

Attachment 4 to CP 262: Draft instrument



ASIC

Australian Securities & Investments Commission

ASIC Corporations (Exchange-Traded Warrants) Instrument 2016/XX

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

Date 2016

[DRAFT ONLY – NOT FOR SIGNATURE]

<signature>

<insert name>

Contents

Part 1—Preliminary	3
1 Name of legislative instrument.....	3
2 Commencement	3
3 Authority.....	3
4 Definitions	3
Part 2—Exemption	5
5 Exchange-traded managed investment warrants.....	5
Part 3—Declaration	6
6 Exchange-traded warrants	6

Part 1—Preliminary

1 Name of legislative instrument

This instrument is *ASIC Corporations (Exchange-Traded Warrants) 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 111AT(1) and 1020F(1) of the *Corporations Act 2001*.

4 Definitions

In this instrument:

Act means the *Corporations Act 2001*.

ASX operating rules means the operating rules of the licensed market operated by ASX Limited as in force from time to time.

Chi-X operating rules means the operating rules of the licensed market operated by Chi-X Australia Pty Ltd as in force from time to time.

disclosing entity provisions has the meaning given by section 111AR of the Act.

exchange-traded managed investment warrant means an exchange-traded warrant that is a managed investment warrant.

exchange-traded warrant means:

- (a) a warrant (within the meaning of rule [7100] of the ASX operating rules) that has been admitted to trading status (within the meaning of rule [7100] of the ASX operating rules); or
- (b) a warrant (within the meaning of rule 1.1 of the Chi-X operating rules) that has been admitted to quotation (within the meaning of rule 1.1 of the Chi-X operating rules).

managed investment warrant means a financial product:

- (a) to which the definition of **derivative** in subsection 761D(1) of the Act applies that is a financial product of the kind referred to in subparagraph 764A(1)(b)(ii) or 764A(1)(ba)(ii) of the Act; and
- (b) that is transferable.

Short-Form PDS has the same meaning as in Division 3A of Part 7.9 of the Act as notionally inserted by Part 3 of Schedule 10BA to the *Corporations Regulations 2001*.

warrant issuer means:

- (a) in relation to a managed investment warrant that satisfies paragraph (a) of the definition of **exchange-traded warrant**—a warrant-issuer (within the meaning of rule [7100] of the ASX operating rules); and
- (b) in relation to a managed investment warrant that satisfies paragraph (b) of the definition of **exchange-traded warrant**—a product issuer (within the meaning of rule 1.1 of the Chi-X operating rules).

Part 2—Exemption

5 Exchange-traded managed investment warrants

- (1) A warrant issuer that complies with section 1017B of the Act as if subsection 1017B(2) were omitted is exempt from:
 - (a) section 1013I of the Act in relation to a Product Disclosure Statement or Short-Form PDS that relates to an exchange-traded managed investment warrant of the warrant issuer;
 - (b) section 1015B of the Act in relation to a Product Disclosure Statement that relates to an exchange-traded managed investment warrant of the warrant issuer; and
 - (c) section 1017D of the Act in relation to an exchange-traded managed investment warrant of the warrant issuer.

Note 1: The consequences of relying on the exemption from section 1015B of the Act include paragraph 1013G(a), section 1013J and subsection 1016B(1) of the Act not applying in relation to the relevant Product Disclosure Statement, and section 1015D of the Act applying in relation to that Statement.

Note 2: Section 1015B of the Act does not apply to a Short-Form PDS.

- (2) A warrant issuer is exempt from the disclosing entity provisions where the warrant issuer is a disclosing entity only because one or more classes of exchange-traded managed investment warrants of the warrant issuer are ED securities.

Part 3—Declaration

6 Exchange-traded warrants

- (1) Part 7.9 of the Act applies in relation to an exchange-traded warrant as if item 3 in the table in subsection 761E(3) of the Act were omitted.
- (2) Subsection (1) applies where the exchange-traded warrant is acquired on the financial market in relation to which it has been admitted to trading status or quotation.