



**ASIC**

Australian Securities & Investments Commission

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## **ASIC (Fees—Complexity Criteria) Instrument 2018/578**

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I, Grant Moodie, delegate of the Australian Securities and Investments Commission, make the following legislative instrument.

Date            3 July 2018

Grant Moodie

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## Part 1—Preliminary

### 1 Name of legislative instrument

This is the *ASIC (Fees—Complexity Criteria) Instrument 2018/578*.

### 2 Commencement

This instrument commences on the later of:

- (a) 4 July 2018; and
- (b) the day 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 5A(4) of the *Corporations (Fees) Act 2001*.

### 4 Definitions

In this instrument:

- (a) *Act* means the *Corporations Act 2001*;
- (b) unless the contrary intention appears, an expression that:
  - (i) is used, but not defined, in this instrument; and
  - (ii) is defined in section 761A of the Act;

has the same meaning in this instrument as in section 761A of the Act.

## Part 2—Determination

### 5 Application for an Australian financial services licence

#### *High complexity*

- (1) The lodgment of an application, under section 913A of the Act, for an Australian financial services licence, is of high complexity if the authorisations sought relate to any of the following financial products:
  - (a) a facility through which, or through the acquisition of which, a person makes a financial investment (within the meaning of section 763B of the Act) and which is not otherwise a specified financial product mentioned in subsection 764A(1) of the Act;
  - (b) a facility through which, or through the acquisition of which, a person manages financial risk (within the meaning of section 763C of the Act) and which is not otherwise a specified financial product mentioned in subsection 764A(1) of the Act;
  - (c) a margin lending facility that is a non-standard margin lending facility.
- (2) The lodgment of an application, under section 913A of the Act, for an Australian financial services licence, is of high complexity if the authorisations sought relate to any of the following financial services:
  - (a) make a market for a financial product;
  - (b) operate a registered scheme;
  - (c) the provision by a trustee company of a traditional trustee company service;
  - (d) dealing in relation to a derivative;
  - (e) in relation to securities or managed investment interests—underwriting the securities or interests;
  - (f) issuing any of the following financial products:
    - (i) a foreign exchange contract;
    - (ii) a margin lending facility that is a standard margin lending facility;
    - (iii) a facility through which, or through the acquisition of which, a person makes non-cash payments (within the meaning of section 763D of the Act);

- (iv) any of the financial products mentioned in paragraph (a) of the definition of **MDA provider** in *ASIC Corporations (Managed Discretionary Account Services) Instrument 2016/968*;
- (v) a financial product mentioned in paragraph 764A(1)(b) or (ba) of the Act including an interest in an **IDPS** (as defined in ASIC Class Order [CO 13/763]) or an **IDPS-like scheme** (as defined in ASIC Class Order [CO 13/762]).

Note: Paragraphs 764A(1)(b) and (ba) of the Act respectively cover an interest in a registered scheme and an interest in a managed investment scheme that is not a registered scheme.

## 6 Application for an Australian market licence

### *High complexity*

- (1) The lodgment of an application, under subsection 795A(1) of the Act, for an Australian market licence, is of high complexity if the assessment of the application requires:
  - (a) a significant level of expertise, or a significant amount of time, to assess the matters referred to in subsection 798A(2) of the Act; or
  - (b) the development of significant new policy in relation to Australian market licences.

### *Medium complexity*

- (2) The lodgment of an application, under subsection 795A(1) of the Act, for an Australian market licence, is of medium complexity if the assessment of the application requires:
  - (a) a moderate level of expertise, or a moderate amount of time, to assess the matters referred to in subsection 798A(2) of the Act; or
  - (b) the development of new policy in relation to Australian market licences.

### *Low complexity*

- (3) The lodgment of an application, under subsection 795A(1) of the Act, for an Australian market licence, is of low complexity if the lodgment of the application is of neither high nor medium complexity.

## **7 Application for an Australian CS facility licence**

### *High complexity*

- (1) The lodgment of an application, under subsection 824A(1) of the Act, for an Australian CS facility licence, is of high complexity if the assessment of the application requires:
  - (a) a significant level of expertise, or a significant amount of time, to assess the matters referred to in subsection 827A(2) of the Act; or
  - (b) the development of significant new policy in relation to Australian CS facility licences.

### *Medium complexity*

- (2) The lodgment of an application, under subsection 824A(1) of the Act, for an Australian CS facility licence, is of medium complexity if the assessment of the application requires:
  - (a) a moderate level of expertise, or a moderate amount of time, to assess the matters referred to in subsection 827A(2) of the Act; or
  - (b) the development of new policy in relation to Australian CS facility licences.

### *Low complexity*

- (3) The lodgment of an application, under subsection 824A(1) of the Act, for an Australian CS facility licence, is of low complexity if the lodgment of the application is of neither high nor medium complexity.

## **8 Lodging notice of changes to the operating rules of a licensed market**

### *High complexity*

- (1) The lodgment of written notice of changes to the operating rules with ASIC under subsection 793D(1), is of high complexity if the assessment of the changes requires:
  - (a) a significant level of expertise, or a significant amount of time, to assess the matters referred to in subsection 798A(2) of the Act; or
  - (b) the development of significant new policy in relation to the operating rules of licensed markets.

### *Medium complexity*

- (2) The lodgment of written notice of changes to the operating rules with ASIC under subsection 793D(1), is of medium complexity if the assessment of the changes requires:

- (a) a moderate level of expertise, or a moderate amount of time, to assess the matters referred to in subsection 798A(2) of the Act; or
- (b) the development of new policy in relation to the operating rules of licensed markets.

*Low complexity*

- (3) The lodgment of written notice of changes to the operating rules with ASIC under subsection 793D(1), is of low complexity if:
  - (a) the lodgment of written notice of the changes is of neither high nor medium complexity; or
  - (b) the changes merely correct typographical or cross-referencing errors or are merely consequential on changes to legislation, the market integrity rules, other legislative instruments or other operating rules.

**9 Lodging notice of changes to the operating rules of a licensed CS facility**

*High complexity*

- (1) The lodgment of written notice of changes to the operating rules with ASIC under subsection 822D(1), is of high complexity if the assessment of the changes requires:
  - (a) a significant level of expertise, or a significant amount of time, to assess the matters referred to in subsection 827A(2) of the Act; or
  - (b) the development of significant new policy in relation to the operating rules of licensed CS facilities.

*Medium complexity*

- (2) The lodgment of written notice of changes to the operating rules with ASIC under subsection 822D(1), is of medium complexity if the assessment of the changes requires:
  - (a) a moderate level of expertise, or a moderate amount of time, to assess the matters referred to in subsection 827A(2) of the Act; or
  - (b) the development of new policy in relation to the operating rules of licensed CS facilities.

*Low complexity*

- (3) The lodgment of written notice of changes to the operating rules with ASIC under subsection 822D(1), is of low complexity if:
  - (a) the lodgment of written notice of the changes is of neither high nor medium complexity; or

- (b) the changes merely correct typographical or cross-referencing errors or are merely consequential on changes to legislation, the market integrity rules, other legislative instruments or other operating rules.