



**ASIC**  
Australian Securities &  
Investments Commission

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# **ASIC Corporations and Superannuation (Website Disclosure Deferral) Instrument 2022/808**

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I, Jane Eccleston, delegate of the Australian Securities and Investments Commission, make the following notifiable instrument.

Date 14 September 2022

Jane Eccleston

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## **Part 1—Preliminary**

### **1 Name of notifiable instrument**

This is the *ASIC Corporations and Superannuation (Website Disclosure Deferral) Instrument 2022/808*.

### **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:

- (a) in relation to sections 5 and 10 of this instrument, subsection 328(1) of the *Superannuation Industry (Supervision) Act 1993*; and
- (b) in relation to sections 6 to 9 and 10 of this instrument, subsections 926A(2), 994L(1), and 1020F(1) of the *Corporations Act 2001*.

### **4 Definitions**

In this instrument:

***Corporations Act*** means the *Corporations Act 2001*.

***Deferral Period*** means the period commencing on the date this instrument commences and ending on the earlier of:

- (a) the day that is three months after this instrument commences; and
- (b) the business day before the Vanguard Super Fund begins accepting applications for membership from members of the general public.

***Expressions of Interest Webpage*** means the webpage maintained by or on behalf of Vanguard Super at <https://www.vanguard.com.au/super/personal-details>.

***Initial Cohort*** means the persons invited to participate in a testing phase by becoming the first members of the Vanguard Super Fund, prior to the Vanguard Super Fund being opened to members of the general public.

***product disclosure document***, in relation to an interest in a regulated superannuation fund, means:

- (a) any Product Disclosure Statement for an interest in the fund;

- (b) any document containing the fund information required under Subdivision 5.6 of Division 5 of Part 7.9 of the *Corporations Regulations 2001*.

**Product Disclosure Statement** has the same meaning as in the *Corporations Act 2001*.

**Relative** means any of the relationships described in the definition of “relative” in section 9 of the Corporations Act.

**Regulations** means the *Superannuation Industry (Supervision) Regulations 1994*.

**Regulatory Guide 271** means ASIC Regulatory Guide 271 *Internal Dispute Resolution* as published on 2 September 2021.

**SIS Act** means the *Superannuation Industry (Supervision) Act 1993*.

**Vanguard Super** means Vanguard Super Pty Ltd ACN 643 614 386 in its capacity as the trustee of the Vanguard Super Fund.

**Vanguard Super Fund** means the fund constituted by the trust deed dated 22 July 2022 and of which Vanguard Super Pty Ltd is trustee.

## Part 2—Exemptions

### 5 SIS Act exemption - website information

- (1) Vanguard Super does not have to comply with subsection 29QB(1) of the SIS Act to the extent that it requires Vanguard Super to make publicly available, or update, any of the following details, documents or information on the Vanguard Super Fund’s website during the Deferral Period:
- (a) details about a person referred to in item 1 of the table in subregulation 2.37(1) of the Regulations;
  - (b) details referred to in each of items 2 to 4 of the table in subregulation 2.37(1) of the Regulations;
  - (c) details referred to item in 9 of the table in subregulation 2.37(1) of the Regulations;
  - (d) a document referred to in each of paragraphs 2.38(2)(a) to (c) of the Regulations;
  - (e) a product disclosure statement referred to in paragraph 2.38(2)(e) of the Regulations;

- (f) information in relation to a person referred to in paragraph 2.38(2)(i) of the Regulations;
  - (g) information in relation to a person referred to in paragraph 2.38(2)(j) of the Regulations;
  - (h) a record of attendance for a director referred to in paragraph 2.38(2)(k) of the Regulations;
  - (i) a register referred to in paragraph 2.38(2)(l) of the Regulations;
  - (j) a summary of the conflicts management policy referred to in paragraph 2.38(2)(m) of the Regulations;
  - (k) a policy referred to in paragraph 2.38(2)(n) of the Regulations;
  - (l) the constitution referred to in paragraph 2.38(3)(a) of the Regulations.
- (2) The exemption specified in subsection 5(1) applies where Vanguard Super complies with the conditions in section 10.

## **6 Corporations Act exemption - complaints management documentation**

- (1) Vanguard Super does not have to comply with the standard and requirement made by ASIC for the purposes of subsection 912A(2) of the Corporations Act in paragraph 172 of Regulatory Guide 271 as made and approved in subparagraph 5(1)(m)(i) of *ASIC Corporations, Credit and Superannuation (Internal Dispute Resolution) Instrument 2020/98*, to make publicly available its complaint management documentation for the Vanguard Super Fund during the Deferral Period.
- (2) The exemption specified in subsection 6(1) applies where Vanguard Super complies with the conditions in section 10.

## **7 Corporations Act exemption – availability of target market determination**

- (1) Vanguard Super does not have to comply with subsection 994B(9) of the Corporations Act in relation to the Vanguard Super Fund during the Deferral Period.
- (2) The exemption specified in subsection 7(1) applies where Vanguard Super complies with the conditions in section 10.

## **8 Corporations Act exemption - product dashboard information**

- (1) Vanguard Super does not have to comply with section 1017BA(1) of the Corporations Act in relation to the Vanguard Super Fund during the Deferral Period.

- (2) The exemption specified in subsection 8(1) applies where Vanguard Super complies with the conditions in section 10.

## **9 Corporations Act exemption - unclaimed monies information**

- (1) Vanguard Super does not have to comply with the condition set out in section 6(2) of *ASIC Corporations (Unclaimed Superannuation – Former Temporary Residents) Instrument 2019/873* to make certain statements and information available on the website for the Vanguard Super Fund during the Deferral Period.
- (2) The exemption specified in subsection 9(1) applies where Vanguard Super complies with the conditions in section 10.

## **10 Conditions**

### *Maximum number of participants in Initial Cohort*

- (1) During the Deferral Period Vanguard Super must not offer membership of the Vanguard Super Fund to anyone other than a person in the Initial Cohort.
- (2) The Initial Cohort must not consist of more than:
  - (a) 50 employees of Vanguard Super or its related bodies corporate operating within Australia; and
  - (b) three additional natural persons, each of whom are a Relative of a person referred to in paragraph (a).

### *Requirement to provide copies of complaint management documentation*

- (3) Vanguard Super must provide each person in the Initial Cohort with a copy of the complaint management documentation for the Vanguard Super Fund mentioned in section 6(1) before that person becomes a member of the Vanguard Super Fund, and if those documents are updated during the Deferral Period, Vanguard Super must provide persons in the Initial Cohort with the updated documents within 5 business days of the update taking effect.

### *Details, documents and information to be made available to members of the Initial Cohort directly*

- (4) Before Vanguard Super accepts an application to become a member of the Vanguard Super Fund from a person in the Initial Cohort each person in the Initial Cohort must be provided with the details, documents and information required to be publicly available on the Vanguard Super Fund website (including the details, documents and information referred to in subsection 5(1)) during the Deferral Period in hard copy format or by electronic means (at the election of the member of the Initial Cohort).

- (5) If updates to the details, documents and information made available to the Initial Cohort under to subsection (4) are required during the Deferral Period, Vanguard Super must ensure that members of the Initial Cohort who become members of the Vanguard Super Fund are provided with updated details, documents or information in hard copy format or by electronic means (at the election of the member) within five business days of the relevant occurrence or change taking effect.

*Restrictions on marketing to retail clients*

- (6) Vanguard Super must not, and must ensure that its service providers do not undertake any marketing of the Vanguard Super Fund to retail investors, other than the maintenance of the Expressions of Interest Webpage during the Deferral Period.
- (7) Vanguard Super must ensure that the Expressions of Interest Webpage complies with section 1018A of the Corporations Act and only contains statements which are factual and accurate.