



**ASIC**  
Australian Securities &  
Investments Commission

## Explanatory Statement

### *ASIC Corporations (Amendment) Instrument 2019/900*

This is the Explanatory Statement for ASIC Corporations (Amendment) Instrument 2019/900.

The Explanatory Statement is approved by the Australian Securities and Investments Commission (*ASIC*).

#### Summary

1. ASIC Corporations (Share and Interest Purchase Plans) Instrument 2019/547 (*Purchase Plan Instrument*) and ASIC Class Order [CO 09/425] (now repealed) respectively give effect to ASIC's current and past policy on share and interest purchase plans. These instruments grant exemptions from regulated disclosure under the *Corporations Act 2001 (Act)*.
2. In transitioning from ASIC's past policy to its current policy, it was necessary to make consequential amendments to other ASIC class orders and legislative instruments that referred to the now repealed Class Order [CO 09/425].
3. However, because of an oversight, one intended amendment was missed. ASIC Corporations (Amendment) Instrument 2019/900 (*Amendment Instrument*) corrects that oversight by making the missed consequential amendment.

#### Purpose of the instrument

4. The Purchase Plan Instrument and ASIC Corporations (Amendment and Repeal) Instrument 2019/548 (*Amendment and Repeal Instrument*) were registered on the Federal Register of Legislation on 28 August 2019.
5. The Purchase Plan Instrument remade the relief previously provided by ASIC Class Order [CO 09/425], facilitating the offer of share and interest purchase plans to existing registered holders, who are provided with the opportunity to participate in secondary capital raisings at a discount to the market price without brokerage fees.
6. The Amendment and Repeal Instrument repealed [CO 09/425] and made consequential amendments to other ASIC class orders and legislative instruments to ensure they continued to operate as intended.

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7. The Amendment and Repeal Instrument should have made two consequential amendments to ASIC Corporations (Managed investment product consideration) Instrument 2015/847 (*Amended Instrument*). It only made one amendment, with the second intended amendment being missed.
  8. The purpose of the Amendment Instrument is to correct that oversight.

### **Consultation**

9. Consultation was not undertaken in relation to the Amendment Instrument, as the single consequential amendment does not have any impact on the policy settings of the Amended Instrument.

### **Operation of the instrument**

10. The Amendment Instrument makes a consequential change which does not materially affect the policy settings of the Amended Instrument.
11. Schedule 1 to the Amendment Instrument omits and replaces the reference to [CO 09/425] made at subparagraph 7(b) of the Amended Instrument with a reference to the Purchase Plan Instrument.
12. The Amendment Instrument commences the day after it is registered on the Federal Register of Legislation.

### **Legislative authority**

13. The Amendment Instrument is made under subsection 601QA(1) of the Act.
14. Under subsection 33(3) of the *Acts Interpretation Act 1901* where an Act confers a power to make an instrument of a legislative character the power is to be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to amend it.
15. The Amendment Instrument is a disallowable legislative instrument.

### **Statement of Compatibility with Human Rights**

16. The Explanatory Statement for a disallowable legislative instrument must contain a Statement of Compatibility with Human Rights under subsection 9(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A Statement of Compatibility with Human Rights is in the Attachment.

## **Statement of Compatibility with Human Rights**

This Statement of Compatibility with Human Rights is prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

### ***ASIC Corporations (Amendment) Instrument 2019/900***

#### Overview

1. ASIC Corporations (Share and Interest Purchase Plans) Instrument 2019/547 and ASIC Class Order [CO 09/425] (now repealed) respectively give effect to ASIC's current and past policy on share and interest purchase plans.
2. These policies facilitate the offer of share and interest purchase plans to existing registered holders, who are provided with the opportunity to participate in secondary capital raisings at a discount to the market price without brokerage fees. These offers are facilitated by granting disclosure exemptions.
3. In transitioning from ASIC's past policy to its current policy, it was necessary to make consequential amendments to other ASIC class orders and legislative instruments that referred to the now repealed ASIC Class Order [CO 09/425].
4. These consequential amendments were made by ASIC Corporations (Amendment and Repeal) Instrument 2019/548. However, because of an oversight, one intended consequential amendment was missed.
5. This instrument corrects that oversight by making the missed amendment.

#### Assessment of human rights implications

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

#### Conclusion

7. This instrument 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*.