



ASIC
Australian Securities &
Investments Commission

Explanatory Statement

ASIC Credit (Amendment) Instrument 2023/675

This is the Explanatory Statement for *ASIC Credit (Amendment) Instrument 2023/675*.

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

Summary

1. *ASIC Credit (Amendment) Instrument 2023/675* (the **Instrument**) amends *ASIC Credit (Electronic Precontractual Disclosure) Instrument 2020/835* (the **Principal Instrument**) to extend the operation of the Principal Instrument for a further 12 months until 1 October 2024.

Purpose of the instrument

2. The Principal Instrument allows credit licensees and representatives to give pre-contractual disclosure to consumers in the same electronic manner that applies to other credit disclosure documents.
3. The *Treasury Laws Amendment (2023 Law Improvement Package No. 1) Bill 2023*, which provides for the making of Regulations to specify the ways in which a credit provider may give a document, was passed by Parliament on 7 September 2023. The accompanying Regulations, which give effect to the exemptions and modifications of the law currently in the Principal Instrument, have not yet been made.
4. The Principal Instrument was originally made in 2020 for a period of 3 years and is due to expire on 1 October 2023. ASIC considers that the Principal Instrument is operating effectively and efficiently to achieve its objectives and continues to form a necessary and useful part of the legislative framework, subject to its future replacement by the *Treasury Laws Amendment (2023 Law Improvement Package No. 1) Bill 2023* and accompanying Regulations.
5. The purpose of the Instrument is to extend the operation of the Principal Instrument for a further 12 months until 1 October 2024 to allow sufficient time for making of Regulations under *Treasury Laws Amendment (2023 Law Improvement Package No. 1) Bill 2023*.

Consultation

6. Before making the Instrument, ASIC consulted publicly. No submissions were received.

Operation of the instrument

7. Item 1 of Schedule 1 amends the Principal Instrument to extend its operation for a further 12 months until 1 October 2024.
8. The Instrument commences on the day after it is registered on the Federal Register of Legislation.

Legislative instrument and primary legislation

9. The subject matter and policy implemented by the Instrument is more appropriate for a legislative instrument rather than primary legislation because the instrument extends the operation of the Principal Instrument which is itself a legislative instrument.
10. Further, the circumstances which gave rise to the Principal Instrument have not changed and the Principal Instrument is due to expire on 1 October 2023.

Duration of the instrument

11. The duration of the Instrument is for a period of 12 months.

Legislative authority

12. The Instrument is made under paragraph 163(3)(d) of the *National Consumer Credit Protection Act 2009* (the Credit Act) and subsection 203A(3) of the *National Credit Code* (the Code).
13. Under subsection 33(3) of the *Acts Interpretation Act 1901*, 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.
14. The Instrument is a disallowable legislative instrument.

Statement of Compatibility with Human Rights

15. 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 Credit (Amendment) Instrument 2023/675

Overview

1. *ASIC Credit (Amendment) Instrument 2023/675* amends *ASIC Credit (Electronic Precontractual Disclosure) Instrument 2020/835* to extend the operation of the Principal Instrument for a further 12 months until 1 October 2024.

Assessment of human rights implications

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

Conclusion

3. 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*.