

EXPLANATORY STATEMENT for ASIC Corporations (Amendment) Instrument 2018/549

Prepared by the Australian Securities and Investments Commission

Corporations Act 2001

The Australian Securities and Investments Commission (ASIC) makes *ASIC Corporations (Amendment) Instrument 2018/549* under subsection 1020F(1) of *Corporations Act 2001* (the Corporations Act). Subsection 1020F(1) relevantly provides that ASIC may exempt a class of persons from specified provisions of Pt 7.9 of the Corporations Act and declare that those parts apply as if modified or varied in the declaration.

The legislative instrument amends the *ASIC Corporations (AFCA transition) Instrument 2018/447* (the primary instrument). Under subsection 33(3) of the *Acts Interpretations Act 1901* (as applicable to the relevant powers because of section 5C of the Corporations Act), where an Act confers a power to make, grant or issue any instrument (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend or vary any such instrument.

1. Background

The *Treasury Laws Amendment (Putting Consumers First – Establishment of the Australian Financial Complaints Authority Act) 2018* establishes a single financial services external dispute resolution scheme: the Australian Financial Complaints Authority (AFCA). AFCA will replace the two existing ASIC-approved external dispute resolution (EDR) schemes: the Financial Ombudsman Service and the Credit and Investments Ombudsman; and the statutory Superannuation Complaints Tribunal. The AFCA scheme will commence on 1 November 2018.

On 29 May 2018, ASIC made the primary instrument to give firms transitional relief from the requirements to update disclosure documents and periodic statements with AFCA's contact details until 1 July 2019. The primary instrument also gives firms relief from the significant event notification requirements relating to the transition to AFCA for issuers of financial products captured by s.1017B of the Corporations Act.

The primary instrument contains three legislative references with typographical errors.

2. Purpose of this instrument

ASIC Corporations (Amendment) Instrument 2018/549 is intended to correct the relevant legislative references in the primary instrument.

3. Operation of the instrument

The instrument amends sections 6 and 7 of the primary instrument so that they correctly refer to the provisions of the Corporations Act from which relief is provided.

4. Consultation

No consultation has been undertaken as the amendments are purely technical in nature.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

ASIC Corporations (Amendment) Instrument 2018/549

ASIC Corporations (Amendment) Instrument 2018/549 is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the Human Rights (Parliamentary Scrutiny) Act 2011.

Overview

ASIC Corporations (Amendment) Instrument 2018/549 corrects legislative references made in ASIC Corporations (AFCA transition) Instrument 2018/447.

Human rights implications

This legislative instrument does not engage any of the applicable rights or freedoms.

Conclusion

This legislative instrument is compatible with human rights as it does not raise any human rights issues.

Australian Securities and Investments Commission