

Attachment 5 to CP 233: Draft instrument



ASIC

Australian Securities & Investments Commission

ASIC Corporations (Related Scheme Reports) Instrument 2015/XX

I, <insert name>, delegate of the Australian Securities and Investments Commission, make the following legislative instrument.

Dated 2015

<signature>

<insert name>

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Part 1—Preliminary

1 Name of legislative instrument

This instrument is *ASIC Corporations (Related Scheme Reports) Instrument 2015/XX*.

2 Commencement

This instrument commences on the day after it is registered on the Federal Register of Legislative Instruments.

Note: The register may be accessed at <http://www.comlaw.gov.au>.

3 Authority

This instrument is made under subsection 341(1) of the *Corporations Act 2001*.

4 Definitions

(1) In this instrument:

Act means *Corporations Act 2001*.

director means, in relation to a registered scheme, a director (as defined in section 9 of the Act) of the responsible entity of the scheme.

(2) A registered scheme is *related* to another registered scheme if:

- (a) the schemes have the same responsible entity; or
- (b) the responsible entities of the schemes are wholly beneficially owned by the same entity.

(3) A period is of the *same kind* as another period if:

- (a) both of the periods are financial years; or
- (b) both of the periods are half-years.

Part 2—Order

5 Relief enabling one financial report for related schemes

Relief

- (1) A registered scheme (the **relevant scheme**) and its directors do not have to comply with Part 2M.3 of the Act to the extent that that Part prevents:
 - (a) the financial report for a financial year (the **relevant period**) or half-year (the **relevant period**) or concise report for a financial year:
 - (i) including the single entity or consolidated financial statements, notes to those statements, directors' report and directors' declaration of one or more registered schemes (each an **included scheme**) that are related to the relevant scheme; and
 - (ii) in the case of a concise report—omitting single entity reports for the relevant scheme; and
 - (b) the directors' report of the relevant scheme including the directors' report of related schemes.

Where the relief applies

- (2) The relief in subparagraph (1)(a)(i) and paragraph (1)(b) is available where all of the following apply:
 - (a) each financial report of an included scheme is:
 - (i) a financial report for:
 - (A) the relevant period; or
 - (B) another period of the same kind that ends no more than 6 months before or after the end of the relevant period; and
 - (ii) audited by the same audit company, audit firm or individual auditor;
 - (b) the financial statements for the relevant scheme and each included scheme are presented in adjacent columns in the financial report for the relevant scheme;
 - (c) in any concise report for the relevant scheme, the consolidated financial statements or the consolidated financial statements and the single entity financial statements for the scheme and each included scheme are presented in adjacent columns;

- (d) if an included scheme does not have the same responsible entity as the relevant scheme:
 - (i) the financial report contains:
 - (A) a prominent statement to the effect that only the responsible entity of a scheme takes responsibility for the financial report for the scheme; and
 - (B) a separate directors' declaration from each responsible entity covering the schemes that the responsible entity operates; and
 - (ii) there is a separate directors' report from each responsible entity covering the schemes that the responsible entity operates;
 - (e) where the directors' declaration covers more than one registered scheme, each declaration required by subsection 295(4) or 303(4) of the Act (as relevant) is presented in a way that enables each scheme to which it relates to be readily identified;
 - (f) the financial report for the relevant scheme includes statements indicating:
 - (i) the extent (if any) to which there are facilities in place for the proceeds of a withdrawal from the relevant scheme to be applied to the acquisition of an interest in any included scheme; and
 - (ii) whether further interests in the relevant scheme may be issued; and
 - (iii) where further interests in the relevant scheme may be issued—whether the proceeds of a withdrawal from any included scheme can be applied to acquire an interest in the relevant scheme;
 - (g) where a directors' report covers more than one registered scheme, the information included in it is presented in a way that enables each scheme for which any aspect is relevant to be readily identified.
- (3) The relief in subparagraph (1)(a)(ii) is available where:
- (a) the relief in subparagraph (1)(a)(i) is being relied on in relation to a concise report; and
 - (b) the concise report includes consolidated financial statements for the scheme.

- (4) The headings to the columns referred to in paragraphs (2)(b) and (c) must specify the period covered by the financial statement that is presented in the columns.