



ASIC
Australian Securities &
Investments Commission

Explanatory Statement

ASIC Credit (Amendment) Instrument 2024/20

This is the Explanatory Statement for *ASIC Credit (Amendment) Instrument 2024/20*.

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

Summary

1. *ASIC Credit (Amendment) Instrument 2024/20* (the **Instrument**) amends *ASIC Credit (Electronic Precontractual Disclosure) Instrument 2020/835* (the **Principal Instrument**) to repeal the instrument from 1 April 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) Act 2023* provided for the making of Regulations to specify the ways in which a credit provider may give a document. The accompanying Regulations, which give effect to the exemptions and modifications of the law currently in the Principal Instrument, were made on 13 December 2023 as the *Treasury Laws Amendment (Precontractual Disclosure and Other Measures) Regulations 2023*. These Regulations commence on 1 April 2024.
4. The purpose of the Instrument is to cease the operation of the Principal Instrument from 1 April 2024 in line with the commencement of the *Treasury Laws Amendment (Precontractual Disclosure and Other Measures) Regulations 2023*.

Consultation

5. As this is a technical amendment to cease the operation of the Principal Instrument in line with recent changes to the Act, ASIC has not consulted publicly.

Operation of the instrument

6. Item 1 of Schedule 1 amends the Principal Instrument to repeal it from 1 April 2024.
7. The Instrument commences on the day after it is registered on the Federal Register of Legislation.

Legislative instrument and primary legislation

8. The subject matter and policy implemented by the Instrument is more appropriate for a legislative instrument rather than primary legislation because it effectively ceases the operation of the Principal Instrument which is itself a legislative instrument.

Legislative authority

9. 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).
10. 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.
11. The Instrument is a disallowable legislative instrument.

Statement of Compatibility with Human Rights

12. 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 2024/20

Overview

1. *ASIC Credit (Amendment) Instrument 2024/20* amends *ASIC Credit (Electronic Precontractual Disclosure) Instrument 2020/835* to repeal it from 1 April 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*.