



ASIC

Australian Securities &
Investments Commission

REGULATORY GUIDE 58

Reporting by registered foreign companies and Australian companies with foreign shareholders

June 2020

About this guide

This guide is for registered foreign companies and companies in which a foreign company has an interest.

It describes the relief we may grant to:

- exempt these companies from certain financial reporting obligations in the *Corporations Act 2001* (Corporations Act); and
- allow the financial year of a company, registered managed investment scheme or disclosing entity to be synchronised with that of its foreign parent company.

Note: From 27 July 2020, applications for relief should be submitted through the [ASIC Regulatory Portal](#). For more information, see [how you apply for relief](#).

About ASIC regulatory documents

In administering legislation ASIC issues the following types of regulatory documents.

Consultation papers: seek feedback from stakeholders on matters ASIC is considering, such as proposed relief or proposed regulatory guidance.

Regulatory guides: give guidance to regulated entities by:

- explaining when and how ASIC will exercise specific powers under legislation (primarily the Corporations Act)
- explaining how ASIC interprets the law
- describing the principles underlying ASIC's approach
- giving practical guidance (e.g. describing the steps of a process such as applying for a licence or giving practical examples of how regulated entities may decide to meet their obligations).

Information sheets: provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

Reports: describe ASIC compliance or relief activity or the results of a research project.

Document history

This guide was issued in June 2020 and is based on legislation and regulations as at the date of issue. The note on the front page was inserted on 27 July 2020.

Previous versions:

- Superseded Regulatory Guide 58, *Reporting requirements: Registered foreign companies and Australian companies*, issued January 2008, reissued November 2009, May 2011 and July 2018
- Superseded Policy Statement 58, issued June 1993, reissued May 1997, September 1998, April 2000 and February 2005, rebadged as a regulatory guide 5 July 2007
- Superseded Policy Statement 36, issued October 1992, incorporated into Regulatory Guide 58 in June 1993 and withdrawn

Disclaimer

This guide does not constitute legal advice. We encourage you to seek your own professional advice to find out how the Corporations Act and other applicable laws apply to you, as it is your responsibility to determine your obligations.

Contents

A	Overview	4
	Financial reporting obligations	4
	Relief from reporting obligations	5
	Synchronising a financial year with a foreign parent	5
B	Financial reporting obligations	6
	Who has to prepare annual financial reports and directors' reports ..	6
	What is a 'large group'?	7
C	Relief from reporting obligations	10
	Registered foreign companies	10
	Large proprietary companies with foreign company shareholders ..	11
	Small proprietary companies controlled by foreign companies	11
	Audit relief: ASIC Corporations (Audit Relief) Instrument 2016/784	14
D	Synchronising a financial year with a foreign parent	15
	Financial year length	15
	Relief under ASIC Corporations (Synchronisation of Financial Years)	
	Instrument 2016/189	15
	Individual relief	16
	Appendix: General reporting requirements	19
	Key terms	21
	Related information	23

A Overview

Key points

This guide explains the relief we give to:

- registered foreign companies and companies in which a foreign company has an interest from certain financial reporting obligations in the *Corporations Act 2001* (Corporations Act); and
- a company, registered managed investment scheme (registered scheme) or disclosing entity to allow its financial year to be synchronised with that of its foreign parent company.

Financial reporting obligations

- RG 58.1 Under s292(2)(b), a small proprietary company that is controlled by a foreign company must prepare and lodge a financial report if:
- it was controlled by a foreign company for all or part of the year; and
 - it is not consolidated for that period in financial statements lodged with ASIC for that year by a registered foreign company, company, registered scheme or disclosing entity.
- RG 58.2 Registered foreign companies or small proprietary companies that are controlled by a foreign company may be eligible for relief from preparing and lodging financial reports if they are not part of a 'large group' under [ASIC Corporations \(Foreign-Controlled Company Reports\) Instrument 2017/204](#). We use the test in s45A(3) to define when a group is a 'large group': see Section B.
- RG 58.3 While ASIC may provide relief to registered foreign companies from some or all of the requirements of s601CK, the relief may not be granted where it results in a registered foreign company lodging less information than an equivalent Australian company.
- RG 58.4 [ASIC Corporations \(Foreign-Controlled Company Reports\) Instrument 2017/204](#) also puts the reporting requirements of small proprietary companies that are controlled by a foreign company on par with other Australian small proprietary companies.

Note: See the appendix for an overview of the general financial reporting requirements for registered foreign companies and small proprietary companies that are controlled by a foreign company if no relief is applied.

Relief from reporting obligations

- RG 58.5 We give relief from certain financial reporting obligations to:
- (a) registered foreign companies;
 - (b) large proprietary companies that have foreign company shareholders;
and
 - (c) small proprietary companies that are controlled by foreign companies.
- RG 58.6 Registered foreign companies or companies must notify us when the relief will be applied and when it will cease. We may also notify a registered foreign company or a company that it cannot rely on the relief for a specific financial year: see Section C.

Synchronising a financial year with a foreign parent

- RG 58.7 A company, registered scheme or disclosing entity may synchronise its financial year with a foreign parent if it is eligible under [ASIC Corporations \(Synchronisation of Financial Years\) Instrument 2016/189](#), or by applying for individual relief if the instrument does not apply: see Section D.

B Financial reporting obligations

Key points

A small proprietary company that is controlled by a foreign company must apply the principles in s292(2)(b) when lodging financial statements.

Registered foreign companies or small proprietary companies that are controlled by a foreign company may be eligible for relief from preparing and lodging financial reports if they are not part of a 'large group' under [ASIC Corporations \(Foreign-Controlled Company Reports\) Instrument 2017/204](#). We use the test in s45A(3) to define when a group is a 'large group'.

Who has to prepare annual financial reports and directors' reports

- RG 58.8 Under s292(2)(b), a small proprietary company that is controlled by a foreign company must prepare and lodge a financial report only if:
- (a) it was controlled by a foreign company for all or part of the year; and
 - (b) it is not consolidated for that period in financial statements lodged with ASIC for that year by a registered foreign company, company, registered scheme or disclosing entity.
- RG 58.9 For the purposes of s292(2)(b) and using the definition of 'control' in s9, the control test in s50AA must be used to determine whether a small proprietary company is controlled by a foreign company.
- RG 58.10 Section 292(2)(b) was not intended to allow a foreign company to lodge its financial statements with ASIC under the Corporations Act. It also does not permit a small proprietary company to lodge the financial statements of a foreign parent company under its Australian Company Number (ACN). However, under s3CA of the *Tax Administration Act 1953*, significant global entities must lodge their general purpose financial statements with the Commissioner of Taxation for income tax purposes. A copy of an entity's general purpose financial statements is provided to ASIC—it appears on the register and is available to the public.
- RG 58.11 The Corporations Act only requires the lodgement of financial reports by companies that are registered foreign companies. We therefore cannot accept financial statements lodged by non-registered foreign companies in place of the financial, directors' and auditors' reports of a controlled small proprietary company.
- RG 58.12 Registered foreign companies must lodge financial information once in every calendar year and at intervals of no more than 15 months: see s601CK.

However, an Australian small proprietary company that is controlled by a foreign company must lodge four months after the end of the financial year. This means that if a registered foreign company plans to lodge consolidated financial statements:

- (a) the Australian small proprietary company it controls does not have to prepare and lodge its own financial, directors' and auditors' reports; and
- (b) the registered foreign company must lodge its consolidated financial statements within four months after the end of the financial year of the Australian small proprietary company.

RG 58.13 We will consider applications for individual relief under s340 to extend this time: see [Regulatory Guide 43 *Financial reports and audit relief*](#) (RG 43) and [Regulatory Guide 51 *Applications for relief*](#) (RG 51). Pre-conditions for relief under s340 are set out in s342. The Corporations Act sets out specific deadlines in which a statutory financial report must be lodged with ASIC. Only in rare circumstances will we grant an extension of this time on the basis that it is an unreasonable burden. In the case of a disclosing entity any relief is unlikely to be for more than four weeks.

RG 58.14 When it lodges its consolidated financial statements, the controlling foreign company does not have to be a registered foreign company at the end of the controlled small proprietary company's financial year. However, the foreign company needs to be registered under Pt 5B.2 when it lodges its consolidated financial statements.

What is a 'large group'?

RG 58.15 Registered foreign companies or small proprietary companies that are controlled by a foreign company may be eligible for relief from preparing and lodging financial reports if they are not part of a 'large group' in Australia under [ASIC Corporations \(Foreign-Controlled Company Reports\) Instrument 2017/204](#). This stops companies that are foreign controlled separating into smaller companies to avoid their financial reporting obligations.

RG 58.16 Under [ASIC Corporations \(Foreign-Controlled Company Reports\) Instrument 2017/204](#), a 'group' comprises:

- (a) the entity in question;
- (b) entities that control the entity in question and are incorporated or formed in Australia or carry on business in Australia;
- (c) any other entities (the other entities) controlled by any foreign company that controls the entity in question that are incorporated, formed or carrying on business in Australia; and

- (d) any entities that are controlled by the entity in question or the other entities.
- RG 58.17 To be included in the group, the controlled entities of the entity in question and the other entities do not have to be incorporated, formed or carrying on business in Australia.
- RG 58.18 For financial years commencing on or after 1 July 2019, a group is a 'large group' when, on a combined basis, it satisfies at least two of the following criteria for the financial year of the company in question:
- (a) its combined revenue for the financial year is \$50 million, or other amount prescribed by the regulations, or more;
 - (b) the combined value of its gross assets at the end of the financial year is \$25 million, or other amount prescribed by the regulations, or more; and/or
 - (c) it has 100, or any other prescribed number, or more, employees at the end of the financial year (part-time employees are counted as an appropriate fraction of a full-time equivalent).
- RG 58.19 For financial years commencing before 30 June 2019, a group is a 'large group' when, on a combined basis, it satisfies at least two of the following criteria for the financial year of the company in question:
- (a) its combined revenue for the financial year is \$25 million, or other amount prescribed by the regulations, or more;
 - (b) the combined value of its gross assets at the end of the financial year is \$12.5 million, or other amount prescribed by the regulations, or more; and/or
 - (c) it has 50, or any other prescribed number, or more, employees at the end of the financial year (part-time employees are counted as an appropriate fraction of a full-time equivalent).
- Note: The above size criteria are based on the size criteria for financial reporting by proprietary companies under s45A(3).
- RG 58.20 Combining the financial information of the group is a process similar to consolidation. Groups which cannot be combined are:
- (a) foreign parent companies that do not carry on business in Australia unless they are controlled by an entity operating or incorporated in Australia; and
 - (b) entities controlled by a foreign company that are not incorporated, formed or do not carry on business in Australia unless those entities are controlled through an entity that is incorporated or formed in Australia or carries on business in Australia.

- RG 58.21 As part of the consolidation process, elimination entries required by Australian Accounting Standard [AASB 10](#) *Consolidated financial statements* should be made—for example, inter-company debts, investments and revenue.
- RG 58.22 Entities should be included in the group only for the part of the year when they were controlled by the common foreign company. Entities incorporated, formed or carrying on business in Australia for only part of the year should be included in the group—together with the entities which they control—for that part of the year, even if they ceased to operate in Australia and/or were deregistered before the end of the financial year.

C Relief from reporting obligations

Key points

We provide conditional relief from financial or audit reporting obligations to registered foreign companies, large proprietary companies that have foreign company shareholders and small proprietary companies that are controlled by foreign companies.

Registered foreign companies or companies must notify us when the relief will be applied and when it will cease. We may also notify a registered foreign company or a company that it cannot rely on the relief for a specified financial year.

Registered foreign companies

- RG 58.23 Registered foreign companies must lodge a balance sheet, profit and loss statement, and cash flow statement with ASIC: see s601CK. This should include all notes to the financial statement. We may provide relief to registered foreign companies from this requirement: see s601CK(7).
- RG 58.24 We are unlikely to give relief to a registered foreign company carrying on business in Australia if it means that the registered foreign company would lodge less information with ASIC than an equivalent Australian company would: see s601CK(7). This is particularly the case for registered foreign companies where relief would result in them lodging less information than equivalent 'non-grandfathered' Australian proprietary companies that are controlled by foreign companies.
- RG 58.25 We have therefore provided relief under s601CK(7) only for registered foreign companies that:
- (a) are subject to provisions corresponding with, and no less strict than, those imposed on Australian proprietary companies by s113;
 - (b) are not required to prepare any one or more of the following under the law applicable to the company in their place of origin:
 - (i) a balance sheet at the end of their last financial year;
 - (ii) a profit and loss statement for their last financial year; or
 - (iii) a cash flow statement for their last financial year;
 - (c) have not been a disclosing entity, borrowing corporation or guarantor of a borrowing corporation at any time during the calendar year;
 - (d) are not large under a test similar to that applied to proprietary companies under s45A; and

- (e) are either:
- (i) not a part of a group that is a large group (see RG 58.15–RG 58.21); or
 - (ii) have been consolidated for their entire financial year in consolidated financial statements lodged with ASIC by one or more parents of the company that are registered foreign companies, companies or disclosing entities.

Note: See [ASIC Corporations \(Foreign-Controlled Company Reports\) Instrument 2017/204](#).

RG 58.26 Registered foreign companies eligible for relief under the instrument must lodge an annual return in the prescribed form, [Form 406 Annual return of a foreign company](#), with ASIC at least once in each calendar year: see s601CK(9).

Large proprietary companies with foreign company shareholders

RG 58.27 Parliament has granted ‘grandfathered’ large proprietary companies some exemptions from lodging financial reports, provided they meet specific criteria. These criteria include meeting their obligations to ensure their financial reports are audited before the deadline for reporting to members, and that their ownership structures remain private.

RG 58.28 In limited circumstances, [ASIC Corporations \(Exempt Proprietary Companies\) Instrument 2015/840](#) provides relief to preserve the ‘grandfathered’ status of certain large proprietary companies from the obligation to lodge their annual report with ASIC when they have not met the ‘grandfathering’ conditions. This relief is provided in particular and in very limited circumstances that do not detract from the conditions underlying their exempt status: see s319(1).

Small proprietary companies controlled by foreign companies

RG 58.29 Certain small proprietary companies that are controlled by foreign companies are required to prepare and lodge an audited financial report and a directors’ report with us: see s292(2)(b). Within the context of this legislative framework, we have executed two instruments to ensure parity, [ASIC Corporations \(Foreign-Controlled Company Reports\) Instrument 2017/204](#) and [ASIC Corporations \(Audit Relief\) Instrument 2016/784](#).

RG 58.30 Section 292(2)(b) requires a small proprietary company that was controlled by a foreign company for all or part of a financial year to comply with the financial reporting obligations under Pt 2M.3 unless it was consolidated for

that period in financial statements lodged with ASIC by a registered foreign company, a company, a disclosing entity or a registered scheme.

- RG 58.31 [ASIC Corporations \(Foreign-Controlled Company Reports\) Instrument 2017/204](#) makes sure that the reporting requirements of small proprietary companies controlled by a foreign company that are not part of a ‘large group’ are equal to other Australian small proprietary companies. Under this instrument these companies are eligible for relief from:
- (a) preparing and lodging a financial and directors’ report with ASIC; and
 - (b) the requirement to have their financial report audited.

Notification requirements

- RG 58.32 Registered foreign companies or companies must notify us when the relief will be applied and when it will cease. We may also notify a registered foreign company or a company that it cannot rely on the relief for a specific financial year. Table 1 outlines the process for applying and ceasing to apply the relief.

Table 1: Process for applying the relief under ASIC Corporations (Foreign-Controlled Company Reports) Instrument 2017/204

Situation	Process requirements
How to apply the relief in the first financial year	<p>Directors must resolve to apply the relief no earlier than three months before the first financial year to which it is to apply.</p> <p>The company must lodge Form 384 <i>Resolution by directors of a small proprietary company controlled by a foreign company which is not part of a ‘large group’</i> no earlier than three months before the start of the first relevant financial year and no later than four months after the end of the first relevant financial year.</p>
How to apply the relief in subsequent financial years	<p>If the relief was applied in the immediately preceding financial year and the company is continuing to apply the relief, the directors must resolve to apply the relief no earlier than three months before each financial year to which it is to apply. Form 384 does not need to be lodged again.</p>
How to discontinue the application of the relief in a subsequent financial year	<p>If the company does not or cannot continue to apply the relief, it must lodge:</p> <ul style="list-style-type: none"> • Form 394 <i>Notice of cessation of reliance on ASIC Corporations (Foreign-Controlled Company Reports) Instrument 2017/204</i> during the period three months before the start of the relevant financial year and ending four months after the end of the relevant financial year (and lodge an annual financial report within the reporting deadline under Ch 2M); or • an annual financial report prepared under Ch 2M—if we have given notice that the relief does not apply for a specified financial year. <p>Failure to do either of these things means the company will be unable to reapply the relief in future years.</p>

Situation	Process requirements
How to reapply the relief in future years after a discontinuation	<p>To reapply the relief in future years, the directors must again:</p> <ul style="list-style-type: none"> • resolve to apply the relief no earlier than three months before each financial year to which it is to apply; and • lodge Form 384 (for the first relevant financial year) no earlier than three months before the start of the financial year and no later than four months after the end of the financial year.

Conditions of relief

- RG 58.33 The Corporations Act requires small proprietary companies that are controlled by foreign companies to prepare and lodge audited financial statements and reports. Relief from these requirements under [ASIC Corporations \(Foreign-Controlled Company Reports\) Instrument 2017/204](#) is a privilege rather than a right. In order to take advantage of that privilege companies must lodge, as relevant, [Form 384](#) or [Form 394](#) on time.
- RG 58.34 Lodging [Form 384](#) or [Form 394](#) and the processing of these forms onto the ASIC database does not indicate that we have given any form of approval and does not enable a company to take advantage of relief under [ASIC Corporations \(Foreign-Controlled Company Reports\) Instrument 2017/204](#). A company will only have the benefit of relief if it meets all of the instrument's requirements.
- RG 58.35 Even if the relief applies, shareholders holding 5% or more of the voting shares in the company may ask the company to prepare a financial report and directors' report, and to have the financial report audited.

Notification not to rely on relief

- RG 58.36 Consistent with other instruments providing financial reporting and audit relief, [ASIC Corporations \(Foreign-Controlled Company Reports\) Instrument 2017/204](#) allows us to notify individual registered foreign companies and small proprietary companies that are controlled by foreign companies that they may not rely on the relief provided by the instrument for a specified financial year.
- RG 58.37 In deciding whether to notify an entity that it may not rely on the relief for a specified financial year, we consider the information needs of users and potential users of the financial report. Users may include creditors, suppliers, other regulators and the public. In making our decision, we may use information provided by other regulators, such as the Australian Taxation Office (ATO). For example, we would consider if the information in the financial report would assist the public and provide more transparency so that they can understand the extent to which the company is paying tax on

revenue derived from Australian sources. We will also seek, and consider, any comments from the affected entity before issuing any notice.

- RG 58.38 The likelihood of us being asked by the ATO to notify an entity that it may not rely on the relief has diminished with amendments to income taxation legislation, which require large global entities to lodge general purpose financial statements with the ATO. The requirement to lodge financial statements under income tax legislation applies irrespective of any relief or exemptions under the Corporations Act.

Note: Visit the [ATO's website](#) for information on the provision of general purpose financial statements by significant global entities.

Audit relief: ASIC Corporations (Audit Relief) Instrument 2016/784

- RG 58.39 Small proprietary companies that are controlled by foreign companies may be eligible for relief from having their financial reports audited: see [ASIC Corporations \(Audit Relief\) Instrument 2016/784](#) and [Regulatory Guide 115 Audit relief for proprietary companies](#) (RG 115).
- RG 58.40 One condition of the relief is that shareholders and directors must unanimously resolve to take advantage of this relief within the 19-month period, commencing three months immediately before the start of the relevant financial year and no later than four months after the end of the financial year.
- RG 58.41 The company must notify ASIC of this resolution, using [Form 382 Notification of resolutions for audit relief: Proprietary companies](#), within the specified timeframe: see RG 115.44.

D Synchronising a financial year with a foreign parent

Key points

A company, registered scheme or disclosing entity may synchronise its financial year with a foreign parent if it is eligible under [ASIC Corporations \(Synchronisation of Financial Years\) Instrument 2016/189](#) or by applying for individual relief if the instrument does not apply.

Financial year length

- RG 58.42 The first financial year for a company, registered scheme or disclosing entity starts on the day of its registration: see s323D. The first financial year may last for 12 months or for a period no longer than 18 months, determined by the directors: see s323D(1).
- RG 58.43 Under s323D(2), each subsequent financial year must:
- (a) start at the end of the previous financial year; and
 - (b) be 12 months long.
- RG 58.44 Exceptions to the 12-month rule under s323D(2) may exempt some entities from having a financial year of 12 months.
- RG 58.45 Section 323D(2A) allows a financial year of an entity to be less than 12 months if there has not been a financial year of less than 12 months in the last five years, and the change is made in good faith and in the best interests of the entity. If an entity cannot rely on [ASIC Corporations \(Synchronisation of Financial Years\) Instrument 2016/189](#) to synchronise its financial year with that of a foreign parent, it can normally rely on s323D(2A) to do so.

Relief under ASIC Corporations (Synchronisation of Financial Years) Instrument 2016/189

- RG 58.46 A company, registered scheme or disclosing entity must ensure the financial years of its consolidated entities are synchronised with its own financial year: see s323D(3).

- RG 58.47 Under [ASIC Corporations \(Synchronisation of Financial Years\) Instrument 2016/189](#) and subject to certain conditions, an entity may synchronise its financial year with that of a foreign parent where:
- (a) the entity's foreign parent is required by the law in its place of origin to cause the financial year of the entity to be changed; and
 - (b) the financial year of the entity is changed in accordance with that requirement.

Individual relief

- RG 58.48 We may be asked to provide case-by-case relief where an entity cannot rely on our relief under the [ASIC Corporations \(Synchronisation of Financial Years\) Instrument 2016/189](#) or under s323D(2A). We may grant this relief so an entity can change its financial year by way of a transitional period of 14 months or less, where the applicant can demonstrate that complying with the requirement for a 12-month financial year would impose unreasonable burdens. We do not usually grant this relief with a transitional period of longer than 14 months. This is because s323D(2A) expresses a legislative preference for transitional periods to be less than 12 months.
- RG 58.49 When applying to ASIC for individual relief, the directors of an entity should include:
- (a) a realistic estimate of the additional costs of preparing the required consolidated financial statements by a foreign parent and the realistic additional costs of an audit of that information, when applicable. These costs should only be those in excess of costs associated with normal management reporting;
 - (b) if a financial year of greater than 12 months is requested, the reasons why the entity's directors believe that users of the financial report—including investors, creditors, employees, potential investors, potential creditors and potential employees—will not be disadvantaged;
 - (c) if a financial year of greater than 12 months is requested, whether the entity has been, or is expected to be, affected by any material, unusual transactions or events, extraordinary items, significant operating losses, acquisitions or sales of major assets (including businesses and controlled entities) and any factors which significantly affect the financial condition of the company;
 - (d) whether, in the directors' opinion, there are reasonable grounds to believe that the entity will be able to pay its debts as and when they become due and payable;
 - (e) if the entity is a proprietary company, whether the change in financial year will result in the company being treated as a small proprietary

company when it would otherwise be a large proprietary company (see RG 58.18–RG 58.19);

- (f) whether all other entities controlled by the entity’s ultimate foreign parent will be synchronised with the ultimate foreign parent at the same time—and, if not, the reasons why not;
- (g) any other information that may be relevant to our decision whether to grant relief; and
- (h) written confirmation from the ultimate foreign parent that all group entities worldwide are synchronising, and that synchronisation is not required by law in the place of origin of the ultimate parent or of any other parents of the company seeking relief.

Note: See RG 43.37–43.51 for the definition of ‘unreasonable burden’.

- RG 58.50 Applications for relief which result in the financial year of an entity being unsynchronised with that of a parent will only be considered in rare and exceptional circumstances.
- RG 58.51 When applying for relief, entities should comply with s323D(2A) of the Corporations Act and follow our guidance in [RG 43](#) and [RG 51](#).
- RG 58.52 A proprietary company may apply for a financial year of less than 12 months: see s323D(2A). This may result in the company being treated as a small proprietary company under s45A(2) for the financial year when it may otherwise have been expected to be a large proprietary company. This could occur when, for example:
- (a) for financial years commencing on or after 1 July 2019:
 - (i) the company’s revenue is \$50 million, or other amount prescribed by the regulations, or more, for a 12-month period; or
 - (ii) the company has assets of \$25 million, or other amount prescribed by the regulations, or more, and wants to extend its financial year in anticipation of having less than \$25 million, or other amount prescribed by the regulations, of assets at the end of subsequent financial years; and/or
 - (b) for financial years commencing before 30 June 2019:
 - (i) the company’s revenue is \$25 million, or other amount prescribed by the regulations, or more, for a 12-month period; or
 - (ii) the company has assets of \$12.5 million, or other amount prescribed by the regulations, or more, and wants to extend its financial year in anticipation of having less than \$12.5 million, or other amount prescribed by the regulations, of assets at the end of subsequent financial years.

- RG 58.53 If we were to grant unconditional relief, the company would not be required to prepare and lodge an audited financial report or a directors' report unless:
- (a) it is controlled by a foreign company;
 - (b) it is not part of a 'large group'; and
 - (c) its parent does not lodge consolidated financial statements with ASIC.
- RG 58.54 In these cases, we may grant relief but are likely to either impose a condition or make a direction under s294 requiring the company to prepare and lodge an audited financial report and a directors' report for the financial year.

Appendix: General reporting requirements

- RG 58.55 Section 292 requires all disclosing entities, public companies, companies limited by guarantee (except small companies limited by guarantee), all large proprietary companies that are not disclosing entities, all registered schemes and small proprietary companies that are controlled by a foreign company to prepare financial reports.
- RG 58.56 Section 601CK requires registered foreign companies to lodge balance sheets, profit and loss statements, cash flow statements and other documents with ASIC.
- RG 58.57 In limited circumstances, under the Corporations Act, specific companies are exempt from the requirement to prepare and lodge financial reports or be audited.
- RG 58.58 Table 2 summarises the financial reporting requirements of registered foreign companies and other registered companies. Table 3 summarises the financial reporting requirements of small proprietary companies that are controlled by foreign companies and are not disclosing entities.

Table 2: Reporting requirements of registered foreign companies and other registered foreign companies

Entity description	Reporting requirements	Do you need to prepare reports under Ch 2M?	Do you need to be audited under the Corporations Act?
Registered foreign companies where s601CK(7) declaration applies	Lodge annual return, Form 406 , but no financial report with ASIC	No	No
All other registered foreign companies	Lodge financial report with ASIC, prepared under the law in your place of origin. If they are not required in your place of origin or if ASIC directs, prepare a financial report under Ch 2M	Yes—if a financial report is not required in your place of origin or if ASIC directs	Only if an audit is required in your place of origin, no financial report needs to be prepared in your place of origin, or ASIC requires an audit

Table 3: Reporting requirements of small proprietary companies that are controlled by foreign companies and are not disclosing entities

Entity description	Reporting requirements	Do you need to prepare reports under Ch 2M?	Do you need to be audited under the Corporations Act?
Small proprietary companies controlled by foreign companies that are not part of a large group	Not required to prepare or lodge financial reports if directors resolve to apply relief under ASIC Corporations (Foreign-Controlled Company Reports) Instrument 2017/204 . Lodge notice of that resolution within the timeframe and meet all other conditions of the instrument	No	No
Small proprietary companies controlled by foreign companies where a parent company, which must be an Australian company or a registered foreign company, lodges consolidated financial statements covering the small proprietary company for the year with ASIC	Not required to appoint auditors, or to prepare or lodge financial reports	No	No
Other small proprietary companies controlled by foreign companies that have not been audited in any financial year since 1993, with the exception of a year ending after 9 December 1995 and before 24 April 1997	Lodge unaudited financial reports with ASIC if all the conditions under ASIC Corporations (Audit Relief) Instrument 2016/784 are met	Yes	No—if the conditions under ASIC Corporations (Audit relief) Instrument 2016/784 are met
All other small proprietary companies controlled by foreign companies	Lodge audited financial reports with ASIC	Yes	Yes

Key terms

Term	Meaning in this document
AASB	Australian Accounting Standards Board
AASB 10 (for example)	An accounting standard issued by the Australian Accounting Standards Board (in this example numbered 10)
accounting standards	Standards issued by the Australian Accounting Standards Board under s334 of the Corporations Act
ACN	Australian Company Number
ASIC	Australian Securities and Investments Commission
ATO	Australian Taxation Office
Ch 2M (for example)	A chapter of the Corporations Act (in this example numbered 2M), unless otherwise specified
Corporations Act	<i>Corporations Act 2001</i> , including regulations made for the purposes of that Act
disclosing entity	Has the meaning given in s111AC of the Corporations Act
financial report	The documents referred to in s295 and 303 of the Corporations Act—that is, financial statements, notes to the financial statements and the directors' declaration about the statements and notes
financial statements	The statements required by accounting standards—that is, the statement of financial position, the statement of comprehensive income, the statement of changes in equity and the statement of cash flows Note: This excludes the directors' declaration and the notes to the financial statements.
individual relief	Relief given by ASIC to individual parties on application to ASIC
large proprietary company	Has the meaning given in s45A(3) of the Corporations Act
Pt 5B.2 (for example)	A part of the Corporations Act (in this example numbered 5B.2), unless otherwise specified
registered foreign company	Has the meaning given in s9 of the Corporations Act
registered scheme	A managed investment scheme that is registered under s601EB of the Corporations Act

Term	Meaning in this document
RG 43 (for example)	An ASIC regulatory guide (in this example numbered 43)
s601CK(7) (for example)	A section of the Corporations Act (in this example numbered 601CK(7)), unless otherwise specified
small proprietary company	Has the meaning given in s45A(2) of the Corporations Act

Related information

Headnotes

audit relief, foreign company, large proprietary company, registered foreign company, small proprietary company, synchronisation of financial year

Instruments

[ASIC Corporations \(Audit Relief\) Instrument 2016/784](#)

[ASIC Corporations \(Exempt Proprietary Companies\) Instrument 2015/840](#)

[ASIC Corporations \(Foreign-Controlled Company Reports\) Instrument 2017/204](#)

[ASIC Corporations \(Synchronisation of Financial Years\) Instrument 2016/189](#)

Regulatory guides

[RG 43](#) *Financial reports and audit relief*

[RG 51](#) *Applications for relief*

[RG 115](#) *Audit relief for proprietary companies*

Legislation

Corporations Act, Ch 2M, Pts 2M.3, 5B.2, s9, 45A, 45A(2), 45A(3), 113, 292, 292(2)(b), 294, 319(1), 323D, 323D(1), 323D(2), 323D(2A), 323D(3), 340, 342, 50AA, 601CK, 601CK(7), 601CK(9)

Tax Administration Act 1953, s3CA

ASIC forms

[Form 382](#) *Notification of resolutions for audit relief: Proprietary companies*

[Form 384](#) *Resolution by directors of a small proprietary company controlled by a foreign company which is not part of a 'large group'*

[Form 394](#) *Notice of cessation of reliance on ASIC Corporations (Foreign-Controlled Company Reports) Instrument 2017/204*

[Form 406](#) *Annual return of a foreign company*

Accounting standards

[AASB 10](#) *Consolidated financial statements*