

Attachment 3 to CP 234: Draft instrument



ASIC

Australian Securities & Investments Commission

ASIC Corporations (Takeovers—Accelerated Rights Issues) Instrument 2015/XX

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

Dated 2015

[Name]

Contents

Part 1—Preliminary	3
1 Name of legislative instrument.....	3
2 Commencement	3
3 Authority.....	3
4 Definitions	3
Part 2—Declaration	4
5 Takeovers relief for accelerated rights issues	4

DRAFT

Part 1—Preliminary

1 Name of legislative instrument

This instrument is *ASIC Corporations (Takeovers – Accelerated Rights Issues) 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 www.comlaw.gov.au.

3 Authority

This instrument is made under subsection 655A of the *Corporations Act 2001*.

4 Definitions

In this instrument:

Act means the *Corporations Act 2001*.

Part 2—Declaration

5 Takeovers relief for accelerated rights issues

(1) Chapter 6 of the Act applies to all persons as if Part 6.2 of the Act were modified or varied as follows:

(a) in the table in section 611, after item 10, insert:

“Accelerated rights issues

10A An acquisition that results from an issue of securities that satisfies all of the conditions in item 10.

For the purposes of determining whether the offers of a company’s securities satisfy the conditions in paragraphs (d) and (e), disregard the following matters:

- (a) some or all persons who are offered securities as an exempt investor may:
 - (i) receive the offers before other persons to whom offers are made; or
 - (ii) be given a period of time to accept the offers which is less than the period of time given to other persons to whom offers are made;
- (b) the securities may be issued to a person as an exempt investor before securities are issued to other persons under the offers, provided that any such issue to an exempt investor occurs no earlier than 2 months before the issue of securities to other persons who are not exempt investors;
- (c) under the terms of the offers:
 - (i) offerees who are not exempt investors are able to trade rights on a prescribed financial market until a specified time for acceptances of offers has closed; and
 - (ii) offerees who are exempt investors are not able to trade rights.

This extends to an acquisition by a person as underwriter to the issue or sub-underwriter.

See section 615.

For the purposes of this item:

exempt investor means a person:

- (a) offered securities in circumstances that do not need disclosure under Part 6D.2 because of subsections 708(8) to (12); or
- (a) offered securities as a wholesale client (as defined in section 761G).

rights means rights to be issued securities under the offers.”.

- (b) in section 615 omit “item 10”, substitute “item 10 or 10A”.