

25 August 2023

Product Regulation
Australian Securities and Investments Commission
GPO Box 9827
Brisbane QLD 4001

By email: product.regulation@asic.gov.au

Dear Sir or Madam

Media Release 23–220—Consultation on extending relief from design and distributions obligations

1. The Financial Services Committee of the Business Law Section of the Law Council of Australia (the **Committee**) thanks the Australian Securities and Investments Commission (**ASIC**) for the opportunity to respond to ASIC’s proposal set out in ASIC Media Release 23-220 (which was issued on 15 August 2023) (the **Media Release**) and the draft legislative instrument made available under cover of the Media Release (the **Draft Instrument**).

Background

2. ASIC has invited industry feedback on a proposal to extend the operation of the ASIC Corporations (Design and Distribution Obligations Interim Measures) Instrument 2021/784 (the **Primary Instrument**) for a further five years.
3. The Primary Instrument was initially made for a period of two years, and implements measures announced by Treasury which include relief for distributors from the obligation to report to product issuers if they received no complaints during a reporting period.
4. The Primary Instrument is due to sunset on 1 October 2023, and ASIC is proposing to make the amendments to the Primary Instrument as per the Draft Instrument.

The Committee’s position

5. The Committee agrees with ASIC that the Primary Instrument is operating effectively and efficiently, and that it continues to form a necessary and useful part of the legislative framework.
6. In the absence of Treasury making corresponding changes to the *Corporations Act 2001* (Cth) the Committee therefore supports the making of a legislative instrument in the form of the Draft Instrument to allow those parts of the Primary Instrument that remain relevant to continue to have effect.

7. The Committee also notes that the length of the consultation process seems unusually short. The Committee considers that it is preferable to allow 20 business days, at a minimum, for consultation.
8. Finally, the Committee notes that a lack of a supporting formal ASIC consultation paper may make it more difficult in the future to track the public record of the consultation process that was undertaken (because the Media Release will not be filed under the Consultation Papers section within the ASIC website).
9. If ASIC has any questions or would like to further discuss with any matters raised in this submission with the Committee, please do not hesitate to contact the Committee Chair, Pip Bell (pbell@pmclegal-australia.com).

Yours faithfully

A handwritten signature in black ink, appearing to read 'P. Argy', with a long, sweeping flourish extending to the right.

Philip Argy
Chairman
Business Law Section