were modified or varied by, after subsection (1), inserting:

“(1A) This Division does not apply to an issue of a superannuation product to a member of a regulated superannuation fund in the course of an intra-fund transfer in circumstances where all of the following apply:

- (a) the trustee of the fund holds an RSE licence that is subject to conditions to the following effect:
 - (i) the governing rules of the fund must contain a provision to the effect that the benefits of a member of the fund must not be transferred by way of an intra-fund transfer without the member’s consent unless:
 - (A) the transfer is to a section, division or plan of the fund which confers on the member equivalent rights to the rights that the member had under the original section, division or plan in respect of the benefits; or
 - (B) the transfer could, in the absence of any condition on the RSE licence, have lawfully been made without the member’s consent; and
 - (ii) the trustee must not transfer the benefits of a member of the fund by way of an intra-fund transfer unless the member consents to the transfer or the transfer is of a type referred to in sub-subparagraph (i)(A) or (B);
- (b) the governing rules of the fund contain the provision referred to in subparagraph (a)(i);
- (c) the trustee has not obtained the member’s consent to the intra-fund transfer;
- (d) the trustee has taken all reasonable steps to ensure that:
 - (i) the condition on its RSE licence referred to in subparagraph (a)(ii) has been satisfied in relation to the intra-fund transfer; and
 - (ii) one of the following applies:
 - (A) each interest in the fund that is, immediately before the disposal, in the same class as the interest disposed of in the course of the intra-fund transfer, is also

disposed of and substituted at substantially the same time and no further interests in that class are issued;

- (B) where the intra-fund transfer is otherwise than by way of the disposal and substitution of an interest—each person who has a membership of the fund in relation to a financial product (the ***original product***) of the same class or the same sub-plan (the ***original sub-plan***) to which the intra-fund transfer relates changes to membership of the fund in relation to another financial product or another sub-plan at substantially the same time and no person subsequently becomes a member of the fund in relation to the original product or original sub-plan; and

- (iii) at least 30 days before the superannuation product is issued to a person in the course of the intra-fund transfer, the person is given:

- (A) a notice in relation to the proposed transfer in accordance with section 1017B of the Act; and

- (B) a Product Disclosure Statement for the product.

- (1B) In subsection (1A):

intra-fund transfer, in relation to a regulated superannuation fund, means each of the following:

- (a) a disposal of an interest in the fund and the acquisition of an interest in the fund of a different class in substitution for the interest disposed of;
- (b) any other circumstance where a person's membership of the fund in relation to a financial product or a sub-plan changes to membership of the fund in relation to another financial product or sub-plan.

RSE licence means a licence granted under section 29D of the *Superannuation Industry (Supervision) Act 1993*.”

Part 4—Repeal

9 Repeal

This instrument is repealed at the start of 1 April 2031.

Schedule 1—Repeals

ASIC Corporations (Superannuation: Accrued Default Amount and Intra-Fund Transfers) Instrument 2016/64

1 The whole of the instrument

Repeal the instrument.