Law Council
OF AUSTRALIA

Business Law Section

31 July 2026

Australian Securities and Investments Commission
GPO Box 9827
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By email: rri.consultation@asic.gov.au

Dear Colleague

ASIC Simple Consultation CS 57—Proposed remake of financial market operations relief instruments

Summary

1. This submission is made by the Financial Services Committee (**Committee**) of the Business Law Section of the Law Council of Australia. It is in response to Consultation Statement 57 *Proposed remake of Corporations Instruments 2016/841, 2016/881, and 2021/889* (**CS 57**). CS 57 was issued by the Australian Securities and Investments Commission (**ASIC**) on 6 July 2026.

2. CS 57 proposes to remake ASIC Corporations (Dematerialised Securities: Austraclear) Instrument 2016/841 (**Instrument 2016/841**), ASIC Corporations (Disclosure of Directors' Interests) Instrument 2016/881 (**Instrument 2016/881**) and ASIC Corporations (Records: Dealings on Foreign Markets) Instrument 2016/889 (**Instrument 2016/889**—together, **the ASIC Instruments**).

3. The Committee supports ASIC's proposal to remake the ASIC Instruments and, in particular, the continuation of the existing relief under the ASIC Instruments.

4. The Committee also recommends that ASIC seek Treasury's support for Parliament to make amendments to the *Corporations Act 2001* (Cth) to include the relief under the ASIC Instruments in the substantive law.

The purposes of the ASIC Instruments

5. The purposes of ASIC Instruments are as follows:

   (a) **Instrument 2016/841** modifies the application of relevant provisions of the Corporations Act, including Chapter 2L and Parts 6D.2 and 6D.3, to facilitate the issue, transfer and settlement of dematerialised securities through Austraclear Limited, without the need for physical certificates.

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(b) **Instrument 2016/881** provides modifications exempting a director of an ASX listed public company to comply with the obligation under section 205G(1) to notify the relevant market operator of a notifiable interest of the director where the director reasonably believes the company has complied with rule 3.19A of the ASX Listing Rules requiring disclosure about the notifiable interest.

(c) **Instrument 2016/889** exempts financial services licensees from the record-keeping requirements under regulation 7.8.19 of the *Corporations Regulations 2001* (Cth) in relation to instructions to deal in financial products received from an offshore wholesale client for dealings through financial markets that are not operated in this jurisdiction.

6. ASIC has provided draft instruments remaking the ASIC Instruments which indicate that the overall effect of the ASIC Instruments remains largely unchanged. The drafts include minor amendments intended to simplify the instruments, improve clarity and (where appropriate) ensure the relief is market neutral. The proposed changes comprise, in summary:

(a) the adoption of market-neutral language in the draft remake of Instrument 2016/881, extending the relief to directors of public companies listed on any declared financial market (rather than directors of ASX-listed public companies); and

(b) minor amendments to simplify and improve the clarity of the draft remake of Instrument 2016/841 and Instrument 2016/889.

Submission

7. The Committee agrees that the relief contained within each of the ASIC Instruments is necessary and that such relief should continue to be available. The Committee also agrees that the ASIC Instruments should be remade for a further five years with minor amendments and largely unchanged effect.

8. The ASIC Instruments provide relief in relation to financial market operations, which is clearly beneficial. This is reflected in ASIC's assessment that the instruments are 'operating effectively' and 'continue to form a necessary and useful part of the legislative framework'. Further, the reason that ASIC is undertaking this consultation, and that the remaking of the ASIC Instruments is proposed, is the effect of the 'sunsetting' regime for legislative instruments under section 50 of the *Legislation Act 2003* (Cth), under which legislative instruments automatically sunset after 10 years unless action is taken to preserve them.

9. The Committee considers that, as a matter of policy coherence and regulatory certainty, it would be preferable for the relief currently in the ASIC Instruments to be incorporated into the Corporations Act by Parliament, because it would improve navigability of the legislative framework, reduce the level of regulatory complexity and avoid the associated costs that are incurred as a consequence of ASIC needing to deploy resources to undertake the consultation process and draft the new instruments.

10. While the Committee notes that it is now ASIC's practice to remake instruments for only a five-year period rather than the maximum 10-year period, it should be noted that this means the regulatory maintenance costs associated with undertaking consultation and drafting fresh instruments are double what they would be over a 10-year period if the ASIC Instruments were made for the maximum 10-year period.

11. The Committee also recommends that any other ASIC documents, such as regulatory guides, that cross-refer to any of the ASIC Instruments, are promptly updated once the ASIC Instruments have been remade, in order to ensure that those other documents are kept up to date and do not inadvertently mislead the reader by referring to non-current legislative instruments.

12. The Committee would welcome the opportunity to discuss these matters further and ASIC can contact Steven Rice, Financial Markets Lead [redacted] if there is interest in doing so.

Yours sincerely



Adrian Varrasso
Chair, Business Law Section