

Attachment 2 to CP 365: Draft instrument



ASIC
Australian Securities &
Investments Commission

ASIC Corporations (Changing the Responsible Entity) Instrument 2023/XXX

I, [], delegate of the Australian Securities and Investments Commission, make the following legislative instrument.

Date

[DRAFT ONLY – NOT FOR SIGNATURE]

[signature]

[insert name]

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Part 1—Preliminary

1 Name of legislative instrument

This is the *ASIC Corporations (Changing the Responsible Entity) Instrument 2023/XXX*.

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 subsection 601QA(1) of the Act.

4 Definitions

In this instrument:

Act means the *Corporations Act 2001*.

Part 2—Declaration

5 Removal of responsible entity

Chapter 5C of the Act applies to all persons as if section 601FM were modified or varied by, after subsection (1), inserting:

“(1A) Without limiting the generality of subsection (1), in the case of a registered scheme that is listed:

- (a) the responsible entity must call and arrange to hold a meeting of the members to consider and vote on proposed resolutions to remove the responsible entity and choose a new responsible entity on the request of:
 - (i) members with at least 5% of the votes that may be cast on the resolution; or
 - (ii) at least 100 members who are entitled to vote on the resolution; and
- (b) members who hold interests carrying at least 5% of the votes that may be cast at a meeting of the members may call and arrange to hold a meeting of the members to consider and vote on proposed resolutions to remove the responsible entity and choose a new responsible entity; and
- (c) the Court may order a meeting of the members to be called to consider and vote on proposed resolutions to remove the responsible entity and choose a new responsible entity if it is impracticable to call the meeting in any other way.”.