

Attachment 2 to CP 255: Draft instrument



ASIC

Australian Securities & Investments Commission

ASIC Corporations (Amendment) Instrument 2016/XX

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

Dated 2016

<signature>

<insert name>

Contents

| | |
|--|----------|
| Part 1—Preliminary | 3 |
| 1 Name of legislative instrument..... | 3 |
| 2 Commencement | 3 |
| 3 Authority..... | 3 |
| 4 Definitions | 3 |
| 5 Schedule..... | 3 |
| Schedule 1—Amendments | 4 |
| ASIC Corporations (Compromises or Arrangements) Instrument 2015/358..... | 4 |

Part 1—Preliminary

1 Name of legislative instrument

This instrument is *ASIC Corporations (Amendment) Instrument 2016/XX*.

2 Commencement

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

Note: The register may be accessed at www.legislation.gov.au.

3 Authority

This instrument is made under subsections 741(1) and 1020F(1) of the Act.

4 Definitions

In this instrument:

Act means the *Corporations Act 2001*.

5 Schedule

Each instrument that is specified in a Schedule to this instrument is amended as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

ASIC Corporations (Compromises or Arrangements) Instrument 2015/358

1 Paragraph 4

Insert the following definitions:

capital reduction offer means an offer of securities or other financial products that is made to the members of a body in connection with a proposed reduction of the share capital of the body where the members are asked to vote on a resolution:

- (a) where the body is a company—to the effect that the body reduce its share capital in accordance with Division 1 of Part 2J.1 of the Act; or
- (b) otherwise—that the body reasonably believes is to the effect that the body reduce its share capital in accordance with a law that is in force in or in a part of an eligible foreign country or a relevant foreign country.

relevant foreign country means each of the following:

- (a) Canada;
- (b) France;
- (c) Germany;
- (d) Italy;
- (e) Japan;
- (f) The Netherlands;
- (g) Switzerland;
- (h) United States of America.

2 After paragraph 7

Insert:

8 Title and delivery of a Product Disclosure Statement in a reconstruction or capital reduction

Part 7.9 of the Act applies in relation to a financial product that is being offered, transferred or sold under a compromise or arrangement or is the

subject of a capital reduction offer as if the provisions in that Part were omitted, modified or varied as follows:

- (a) omit subsection 1013B(1); and
- (b) in section 1015C, insert after subsection (5):
 - “(6) For the purpose of subparagraph (1)(a)(ii) and for the avoidance of doubt, where a Statement is in or accompanies a notice of meeting of members of a company, foreign company or registered scheme, each member of the company or scheme is taken to have nominated the address shown in:
 - (a) in the case of a company or registered scheme—the register of members maintained by the company or responsible entity of the scheme under Chapter 2C; or
 - (b) in the case of a foreign company—the register of members (however described) kept by the company under the law of its place of origin.”.