



**ASIC**  
Australian Securities &  
Investments Commission

---

## **ASIC Corporations (Short Selling) Amendment Instrument 2022/968**

---

I, Calissa Aldridge, delegate of the Australian Securities and Investments Commission, make the following legislative instrument.

Date 2 December 2022

Calissa Aldridge

---

## Contents

<b>Part 1—Preliminary</b>	<b>3</b>
1 Name of legislative instrument .....	3
2 Commencement .....	3
3 Authority .....	3
4 Schedules .....	3
<b>Schedule 1—Amendments</b>	<b>4</b>
<i>ASIC Corporations (Short Selling) Instrument 2018/745</i> .....	4

## **Part 1—Preliminary**

### **1 Name of legislative instrument**

This is the *ASIC Corporations (Short Selling) Amendment Instrument 2022/968*.

### **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 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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

## Schedule 1—Amendments

### *ASIC Corporations (Short Selling) Instrument 2018/745*

**1 Section 5 (notional paragraphs 1020B(4A)(b) and (4D)(b))**

Omit “Chi-X Australia Pty Ltd”, substitute “Cboe Australia Pty Ltd”.

**2 Section 5 (notional subsection 1020B(4D), definition of *ETF market maker*)**

Omit “Chi-X Australia Pty Ltd” (wherever occurring), substitute “Cboe Australia Pty Ltd”.

**3 Section 6 (notional paragraph 1020B(5A)(c)(ii))**

Omit “is”.

**4 Section 6 (at the end of notional subparagraph 1020B(5A)(c)(ii))**

Insert “or”.

**5 Section 6 (after notional subparagraph 1020B(5A)(c)(ii))**

Insert:

“(iii) an interest in an approved ETF, where:

(A) the hedged product is an approved ETO in relation to that ETF; and

(B) the market maker has been appointed to make a market in the approved ETO by the operator of the market that the approved ETO is admitted to trading on;”.

**6 Section 6 (notional paragraph 1020B(5B)(b))**

After “STW” (first occurring), insert “or an approved ETF”.

**7 Section 6 (notional paragraph 1020B(5B)(b))**

After “STW” (second and third occurring), insert “or the approved ETF”.

**8 Section 6 (notional paragraph 1020B(5C))**

After “sale of the shorted product”, insert “in reliance on subsection (5A)”.

**9 Section 6 (notional paragraph 1020B(5C)(d))**

Omit the paragraph, substitute:

“(d) for a shorted product that is an interest in STW or an approved ETF—have acquired or applied for interests in STW or the approved ETF.”.

**10 Section 6 (notional subsection 1020B(5J))**

After “In subsections (5A) to (5H):”, insert:

“*approved ETF* means each of:

- (a) the Vanguard MSCI Index International Shares ETF; and
- (b) the iShares Core S&P 500 ETF; and
- (c) the Betashares NASDAQ 100 ETF.

*approved ETO* means an exchange traded option that is exercisable:

- (a) only on one specific date; and
- (b) in respect of an interest in an underlying approved ETF.

*ETO* (or *exchange traded option*) means an option registered with:

- (a) ASX Clear Pty Limited; or
- (b) ASX Clear (Futures) Pty Limited.

*ETF* (or *exchange traded fund*) has the same meaning as in subsection 1020B(4D).”.

**11 Subsection 8(4) (definition of *exchange traded option*)**

Omit the definition, substitute:

“*exchange traded option* has the same meaning as in subsection 1020B(5J) of the Act.

Note: Subsection 1020B(5J) of the Act is notionally inserted by section 6 of this instrument.”.

**12 Section 11 (notes at the end of notional subsections 1020B(7B) and (7H))**

Omit the notes.

**13 Section 11 (notional subparagraphs 1020B(7C)(a)(ii) and (7D)(a)(iii))**

After “including payment of”, insert “(or an agreement to pay)”.

**14 Section 11 (notional paragraph 1020B(7F)(b), paragraph (b) of the definition of *public offer*)**

After “listed corporation”, insert “or a listed scheme”.

**15 Section 11 (notional paragraph 1020B(7H)(b))**

After “have an entitlement to be issued with”, insert “or transferred”.

**16 Subsection 13(2)**

Omit “Chi-X Australia Pty Ltd”, substitute “Cboe Australia Pty Ltd”.