



Darby Racing Pty Ltd - AFSL 333244

Submission by [REDACTED] (Director of Darby Racing)

Review of ASIC Corporations (Horse Schemes) Instrument 2016/790

Industry Experience

I have been an Australian Financial Services licence holder and active participant in the thoroughbred syndication industry since 2007. Over that period, I have operated under multiple regulatory frameworks, including the current ASIC Corporations (Horse Schemes) Instrument 2016/790.

My experience spans the promotion, syndication and ongoing management of racehorse ownership interests, together with compliance obligations relating to licensing, disclosure, financial reporting and consumer protection. Having worked within the regulated syndication environment for almost two decades, I have observed both the benefits of the current framework and the areas where it no longer reflects current market conditions.

The comments contained in this submission are based on practical experience operating a licensed syndication business, dealing directly with owners, trainers, regulators and industry participants on a daily basis. While I strongly support the continuation of a tailored regulatory framework for horse syndications, I believe there are several areas where the Instrument should be modernised to better reflect contemporary bloodstock values, ownership trends and competitive realities within the industry.

Feedback on ASIC Corporations (Horse Schemes) Instrument 2016/790

While the current Instrument has generally provided an effective framework for horse racing syndication, there are several areas where the framework no longer reflects current market conditions and should be modernised.

1. Increase the \$500,000 Capital Raising Limit

The current cap of \$500,000 is no longer aligned with the modern thoroughbred market. Since the introduction of the Instrument, there has been significant growth in yearling and bloodstock values, with many commercially attractive horses now exceeding price levels that can be comfortably syndicated within the existing limit.



The current threshold can restrict the ability of licensed syndicators to acquire and syndicate higher quality horses and may force the use of alternative ownership structures that were not intended by the regulatory framework.

Consideration should be given to increasing the limit to between \$750,000 and \$1,000,000 to better reflect contemporary market values while still maintaining the policy intent of the Instrument.

2. Increase the Maximum Number of Participants

The current limit of 50 participants does not reflect current ownership trends. There has been a substantial increase in demand for smaller ownership percentages and broader participation in racehorse ownership.

Many syndicators are finding it increasingly difficult to remain within the 50-participant limit despite strong demand from owners wishing to participate in racing at an affordable entry level.

Increasing the maximum number of participants to 100 would better reflect modern syndication practices, encourage wider participation in the industry and improve accessibility for new owners without materially increasing regulatory risk.

3. Establish a Level Regulatory Playing Field

Regulatory Consistency and Consumer Protection

One of the most significant issues that should be addressed in any future framework is the increasing use of ownership structures that effectively replicate horse syndication arrangements without being subject to the same regulatory requirements and consumer protections.

Licensed syndicators are required to hold an Australian Financial Services Licence, prepare and issue approved Product Disclosure Statements, comply with extensive disclosure obligations, maintain compliance systems, undertake ongoing reporting and meet substantial regulatory costs. These obligations exist for an important reason: **to ensure consumers are properly informed and protected when acquiring interests in racehorses.**

However, there is a growing practice whereby trainers and other industry participants offer ownership interests in horses without being subject to the same regulatory framework. In many cases, ownership interests are being promoted and sold privately without expressly advertising "shares" or a specific share price, despite all parties understanding that fractional ownership interests are being offered.

This creates a significant regulatory loophole. The substance of the transaction is often identical to a syndication arrangement, yet the consumer protections that apply to licensed syndicators may not be available to the purchaser.



The result is that consumers can unknowingly acquire interests in horses without receiving the benefit of the disclosure, transparency and regulatory oversight that ASIC and the racing industry have determined are appropriate for horse ownership offerings.

The issue extends beyond consumer protection. The current framework also creates a materially uneven competitive environment. Licensed syndicators incur substantial compliance, licensing, legal and administrative costs that are ultimately borne by the business. Trainers and other unlicensed participants conducting substantially similar activities are not subject to those same costs and obligations. In addition, syndication is generally not their primary source of income, allowing ownership interests to be offered on terms that may appear more attractive to consumers despite offering a lower level of regulatory protection.

This has contributed to a growing perception among purchasers that acquiring ownership interests directly through trainers is a cheaper alternative, when in reality part of the price difference may simply reflect the absence of the consumer protection framework that licensed syndicators are required to maintain.

The future regulatory framework should focus on the substance of the activity rather than the form in which it is presented. Any person who promotes, arranges, offers or sells fractional ownership interests in racehorses to multiple parties should be subject to equivalent regulatory obligations, regardless of whether they are a syndicator, trainer, bloodstock agent or other industry participant.

A core principle should be that similar activities attract similar regulatory obligations. This would improve consumer protection, eliminate regulatory arbitrage, promote market integrity and ensure a level playing field for all participants.

If the current disparity is allowed to continue, there is a real risk that licensed syndicators will increasingly be displaced by unregulated or less regulated ownership offerings. This would undermine both the consumer protection objectives of the regulatory framework and the viability of businesses that have invested heavily in meeting ASIC's licensing and compliance requirements.

regulatory obligations, regardless of whether they are a trainer, bloodstock participant or professional syndicator.

4. Consumer Protection Considerations

The existing regulatory framework appropriately recognises the need for consumer protection through licensing, disclosure, financial reporting and regulatory oversight.

However, these protections are undermined where ownership interests are offered outside the regulated syndication framework.

A future regulatory regime should ensure that all participants conducting substantially similar activities are subject to substantially similar regulatory obligations. This would improve consumer protection, reduce regulatory arbitrage and create a fairer competitive environment across the industry.

5. Principles for Future Reform

Any future framework should:

- Retain the existing horse syndication relief framework rather than requiring full managed investment scheme regulation.
- Increase the capital raising limit to reflect current bloodstock values.
- Increase the participant limit to reflect modern ownership preferences.
- Ensure consistent regulation of all persons offering racehorse ownership interests.
- Maintain strong consumer protection standards through disclosure, licensing and oversight requirements.
- Promote accessibility and growth in racehorse ownership participation.

Thank you for the opportunity to provide feedback on the future of the ASIC Corporations (Horse Schemes) Instrument 2016/790.

I would welcome the opportunity to participate in any further industry consultation regarding the development of a future regulatory framework for thoroughbred syndication arrangements.

Yours sincerely,

 AFS Licence Holder since 2007

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