



ASIC
Australian Securities &
Investments Commission

REGULATORY GUIDE 222

Substantial holding disclosure and tracing requirements

March 2026

About this guide

This regulatory guide is for persons subject to the substantial holding disclosure requirements and beneficial ownership tracing requirements in Ch 6C.

It explains:

- how we administer the substantial holding disclosure requirements in Pt 6C.1 of the Corporations Act;
- how the concept of relevant interests in s608 and 609 and the substantial holding disclosure requirements apply to securities lending, prime broking and agent lending;
- how we administer the beneficial ownership tracing notice and register of relevant interest requirements in Pt 6C.2 of the Corporations Act; and
- our enforcement powers in relation to the requirements in Pt 6C.1 and Pt 6C.2 of the Corporations Act.

Note: This guide includes guidance about requirements that the [Treasury Laws Amendment \(Strengthening Financial Systems and Other Measures\) Act 2025](#) inserts. Those requirements will commence from 4 December 2026.

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 draft guide was issued on March 2026 and is based on legislation and regulations as at the date of issue.

Previous versions:

- Superseded Regulatory Guide 222, issued on 15 April 2011.

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.

Examples in this guide are purely for illustration; they are not exhaustive and are not intended to impose or imply particular rules or requirements.

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A Overview

Key points

Disclosure of substantial holdings and the beneficial ownership tracing requirements are important for an efficient, competitive and informed market in quoted securities.

Without appropriate disclosure, there is a risk that the market will be misled about the ownership and control of listed entities.

This guide sets out guidance on the substantial holding disclosure and beneficial ownership tracing requirements in the *Corporations Act 2001* (Corporations Act).

Purpose of this guide

- RG 222.1 The purpose of the substantial holding disclosure and beneficial ownership tracing requirements in Ch 6C of the Corporations Act is to ensure that investors, directors and the market have timely access to sufficient information about:
- (a) the names of controllers of substantial blocs of voting shares (substantial holders);
 - (b) the names of the associates of substantial holders;
 - (c) details of any consideration or special benefits that a substantial holder received for disposing of their relevant interest; and
 - (d) details of any agreements, special conditions or restrictions that may affect the disposal of shares or the way in which they are voted.

Note: In this guide, references to chapters (Chs), parts (Pts) or sections (s) are to the Corporations Act (as notionally modified by ASIC relief, where relevant), unless otherwise specified. References to regulations (reg) and schedules (Sch) are to the *Corporations Regulations 2001* (Corporations Regulations), unless otherwise specified.

- RG 222.2 The requirements promote the principle underlying the takeover provisions in Ch 6—that the acquisition of control should take place in an efficient, competitive and informed market: see s602(a). In addition, the requirements ensure that market participants have better and more timely access to information on the accumulation of substantial interests in listed entities. This allows investors to know when a person is accumulating significant interests ahead of, or as part of, a transaction that may affect control of an entity.
- RG 222.3 Heightened and accelerated requirements to disclose substantial holdings when a takeover bid has been made reflect the particular importance of the market being kept fully and promptly informed about the progress of a bid, and the actions of other substantial holders, throughout the bid period.

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Overview of this guide

- RG 222.4 This guide explains:
- (a) when notices under s671B of the Corporations Act (substantial holding notices) must be given (Section B);
 - (b) what information should be disclosed in substantial holding notices (Section C);
 - (c) when a substantial holding arises in relation to:
 - (i) securities lending (Section D);
 - (ii) prime broking (Section E); and
 - (iii) agent lending (Section F); and
 - (d) requirements for the directions that may be given under s672A and s672B of the Corporations Act (tracing notices) (Section G); and
 - (e) the register that must be maintained under s672DA of the Corporations Act (register of relevant interests) (Section H).
- RG 222.5 The substantial holding disclosure and beneficial ownership tracing requirements apply in relation to relevant interests, deemed economic interests and offsetting short positions in securities in a ‘Ch 6C body’. A Ch 6C body is a:
- (a) listed company;
 - (b) listed registered scheme;
 - (c) listed notified foreign passport fund; or
 - (d) a listed body (other than a company, registered scheme or notified foreign passport fund) that is incorporated or formed in Australia or overseas: see the definition of ‘Ch 6C body’ in s671A.
- RG 222.6 In this guide, we refer to Ch 6C bodies as a ‘listed entity’.

B Substantial holding disclosure

Key points

Substantial holders—and persons on ceasing to be a substantial holder—must give information about their holding in a substantial holding notice to:

- the key person of the listed entity in which they have their holding; and
- the relevant market operator.

The timing for giving a substantial holding notice varies depending on whether the listed entity is the subject of a takeover bid.

Failure to comply with the substantial holding notice requirements is an offence and those who do so may be liable to compensate others for loss suffered because of the contravention.

We have provided relief from the substantial holding disclosure requirements in certain circumstances.

What is a substantial holding in a listed entity?

RG 222.7 A person has a substantial holding in a listed entity if:

- the total votes attached to voting securities in which they or their associates have relevant interests, or would have relevant interests but for exemptions in the takeover provisions, is 5% or more of total votes attached to all voting securities in the listed entity;
- the person or their associates have a deemed economic interest in a number of voting securities in the listed entity and would have a substantial holding if they or their associates had a relevant interest in those securities (in addition to any voting securities in which the person or their associates actually have a relevant interest); or
- the person has made a takeover bid for voting securities in the listed entity, and the bid period has started and not ended: see the definition of ‘substantial holding’ in s9 and s671D.

RG 222.8 The relevant interests exemptions in the takeover provisions that are disregarded in determining whether a person has a substantial holding are the interests exempted by:

- s609(6) (market traded options and derivatives);
- s609(7) (conditional agreements);
- s609(9B) (securities escrowed under listing rules); and

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- (d) section 609B (securities subject to escrow agreement in connection with initial public offer etc.): see s671E and paragraph (a)(ii) of the definition of ‘substantial holding’ in s9.

Note: Table 1 in Regulatory Guide 5 *Relevant interests and deemed economic interests* (RG 5) sets out the exceptions that apply only for the purposes of the takeover provisions, those that apply only for the purposes of the substantial holding disclosure and beneficial ownership tracing requirements, and those that apply for the purposes of both.

When is substantial holding disclosure required?

- RG 222.9 A person must provide a substantial holding notice if the person:
- (a) begins to have, or ceases to have, a substantial holding in a listed entity;
 - (b) has a substantial holding in an entity at the time that the entity lists on a declared financial market;
 - (c) has a substantial holding in a listed entity and there is a disclosable movement in their holding; or
 - (d) makes a takeover bid for securities of the listed entity (other than a listed notified foreign passport fund): see s671B(1)–(2).

Net movements in substantial holdings

- RG 222.10 When the substantial holding disclosure requirements are triggered by the movement of a holding in one direction that is followed by a movement in the opposite direction, the substantial holder must disclose the movement in each direction: see s671B(1)(c) and the definition of ‘disclosable movement’ in s671BK.
- RG 222.11 The holder must not merely disclose the net movement between one notice and the next. The holder must give the information required by s671BB in each notice, even if the situation changes by the time that the information is required to be given: see the note to s671B(3).
- RG 222.12 For example, where offers under a bid close subject to defeating conditions (except for a prescribed circumstances condition: see s650F(1)(a)), the bidder must disclose both its increased substantial holding because of acceptances, and its reduced holding immediately on close.

Note: The bidder must disclose this information by 9.30 am on the next business day because they will be aware of the level of acceptances during the bid period: see s671BA(1)(b)(ii). The bidder should carefully monitor acceptances at the close.

Substantial holding disclosure by a bidder

- RG 222.13 Regardless of the level of the bidder and its associates’ relevant interests, or whether there is a change in relevant interests, a bidder must provide a

substantial holding notice in relation to voting securities in the target when the bid period starts: see s671B(1)(d).

Note: The bid period for an off-market bid starts when the bidder's statement is given to the target. In a market bid, the bid period starts when the bid is announced: see the definition of 'bid period' in s9.

Paragraph (b) of the 'substantial holding' definition

- RG 222.14 A person also has a substantial holding if they have made a takeover bid for voting securities and the bid period has started and not ended: see paragraph (b) of the 'substantial holding' definition in s9.
- RG 222.15 This means that, even if the bidder and its associates have relevant interests and deemed economic interests in voting securities in less than 5% of the total votes attached to all shares (including nil voting shares), a bidder must provide substantial holding notices disclosing any disclosable movement throughout the bid period.

Other disclosures

- RG 222.16 Information about substantial holdings may need to be included in the annual report: see, for example, ASX Listing Rule 4.10.4.
- RG 222.17 A person may also need to disclose information about a 'substantial interest' that they have in an entity to avoid unacceptable circumstances in the context of a possible control transaction: see Takeovers Panel *Guidance Note 20* ([GN 20](#)). The interests that must be disclosed need not necessarily give rise to a relevant interest or deemed economic interest.

When must a substantial holding notice be provided?

- RG 222.18 Where a listed entity is not the subject of a takeover bid, the substantial holding notice must be given within two business days of when the substantial holder becomes aware or ought reasonably to be aware that:
- (a) they begin to have, or ceased to have, a substantial holding in the listed entity or the entity has become listed; or
 - (b) there has been a disclosable movement in their substantial holding in the listed entity: see s671BA(1)(a) and (2).
- RG 222.19 If a listed entity is the subject of a takeover bid, the substantial holding notice must be given by 9.30 am on the next trading day of the relevant financial market after the substantial holder ought reasonably to be aware of a situation that requires a substantial holding notice to be given. This applies to all substantial holders, not just bidders: see s654B and s671BA(1)(b) and (2).

Note: This timeframe for providing a substantial holding notice does not apply where the listed entity is a listed notified passport fund: see s671BA(3).

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What exemptions and modifications apply?

- RG 222.20 ASIC has modified the operation of the substantial holding disclosure requirements under [ASIC Corporations \(Securities Lending Arrangements\) Instrument 2021/821](#). This relief is designed to achieve better disclosure of substantial holdings that arise wholly or partly from securities lending, prime broking or agent lending activities.
- RG 222.21 The relief relates only to compliance with the substantial holding disclosure requirements and not more broadly—that is, there is no relief from any other obligations under Ch 6 of the Corporations Act.

Table 1: Types of relief from the substantial holding disclosure requirements

Relief	Description	Reference
Securities lending: Lender's relevant interest	Relief so that a lender's relevant interest in the lent securities under a securities lending arrangement is not affected by the subsequent actions of the borrower in relation to those lent securities.	Notional s608(8A) and RG 222.61–RG 222.64
Prime broking: Timing of disclosure under s671B	Relief so that a prime broker with a borrowing (or rehypothecation) right must defer the time at which it takes into account its relevant interest arising from that borrowing right for substantial holding disclosure requirement purposes to the time at which it exercises that borrowing right.	Notional s609(10A) and RG 222.97–RG 222.102
Agent lenders: Timing of disclosure and retention of relevant interest	Relief so that an agent lender may defer the time at which it takes into account its relevant interests in the lender's securities for substantial holding disclosure requirement purposes to the time when securities are loaned.	Notional s609(10C) and RG 222.114–RG 222.117
	We have also given relief so that an agent lender's relevant interest in lent securities is not affected by the subsequent actions of the borrower.	Notional s608(8B) and RG 222.118
Content of substantial holding notices: Attaching AMSLA/GMSLA/GMRA/ prime broking agreement/ authorisation agreement	Relief allowing a substantial holder to comply with the requirement to attach a copy of the AMSLA, GMSLA, GMRA prime broking agreement (all defined as a master securities lending agreement in notional s671B(4C)) or authorisation agreement to the substantial holding notice by providing certain prescribed information, which is listed in Table 2.	Notional s671B(4A) and (4B), RG 222.70–RG 222.83 and RG 222.103.
	Note: The full titles of AMSLA/GMSLA and GMRA are set out at RG 222.46.	
	A condition of the relief is that the substantial holder must provide the full documentation on request to us or the listed entity (but not to other parties).	

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Relief	Description	Reference
Content of substantial holding notices: Disclosure of consideration	We have given relief so that a substantial holder does not need to include any consideration in a substantial holding notice, provided the relevant interest arises from a securities lending transaction.	Notional s671B(3A) and RG 222.60–RG 222.67.

What are the consequences of failing to comply?

RG 222.22 A person who fails to comply with the substantial holding disclosure requirements commits an offence and may be liable to compensate persons for loss suffered because of the contravention: see s671B(4)–(5) and s671C. There may be a defence for failing to comply with the substantial holding disclosure requirements: see s671C(3).

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C Substantial holding notices

Key points

Substantial holding notices must contain information specified in s671BB of the Corporations Act, subject to certain exceptions.

Substantial holding notices must be accompanied by certain documents and the person that gives the notice must give full, rather than minimal or technical, disclosure. When two or more persons have similar or related relevant interests, or are associates, a single joint substantial holding notice can be given in certain circumstances.

Substantial holders that rely on the market makers and client services exclusion in s671AO need to disclose this fact in any substantial holding notice they give.

AFS licensees or foreign equivalent licensees may also need to provide a statement to a market operator if they would have a significant holding in a listed entity, calculated as though the market makers and client services exclusion did not apply.

What must a substantial holding notice disclose?

RG 222.23 Table 2 summarises the information that must be included in a substantial holding notice, subject to exceptions in Table 3.

RG 222.24 A substantial holding notice must contain the information in Table 2 and meet the format in the ASIC Substantial Holding Notice. For more information about how to complete the form, see its accompanying directions.

Table 2: Substantial holding notice information

Requirement	What must be disclosed	Reference
Details of the substantial holder and their associates	<p>The substantial holder must disclose:</p> <ul style="list-style-type: none"> its name and address; the name of any associate that has a relevant interest or deemed economic interest in voting securities of the listed entity; and the nature of the associate's association with the substantial holder. <p>Note: If the substantial holding notice is being given because a person has ceased to be an associate—the substantial holder must also disclose the name of that person.</p>	s671BB(1)(a), (d)(i) and (f)

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Requirement	What must be disclosed	Reference
Details of relevant interests and deemed economic interests	<p>The substantial holder must disclose details of their relevant interests and deemed economic interests in voting securities in the listed entity, including:</p> <ul style="list-style-type: none"> • their holding percentage; • their derivative-based holding percentage; • if their derivative-based holding percentage is greater than zero: <ul style="list-style-type: none"> – their relatable derivative-based holding percentage, – deemed physically settleable derivative-based holding percentage; – deemed non-physically settleable derivative-based holding percentage; and – details of any offsetting short positions of the holder in voting securities of the listed entity, including their offsetting short position percentage. <p>The substantial holder must disclose details of the relevant interest or deemed economic interest of any associates.</p>	s671BB(1)(b) and (d)(ii)
Disclosable movement information	<p>If the substantial holding notice is being given because there has been a disclosable movement in the substantial holding, the substantial holder must also disclose:</p> <ul style="list-style-type: none"> • the size and date of the disclosable movement; and • details of each transaction that resulted in the disclosable movement. <p>Note: The holder may aggregate details of two or more on-market transactions that occurred on the same day on the same declared financial market that are all acquisitions or all disposals of securities of the same class. If the holder aggregates transactions, the details disclosed must include:</p> <ol style="list-style-type: none"> (a) the highest and lowest value on a per security basis of consideration under those transactions; and (b) the total value of the consideration under those transactions. 	s671BB(1)(e) and (2)
Agreements information	<p>The substantial holder must disclose details of any relevant agreement through which they or their associate would have a relevant interest or deemed economic interest in voting securities in the listed entity.</p>	s671BB(1)(c) and (d)(iii)
Details of the situation that has triggered the notice	<p>The substantial holder must provide details of the situation that has arisen in relation to the listed entity including where the substantial holder:</p> <ul style="list-style-type: none"> • begins to have a substantial holding; • ceases to have a substantial holding; • has a substantial holding and there is a disclosable movement in the substantial holding; • has a substantial holding in a listed entity when it begins to be a listed entity; or • is a bidder for a takeover bid for securities in a listed entity and the bid period for the bid starts. 	s671BB(1)(g) and section 29(a) of ASIC Instrument 2026/XXX

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Requirement	What must be disclosed	Reference
Total votes attaching to all securities in the listed entity	The substantial holder must provide the total number of votes attaching to all securities in the listed entity.	s671BB(1)(g) and section 29(b) of ASIC Instrument 2026/XXX
Whether any details have changed	The substantial holder must disclose whether any details of their relevant interests, deemed economic interests or offsetting short positions have changed since the substantial holder's last notice.	s671BB(1)(g) and section 29(c) of ASIC Instrument 2026/XXX
Whether any deemed economic interest or offsetting short position has been excluded because of the market maker exemption	<p>This requirement only applies where the substantial holder is an AFS licensee authorised to deal in derivatives, or make a market in derivatives or securities, a CS facility licensee or a foreign equivalent licensee, relying on the exemption in s671AO in relation to any class of securities in the listed entity.</p> <p>A licensee required to disclose interests in a substantial holding notice that are not covered by the exemption must also indicate it is relying on the exemption when completing the notice.</p> <p>Note: For additional information about the market makers and client-services exception, see RG 222.38–RG 222.43.</p>	s671BB(1)(g) and section 29(d) of ASIC Instrument 2026/XXX

Exceptions to the information provided in a substantial holding notice

RG 222.25 Table 3 summarises the exceptions to the information that must be included in a substantial holding notice.

Table 3: Exceptions to the substantial holding notice information

Exception	Summary of exception	Reference
Takes reasonable steps to know information	<p>A substantial holding notice does not need to include, or be accompanied by, information that would otherwise be required to the extent that a substantial holder does not know, and is not reasonably able to know, that information.</p> <p>This exception only applies if the substantial holder has taken reasonable steps to ensure they know or would reasonably be able to know the information within the time required.</p> <p>The defendant bears an evidential burden if they wish to rely on this exception.</p>	s671BC

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Exception	Summary of exception	Reference
Information relating to takeover bids	<p>A substantial holding notice does not need to include the name and address of a person (other than the discloser) that has accepted an offer under a takeover bid if the person is shown in the listed entity's register of members as the holder of the securities to which the notice relates at the time the notice is given.</p> <p>If a substantial holding notice does not include the name and address of persons that have accepted an offer under a takeover bid, the target of that takeover bid may require the bidder to provide on or before the first business day after receiving a written request from the target:</p> <ul style="list-style-type: none"> • the name and address of each person that has accepted the offer under the bid and remains registered as holder of the securities to which the acceptance relates; and • for each of those persons—the number of securities that they hold in respect of which the bidder has a relevant interest due to their acceptance of the bid. <p>Note: This power does not affect the requirement for the bidder to lodge the bidder's statement and offer document with ASIC and send these documents to the relevant market operator under s633(1).</p>	ss671BD and 671BH

What must accompany a substantial holding notice?

RG 222.26 A substantial holding notice must be accompanied by:

- a copy of any document or documents that set out the terms of any agreement that contributed to the substantial holding, which is in writing and readily available to the holder; and
- a statement giving full and accurate details of any contract, scheme or arrangement that contributed to the substantial holding that is *not* in writing and readily available to the holder: see s671BF(1).

Note: The copy of the document described in paragraph (a) must be endorsed as a true copy of the document: see s671BF(2).

Multiple agreements and substantial holdings

RG 222.27 If multiple agreements contribute to the situation giving rise to a substantial holding notice, a copy of all documents setting out the terms of each agreement must accompany the notice.

RG 222.28 Substantial holders cannot avoid their obligation to disclose full or substantive details of all contributing agreements and arrangements by, for example:

- entering into a preliminary agreement or understanding incorporating limited terms (which triggers the substantial holding requirement); and

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- (b) omitting substantive details of the overall transaction that have been negotiated on the basis that a formal or collateral written agreement or arrangement containing these details was (or will be) finalised later, after the immediate substantial holding disclosure requirement arising in relation to the transaction has been discharged.

RG 222.29 When a preliminary step or agreement gives rise to a change in voting power before other agreements contributing to the overall situation have been finalised, the substantial holding notice must still be accompanied by a statement setting out full and accurate details of other contracts, schemes or arrangements that have been negotiated: see s671BF(1)(b).

RG 222.30 A failure to provide details of surrounding agreements or arrangements may give rise to unacceptable circumstances, having regard to the efficient, competitive and informed market principle set out in s602(a).

Exceptions for certain documents

RG 222.31 Table 4 summarises exceptions to the requirement for certain documents to accompany a substantial holding notice.

Table 4: Exceptions for certain documents and statements

Exception	Overview of exception	Reference
Declared financial market	If a substantial holder is giving the substantial holding notice because of a transaction taking place on a declared financial market, the notice does not need to provide the information described in RG 222.26.	s671BG(2)
Information relating to takeover bids	If a substantial holder is the bidder or associate of a bidder under a takeover bid, and the information required to be given includes the acceptance of offers under the bid, the holder does not need to attach the following documents to the substantial holding notice: <ul style="list-style-type: none"> the bidder's statement; the takeover offer document; and any acceptance form. 	s671BG(3)

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Exception	Overview of exception	Reference
Standard form documents prescribed by ASIC	<p>A substantial holding notice does not need to be accompanied by the following standard form documents prescribed by ASIC:</p> <ul style="list-style-type: none"> • International Swaps and Derivatives Association (ISDA) Master Agreement; • Futures Industry Association (FIA)–ISDA Cleared Derivatives Execution Agreements; • FBF Master Agreement relating to Transactions on Forward Financial Instruments; and • DRV German Master Agreement for Financial Derivatives Transactions. <p>This exception only applies if the notice includes a statement that provides:</p> <ul style="list-style-type: none"> • all differences from the exempted standard form of document; • any information included in the document that is provided for, but not set out, in the standard form of document (e.g. any information included in blank space of the document that is required to be filled); and • the date the document was executed. 	s671BG(4)–(5) and section 30 of ASIC Instrument 2026/XXX
Publicly available information that accompanied a prior notice	<p>A copy of any document or statement does not need to accompany a substantial holding notice if:</p> <ul style="list-style-type: none"> • it accompanied a substantial holding notice given previously; • it is publicly available; and • the substantial holding notice includes a statement that identifies the document or statement and the prior substantial holding notice. 	s671BG(6)

Providing sufficient disclosure

RG 222.32 A person who gives a substantial holding notice must give full rather than minimal or technical disclosure. For example, a substantial holding notice should fully and accurately disclose the identity of the substantial holder, the details of the substantial holding or the disclosable movement, and any relevant agreement and the nature of any relevant association in accordance with the requirements of s671BB(1).

RG 222.33 It is not sufficient for a notice to describe the nature of the substantial holding or association generically or describe its bare legal nature by reference to the provisions of the Corporations Act. For example, the holder must not merely say: ‘X and Y are associated because X is acting in concert with Y in relation to the affairs of Company Z’. The notice must describe the relevant transaction in clear commercial and legal terms.

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Submitting joint substantial holding notices

- RG 222.34 A single transaction or event may result in the substantial holding of different persons changing. As a result, a number of persons may be obliged to give a substantial holding notice in respect of their changed substantial holding.
- RG 222.35 When two or more persons have similar or related relevant interests or deemed economic interests, or are associates, so that they acquire or change their substantial holding because of the same transaction, they may give a single joint notice (rather than lodging separate notices).
- RG 222.36 The notice must meet the requirements in s671BB(1) for each discloser. The person giving the notice must have the authority to bind other persons on whose behalf the notice is given.
- RG 222.37 A substantial holder should take care in presenting complex information in a joint notice—for example, about associations—so that it does not contravene s671BB(1) or 1041H (misleading or deceptive conduct).

Market making and client services exclusion

- RG 222.38 The following financial services licensees (*exempt licensees*) will not acquire a deemed economic interest in securities in the ordinary course of their business if conditions are met:
- (a) AFS licensees authorised to deal in derivatives or make a market in securities or derivatives;
 - (b) CS facility licensees authorised to operate a CS facility in relation to derivatives; and
 - (c) foreign equivalent licensees that are licensed or authorised, and whose activities are regulated by, an overseas regulatory authority to provide services including those described in RG 222.38(a) and RG 222.38(b): see sections 18–21 of ASIC Instrument 2026/XXX.

Substantial holding notice disclosure

- RG 222.39 To ensure the market remains aware that certain interests have been excluded from a substantial holding notice, exempt licensees are required to acknowledge their reliance on the exclusion when disclosing a substantial holding in securities that are not covered by the exclusion: see section 29(d) of ASIC Instrument 2026/XXX.
- RG 222.40 This substantial holding may include any exposure to securities through derivatives that are not entered into for the purposes of facilitating a client's request or in the ordinary course of their business.

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Statement to relevant market operator

- RG 222.41 ASIC Instrument 2026/XXX also prescribes that certain exempt licensees must provide a statement to the relevant market operator when their holding percentage in a listed entity, calculated as if the exceptions in sections 19 and 20 of the instrument did not apply:
- (a) increases above 20% or decreases to 20% or below; or
 - (b) is above 20% and there is an increase or decrease by 1% or more in the following details about the licensee's non-derivative holdings in the listed entity:
 - (i) their deemed physically settleable derivative-based holding percentage;
 - (ii) their deemed non-physically settleable derivative-based holding percentage; and
 - (iii) their offsetting short position percentage: see section 22.

- RG 222.42 The information required in the statement to the market operator is:
- (a) the licensee's name and licence number;
 - (b) a statement that the licensee does not have a deemed economic interest and/or offsetting short position in securities in the relevant listed entity because of the exceptions in sections 19 and 20 of the instrument and notional s671AY(4), as inserted by section 24 of the instrument;
 - (c) information about which situation referred to in RG 222.41 applies;
 - (d) the increase in the following details about the licensee's non-derivative holdings in the listed entity that would result if the exceptions in sections 19 and 20 of the instrument and notional s671AY(4) did not apply:
 - (i) their deemed physically-settleable derivative-based holding percentage;
 - (ii) their deemed non-physically settleable derivative-based holding percentage; and
 - (iii) their offsetting short position percentage; and
 - (e) the number of securities in the listed entity that each increase in percentage in paragraph RG 222.42(d) relates to: see section 22(3) of ASIC Instrument 2026/XXX.

Note: For example, if a licensee's deemed physically settleable derivative-based holding percentage in the listed entity was 8%, but would be 10% if sections 19 and 20 of the instrument and notional s671AY(4) did not apply, the licensee would disclose that its deemed physically settleable derivative-based holding percentage would increase by 2%.

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- RG 222.43 The statement to the market operator must be given:
- (a) within two business days after the situation referred to in RG 222.41 occurs; or
 - (b) by 9:30 am of the next trading day of the relevant financial market after the situation referred to in RG 222.41 occurs if the situation occurs during the bid period for a takeover bid for securities of the listed entity (other than a listed notified foreign passport fund): see sections 22(4)–(5) of ASIC Instrument 2026/XXX.

RG 222.44 The statement to the market operator does not form part of a substantial holding notice and does not incorporate its requirements, such as a requirement to attach all relevant agreements.

Note: For further information on the market making and client services exception, see Section D of [RG 5](#).

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D Securities lending: When a substantial holding arises

Key points

Securities lending involves a transfer of securities from the lender to the borrower and a subsequent transfer of equivalent securities to the lender.

Securities lending will generally result in both the lender and the borrower having a relevant interest in the securities.

We have given relief so that a lender's relevant interest in the loaned securities under a securities lending arrangement is not affected by the subsequent actions of the borrower in relation to those loaned securities.

The substantial holding requirements under s671B may be triggered if the person has an interest in 5% or more of a listed entity.

What is securities lending?

RG 222.45 'Securities lending' is the term used to describe a market transaction where securities are transferred from the owner (the lender) to another party (the borrower). The borrower is obliged to return the securities or equivalent securities to the lender either on demand or at the end of the loan term.

Note: While securities lending is a sale with an undertaking to return the sold property, we use the common market terminology to describe the transaction and parties in this guide. For detailed analysis on the legal characterisation of securities lending agreements, see *Beconwood Securities Pty Ltd v ANZ Group Ltd* [2008] FCA 594.

RG 222.46 Securities lending usually occurs between institutional or professional investors in the market and usually involves securities held by custodians. It can, but does not always, occur ahead of, or as part of, short selling activity. Securities lending can also be undertaken to cover potential failed trades, dividend-driven transactions or other transactions relating to corporate actions, including voting.

RG 222.47 In Australia, securities lending transactions are usually entered into under the Australian Master Securities Lending Agreement (AMSLA), the Global Master Securities Lending Agreement (GMSLA) or the Global Master Repurchase Agreement (GMRA). These master agreements provide a framework of standard terms for securities lending transactions, but a number of key terms need to be negotiated and agreed before commencement of the loan. This includes the number and type of securities and the consideration. This is usually done by completing a standard form schedule.

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- RG 222.48 Before the securities are transferred, the borrower usually gives the lender collateral in the form of cash or other securities as warranty for the borrower's performance of its obligations. If the borrower delivers cash collateral, the lender usually pays the borrower interest on the cash. Any collateral securities are transferred to the lender as a loan, although generally the borrower cannot recall them unless it provides substitute collateral.
- RG 222.49 After the securities are transferred, the borrower has unencumbered title and unrestricted rights to dispose of the securities. The standard agreement requires the borrower to use its best endeavours to ensure the securities are voted in accordance with the lender's instructions, provided the borrower holds the securities at the time. However, we understand this clause is often deleted.
- RG 222.50 Under a standard securities loan, the borrower may return the securities at any time, and the lender has a corresponding right to recall them at any time during the loan. If recalled, the borrower is required to return the securities or equivalent securities within one normal market settlement cycle. The borrower also returns the equivalent economic value of any dividends or distributions received during the term of the loan (manufactured payments).

The relevant interest provisions and securities lending

- RG 222.51 The following guidance explains how the relevant interest provisions in s608 and 609 generally apply to securities lending transactions conducted on usual terms. Participants should obtain their own advice on how the law applies to their individual agreements.

Note: For information about how the relevant interest provisions apply more generally, see [RG 5](#).

Relevant interests and securities lending

- RG 222.52 The 'relevant interest' concept is central to the substantial holding disclosure requirements and takeover provisions.
- RG 222.53 The borrower and lender's substantial holdings reflect the relevant interests they have through their securities lending business, their other relevant interests and those of any associates (e.g. holdings of any entity in the group).
- RG 222.54 A securities lending transaction on standard terms will usually result in both parties having a relevant interest in the securities under s608 for the following reasons:
- (a) the borrower will have a relevant interest in the securities under s608(1) when it has a legally binding commitment to borrow particular securities; and

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- (b) the lender will continue to have a relevant interest in the securities through its right to recall the securities from the borrower, which, when accelerated by s608(8), amounts to a right to control disposal of the securities.

Note: Mere entry into the AMSLA, for instance, will generally not result in the borrower acquiring a relevant interest in securities, but a relevant interest will arise when the borrower secures a firm (i.e. legally binding) commitment to borrow the securities. The situation is generally different for prime broking agreements: see RG 222.90.

RG 222.55 The lender is also likely to acquire a relevant interest in any securities delivered by the borrower as collateral for the loan of securities. The borrower will continue to have a relevant interest in the collateral securities if it has a right to recall them, even if the right of recall is conditional on the provision of substitute collateral.

RG 222.56 When a borrower on-lends the securities to a third party, provided the borrower retains a relevant interest in the securities, the lender will continue to have a relevant interest in the securities under s608(8). In this way, a number of securities lending transactions will result in a chain of people having a relevant interest in the same securities, meaning that each party in the chain must calculate their own holdings to determine if they have a substantial holding.

RG 222.57 This chain requires that a subsequent borrower retain a relevant interest. The borrower will lose its relevant interest in the lent securities if it disposes of them in circumstances where it does not retain any rights (e.g. when the borrower sells on market). The lender will also lose its relevant interest in the securities in these circumstances, even though the lender has the right to require the borrower to deliver equivalent securities under its securities lending agreement. This is because the lender's relevant interest arises under s608(8) and that provision depends on the counterparty having a relevant interest in the securities.

Note: Section 608A means that any subsequent borrower will have a relevant interest in the securities in which the original borrower has a relevant interest and should be taken to use these securities to satisfy their obligations on performance, enforcement or exercise (as applicable).

RG 222.58 However, the original borrower and lender may not be aware of a subsequent disposal and the trigger to substantial holding disclosure only occurs on becoming aware of the change in relevant interest. As such, we consider it to be prudent and good policy for the original borrower and lender to assume they retain their respective relevant interests.

Relevant interest exemptions for mortgages and derivatives do not apply

RG 222.59 Section 609 provides exemptions for derivatives and mortgages from the relevant interest provisions in s608. However, we consider that securities lending agreements are not derivatives under s609(6), or mortgages, charges or

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other securities under s609(1). Accordingly, there are no relevant interest exemptions under s609 that will ordinarily prevent a relevant interest from arising under securities lending or prime broking transactions.

Takeovers threshold

- RG 222.60 For completeness, we note that there is no exemption from the takeover provisions for relevant interests arising from securities lending, prime broking and agent lending arrangements. Section 606 basically prohibits a person from acquiring a relevant interest in the voting shares of a listed company if the voting power of that person, or someone else, would increase from 20% or below to more than 20% (or from above 20% to more than 20% but less than 90%).

ASIC relief: Lender's relevant interest

- RG 222.61 We have given relief so that a lender's relevant interest in the loaned securities under a securities lending arrangement is not affected by the subsequent actions of the borrower in relation to those loaned securities: see notional s608(8A), as inserted by [ASIC Instrument 2021/821](#). We have done this to remove any doubt and to ensure that the lender's right of recall is recognised consistently, irrespective of the subsequent actions of the borrower.
- RG 222.62 We recognise that the effect of our relief is that the lender will continue to recognise a relevant interest even though the lender may have actual knowledge of the borrower's disposal of the securities. However, in a usual market transaction, the lender is unlikely to know with certainty what the borrower does with the 'loaned' securities after the lender effects the transfer. As such, we consider it appropriate that the assumption operate in all circumstances, even if the lender has actual knowledge of the borrower's disposal.
- RG 222.63 This assumption does not affect the required disclosures of the borrower in circumstances where the borrower sells the securities rather than on-lends them. On the other hand, when the borrower on-lends the securities, that borrower would then be in the position of a lender. The modification would operate so that the original borrower (now a lender) would recognise its relevant interest arising from its right of recall, irrespective of the actions of the second borrower. It also operates in respect of any securities that are provided by a borrower to a lender as collateral under a securities lending arrangement.
- RG 222.64 This assumption only applies for the purposes of assessing whether further substantial holding notification is required. It does not affect any other obligations to properly inform the market. For example, while a securities lending arrangement is in place, the market for a particular security may change and the existence of the particular securities lending arrangements in place may mean that the relevant listed entity has continuous disclosure

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obligations to notify the market about the enforceability of a right of recall in particular circumstances. [ASIC Instrument 2021/821](#) does not alter this position.

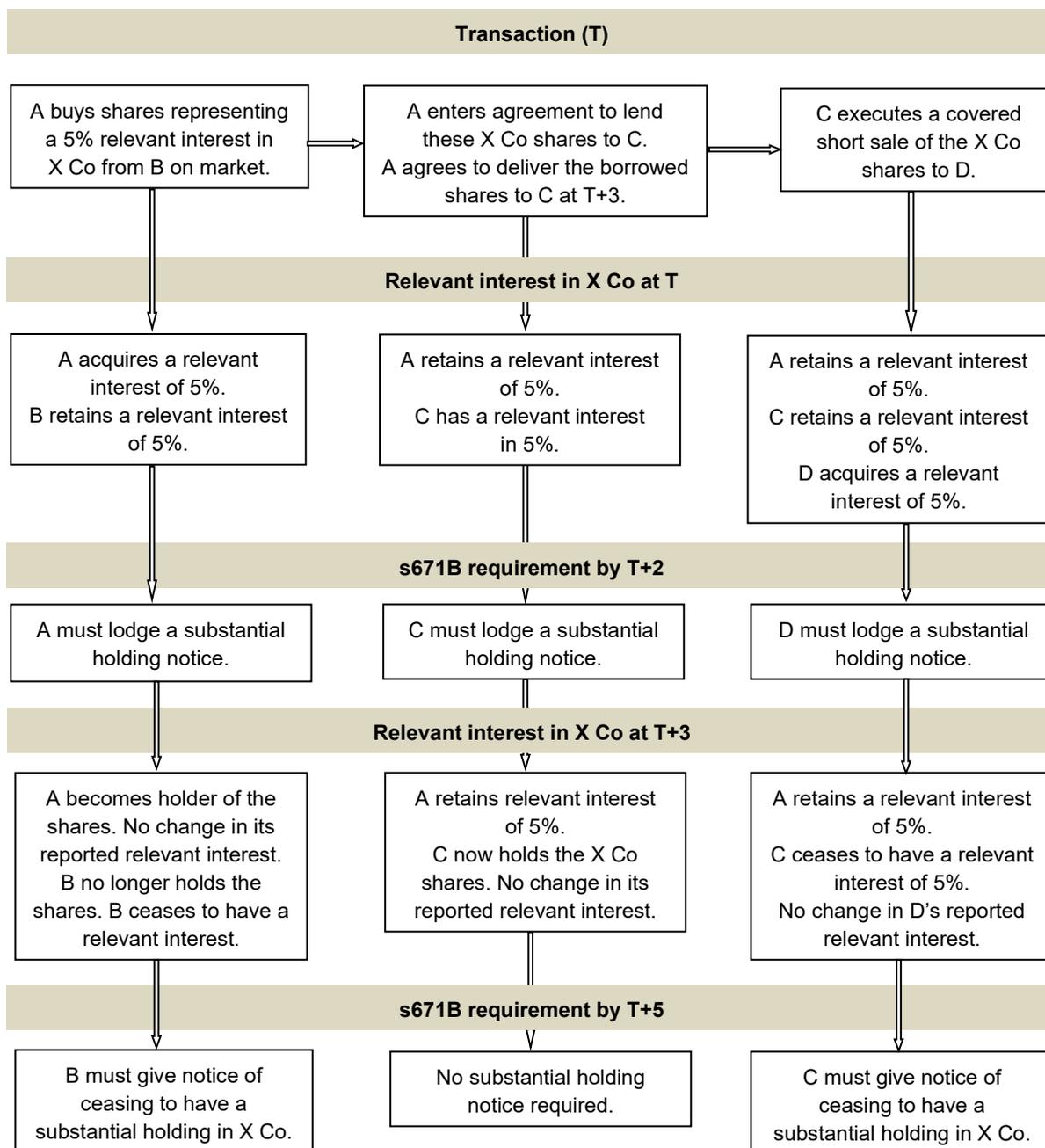
Substantial holding disclosure and securities lending

When is disclosure is required?

- RG 222.65 Persons engaged in securities lending may be required to give substantial holding notices, at various stages in a securities lending transaction. The notice must be accompanied by a copy of:
- (a) each securities lending agreement that contributed to the holding;
 - (b) any related borrowing requests and confirmations, and
 - (c) a statement reflecting any unwritten arrangements that contributed to the holding.
- RG 222.66 The borrower may be obliged to give a substantial holding notice after it has a firm (legally binding) commitment to borrow the borrowed securities. A borrower that obtains a substantial holding through securities lending must comply with s671B, even if the holding is only temporary (i.e. the obligation to give a substantial holding notice remains, even if the borrower on-sells the securities immediately and no longer has a substantial holding by the time it gives initial notice).
- Note: See the Note to s671B(3).
- RG 222.67 The lender may gain a substantial holding through the delivery of collateral securities under the transaction.
- RG 222.68 The borrower will also need to consider its disclosure obligations if it loses a relevant interest in the lent securities (e.g. because the borrower returns the securities to the lender or sells them on market). Depending on the size of the disposal and the other holdings of the borrower and its associates, this may trigger the need to give notice of a disclosable movement in the holding or a notice of ceasing to be a substantial holder.
- RG 222.69 We consider it reasonable for the lender to assume that the borrower retains a relevant interest in the securities for the purposes of the lender's disclosure of substantial holdings. Based on this assumption, the lender does not have to disclose a change in relevant interest resulting from actions after the loan merely for these purposes: see also RG 222.61–RG 222.64.
- RG 222.70 We have provided relief so that a lender's relevant interest under a securities lending arrangement in the loaned securities is not affected by the subsequent actions of the borrower in relation to those loaned securities: see notional s608(8A), as inserted by [ASIC Instrument 2021/821](#). We have done this to remove any doubt and to ensure that the lender's right of recall is consistently recognised irrespective of the subsequent actions of the borrower.

RG 222.71 Figure 1 gives examples of various scenarios where persons engaged in securities lending may be required to give substantial holding notices under s671B.

Figure 1: Examples: s671B and securities lending



Note: See Table 8 in the appendix for a text alternative for this figure (accessible version).

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ASIC relief: Disclosure of consideration

RG 222.72 Substantial holders must disclose the consideration for the acquisition or disposal of relevant interests comprising the substantial holding: see the ASIC Substantial Holding Notice.

- RG 222.73 The disclosure required for the consideration is:
- ... any and all benefits, money or otherwise, that any person from whom an interest was acquired has, or may, become entitled to receive in relation to that acquisition. Details must be included even if the benefit is conditional on the happening or not of a contingency. Details must be included of any benefit paid on behalf of the substantial holder or its associate in relation to the acquisitions, even if they are not paid directly to the person from whom the interest was acquired: see Direction 8 accompanying the ASIC Substantial Holding Notice.
- RG 222.74 We consider that ‘any and all benefits’ would include any borrowing fees payable by the borrower to the lender, any reduction in fees that would otherwise be payable by the lender to the borrower and any reduction in interest payable by the lender to the borrower on cash collateral. It may also include the fee an agent lender charges for organising securities lending transactions.
- RG 222.75 ‘Consideration’, in the context of securities lending or prime broking, is generally understood to be the margin or fee charged on the relevant transaction. It is generally accepted that the level of this fee may be driven by non-control factors and, in the over-the-counter market, may reflect counterparty risk, deal-specific factors and other commercial transactions.
- RG 222.76 These factors, together with the fact that the fee may be difficult and costly to separate out as it is part of a bundle and not on a transaction-by-transaction basis, mean that the fee does not provide clear information about the control of a listed company.
- RG 222.77 Given that the disclosure does not provide useful information towards the purposes of the substantial holding disclosure requirements, we have given relief so that a substantial holder does not need to include any consideration in a substantial holding notice, as long as the relevant interest arises from a securities lending transaction: see notional s671B(3A), as inserted by [ASIC Instrument 2021/821](#).

Disclosure by others

- RG 222.78 A substantial holding notice lodged by a counterparty to a securities lending transaction will only meet the substantial holding disclosure requirements if the counterparty has authority to bind other persons on whose behalf the notice is given, and they have similar relevant interests.
- RG 222.79 Often the parties to a securities lending transaction will not have similar relevant interests and it will not be possible to give joint notices. One counterparty’s notice will not reflect all relevant interests of the other counterparty and of the other’s associates.

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Example 1: Borrower on-lending shares

A borrower of ordinary shares in AX Limited under an AMSLA, which amount to a substantial holding, on-lends the shares on the same day. For disclosure, the borrower:

- gives a substantial holding notice, stating the nature of its relevant interest as 'Right, as lender, to recall shares under a securities lending agreement';
- does not need to attach a copy of the AMSLA under which it has its right of recall to the substantial holding notice but does need to provide the prescribed summary information listed in Table 5;
- must describe their interest with more detail than 'Acquisition and sale' or similar, which is not sufficient.

Example 2: Prime broker on-lending shares

Prime broker A borrows ordinary shares in XY Limited under an AMSLA, which amounts to a substantial holding. One week later, Prime broker A on-lends those shares to B.

For disclosure:

- A gives a substantial holding notice, stating the nature of its relevant interest as 'Holder of securities subject to an obligation to return under a securities lending agreement';
- when A on-lends those shares to B, it does not change its substantial holding notification;
- B gives a substantial holding notice, stating the nature of its relevant interest as 'Holder of securities subject to an obligation to return under a securities lending agreement';
- B does not need to attach a copy of the AMSLA under which it has an obligation to return securities to the substantial holding notice but does need to provide the prescribed summary information listed in Table 5;
- B must describe the nature of its relevant interest with more detail than as a 'Direct interest' or similar, which is not sufficient.

Example 3: Beneficial owner lends share that are then on-lent

A beneficial owner (A) lends shares in ZY Limited to a custodian (B) operating a securities lending program, who immediately on-lends those shares to a hedge fund (C). Each loan occurs under an AMSLA. A has previously lodged a substantial holding notice as a beneficial owner.

One week later, when C short sells those shares into the market:

- A does not change its substantial holding notification;

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- B lodges a substantial holding notice, stating the nature of its relevant interest as ‘Right, as lender, to recall shares under a securities lending agreement’;
- B does not need to attach a copy of the AMSLA under which it has its right of recall to the substantial holding notice but does need to provide the prescribed summary information listed in Table 5;
- it is not sufficient for B to describe its interest as ‘Acquisition and sale’ or similar;
- C needs to give a substantial holding notice, stating the nature of its relevant interest as ‘Holder of securities subject to an obligation to return under a securities lending agreement’;
- C does not need to attach a copy of the securities lending agreement under which it has an obligation to return securities to the substantial holding notice but does need to provide the prescribed summary information listed in Table 5;
- when C sells the shares on-market, it needs to lodge a substantial holding notice.

ASIC relief: Summarising securities lending master agreements

- RG 222.80 Securities lending master agreements are lengthy, complex documents. Often borrowers are party to a number of securities lending arrangements with different lenders. They may also enter into a large number of securities lending transactions within a short period of time.
- RG 222.81 Attaching a large number of standard agreements would result in very long substantial holding notices. It may result in ‘information overload’ for the market.
- RG 222.82 Accordingly, we have given relief under [ASIC Instrument 2021/821](#) that allows a substantial holder to meet the requirement to attach a copy of a master securities lending agreement to the substantial holding notice by providing a summary of certain prescribed information that is listed in Table 5.

Note: This relief extends to a written agreement that is on substantially the same terms as an AMSLA, GMSLA or GMRA: see the ‘master securities lending agreement’ definition in notional s671B(3D).

- RG 222.83 A condition of the relief is that the substantial holder must provide the full documentation on request to us or the listed entity (but not to other parties) within two business days after receiving the request: see notional s671B(3A).

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Table 5: Prescribed summary information

Schedule	Response
Type of agreement	
Parties to agreement	
Transfer date	
Holder of voting rights	
Are there any restrictions on voting rights?	Yes/no
If yes, detail	
Scheduled return date (if any)	
Does the borrower have the right to return early?	Yes/no
If yes, detail	
Does the lender have the right to recall early?	Yes/no
If yes, detail	

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E Prime broking: When a substantial holding arises

Key points

Prime brokers, and sometimes other market participants, can have extensive rights to borrow or rehypothecate any securities credited to their client's account.

This will generally result in both the prime broker and the client having a relevant interest in the securities.

The substantial holding requirements under s671B may be triggered if the prime broker's relevant interests (and the interests of any associates), including those arising from its borrowing right, is 5% or more of a listed entity.

We have given relief so that a prime broker with a borrowing (or rehypothecation) right can defer the time at which it takes into account its relevant interest arising from that borrowing right for the purposes of substantial holding disclosure compliance.

What is prime broking?

- RG 222.84 Securities lending commonly occurs as part of prime broking arrangements. Prime broking is a commercial term for a package of services offered by an investment bank to its clients, mainly institutional clients. Services typically comprise trade execution, settlement and custody, trade financing and securities lending.

Prime brokers' rights to borrow securities

- RG 222.85 Prime brokers often have extensive rights to borrow any securities credited to the client's account. A prime broker with such a right is generally authorised to borrow the client's securities without seeking any further consent from the client. This can be referred to as a 'rehypothecation' right.
- RG 222.86 However, it is usually not an exclusive right. A client of a prime broker can usually continue to deal in securities subject to the prime broking arrangement and may also appoint more than one prime broker for the same parcel of securities.
- RG 222.87 Other market participants, such as custodians operating a 'principal' securities lending program, may also have a broad right or mandate to borrow their client's securities without seeking any further consent from the client. We consider that such a right is analogous to the prime broker's borrowing (or rehypothecation) right, and it should be recognised in the same manner as a prime broker's right to borrow.

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The relevant interests provisions and prime broking

- RG 222.88 The following guidance:
- (a) explains how the relevant interest provisions in s608 and 609 generally apply to prime broking conducted on usual terms; and
 - (b) applies to a custodian operating a securities lending program with the rights described in RG 222.87.
- Note: For information about how the relevant interest provisions apply more generally, see [RG 5](#).
- RG 222.89 Participants should obtain their own advice on how the law applies to their individual agreements.
- RG 222.90 A prime broker that has the type of rights to borrow (or rehypothecate) its client's securities will have a relevant interest in those securities under s608(8) from the commencement of the prime broking arrangement.
- RG 222.91 The prime broker's right to borrow its client's securities generates a relevant interest in its client's securities, either when it enters into a prime broking agreement with a new client or when an existing prime broking client acquires new securities. This is the case even if the prime broker has not exercised its right to borrow the client's securities.
- RG 222.92 The client retains a relevant interest in the securities at all times. This is because they either continue to be the beneficial owner (before the borrowing right is exercised) or, after the securities are borrowed, they have the right to recall the securities: see RG 222.54.
- RG 222.93 The prime broker's substantial holding comprises the relevant interests of all its prime broking clients together with its other relevant interests and those of any associates (e.g. holdings of any entity in the group).
- RG 222.94 A prime broker's relevant interests will change as the relevant interest of the client changes. Accordingly, a prime broker will need to recalculate its holdings to assess whether notification is required.

Substantial holding disclosure and prime broking

- RG 222.95 Entry into a prime broking agreement triggers the need for a prime broker to give a substantial holding notice if the client's relevant interest in the securities, when combined with the prime broker's other relevant interests (and the interests of any associates), is 5% or more of a listed entity. This is also the case when an existing prime broking client acquires new securities over which the prime broker has borrowing rights.

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- RG 222.96 A prime broker's relevant interest in a client's securities does not change when the prime broker exercises its right to borrow the securities. This means the prime broker does not need to lodge a fresh substantial holding notice at this stage, as no new relevant interest has been acquired.

ASIC relief: Timing of disclosure

Deferral until borrowing right exercised

- RG 222.97 We have given relief under [ASIC Instrument 2021/821](#) so that a prime broker or custodian with a borrowing (or rehypothecation) right must defer the time at which it takes into account its relevant interest arising from that right for substantial holding disclosure purposes. The deferral is until the time at which it exercises that borrowing right: see notional s609(10A). The prime broker or custodian would then take into account the relevant interest arising from that borrowing in assessing whether it needed to file a substantial holding notice at that time.
- RG 222.98 We have given this relief on the basis that aligning the timing of any substantial holding notification with the time the borrowing right is actually exercised more closely aligns notification with the timing of changes in control of the securities. We believe this relief will enhance market transparency and improve the quality of information being provided in substantial holding notices.
- RG 222.99 The relief is subject to two conditions. First, the relief only relates to the relevant interest arising from the borrowing right alone and, as part of that, the client is not restricted in how it can deal with the securities in respect of which the borrowing right is given. A prime broker or custodian may, in certain cases, have a relevant interest because of other arrangements (e.g. an agreement under which the client agrees not to dispose of securities). Our relief does not apply to the relevant interest arising from that other agreement.
- RG 222.100 Second, we have limited the relief to circumstances where the borrowing right is obtained in the ordinary course of the prime broker's or custodian's business. Whether a specific arrangement would be in the ordinary course of the prime broker's or custodian's business will depend on the circumstances. However, if the prime broker or custodian had a borrowing right over particular securities and was accumulating or 'warehousing' that security for a corporate purpose (whether its own or a client's), we would not consider that right to be obtained in the ordinary course of that prime broker's or custodian's business. The very nature of the borrowing right usually obtained by a prime broker or custodian is over the securities that may be in the client's account from time to time rather than particular securities.

Control transactions

- RG 222.101 Under our relief, a prime broker or custodian may defer taking into account the relevant interest arising from the borrowing right in meeting the substantial holding disclosure requirements at all times, including when a control transaction is underway for the relevant listed securities.
- RG 222.102 Despite this, a prime broker or custodian may determine that voluntary disclosure to the market and the listed entity is appropriate in such circumstances to avoid the non-disclosure of the nature or extent of their borrowing right giving rise to unacceptable circumstances.

ASIC relief: Attaching prime broking agreement

- RG 222.103 A prime broking agreement is a lengthy, complex document. Our relief means that this agreement does not need to be attached to a substantial holding notice. However, the summary of the securities lending transaction will need to be attached: see notional s671B(4A) and the definition of ‘master securities lending agreement’ in notional s671B(4C).

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F Agent lenders: When a substantial holding arises

Key points

Agent lenders arrange securities lending transactions for their clients with third-party borrowers under authorisation agreements.

The rights and discretions that agent lenders usually have under an authorisation agreement are likely to result in the agent having a relevant interest in securities.

We have given legislative relief so that:

- (a) an agent lender can defer the time at which it takes into account its relevant interest for the purposes of substantial holding disclosure compliance; and
- (b) an agent lender retains their relevant interest despite actions by the third-party borrower.

What is agent lending?

RG 222.104 Some custodians and other intermediaries act as agents for clients who want to make their securities available for securities lending. In this guide, we refer to these intermediaries as ‘agent lenders’.

RG 222.105 Agent lenders negotiate and settle securities lending transactions on behalf of their client with third-party borrowers. Agent lenders typically do not have a right to borrow their client’s securities (although they may do so) and, unlike prime brokers, they do not enter securities lending transactions as principal.

RG 222.106 Agent lenders perform their role under an agreement (‘authorisation agreement’) with their client lender. There is no standard form of authorisation agreement, but it will generally set out the client’s parameters on:

- (a) the securities that can be lent (‘lending pool securities’);
- (b) the entities that can borrow the securities (i.e. exposure and credit limits);
- (c) acceptable collateral; and
- (d) how and when securities lending transactions can be terminated.

Note: See the definition of ‘authorisation agreement’ in notional s608(8C), as inserted by [ASIC Instrument 2021/821](#).

RG 222.107 Authorisation agreements contain detailed provisions for the agent lender to act on client instructions and some of the agent lender’s functions may be

exercised automatically (e.g. to match lending pool securities with borrow requests from acceptable counterparties). However, agent lenders usually have discretion over various matters relating to securities lending, including an unfettered discretion to terminate a transaction without prior notice to the client.

The relevant interest provisions and agent lenders

- RG 222.108 Section 608 applies to agent lenders in a similar way to prime brokers (despite prime brokers having a right to borrow the client's securities and doing so as principal). This is because:
- (a) s608(1) is drafted in broad terms and expressly states that it does not matter how remote a relevant interest is or how it arises and that, if two or more people can jointly exercise one of the powers, each of them is taken to have that power;
 - (b) s608(2) extends the application of s608(1) by saying that 'power or control' over voting or disposal includes power or control that is indirect and power or control that is subject to restraint or restriction; and
 - (c) s608(8) accelerates the acquisition of a relevant interest when a person has been given future rights over securities.
- RG 222.109 Section 609 does not contain any exception that would apply to agent lenders. In particular, we do not consider the bare trustee exception in s609(2), which can be relied on by custodians in their trustee capacity, applies to intermediaries that have discretion like agent lenders.
- RG 222.110 An authorisation agreement will therefore result in the agent lender acquiring a relevant interest in the lending pool securities (i.e. the securities within the parameters suitable for loan) at the time of entry into an authorisation agreement with the client (and when the client acquires further securities that are added to the lending pool). This is because the agent lender has power to exercise control over the disposal of the lending pool securities. The client will also have a relevant interest in the lending pool securities.
- RG 222.111 If the agent lender has discretion to terminate loans under the authorisation agreement, it will also have a relevant interest in:
- (a) the securities that have been loaned to a borrower under the authorisation agreement ('loaned securities');
 - (b) any securities delivered by the borrower as collateral ('collateral securities'); and
 - (c) any securities purchased with cash collateral provided by the borrower ('purchased securities').
- RG 222.112 This is because termination of the securities loan will result in recall of the loaned securities for the client and return of the collateral securities to the

borrower. The agent lender would also ordinarily be authorised to sell any purchased securities in order to return cash collateral to the borrower.

Note: Intermediaries who act as agent lenders should obtain their own legal advice on how the relevant interest provisions apply to their agreements with clients. The above analysis is intended as general guidance only.

Substantial holding disclosure and agent lending

- RG 222.113 Section 671B requires an agent lender to aggregate its own direct relevant interest in securities (i.e. relevant interests arising because it holds the securities) and any deemed economic interest in securities with the relevant interest and deemed economic interests it has in its clients' securities through agency and other intermediary agreements. The agent lender also needs to take into account the relevant interests and deemed economic interests of the agent's associates.
- RG 222.114 Without our relief, an agent lender would acquire a relevant interest in its client's lending pool securities at the time the agent enters into an authorisation agreement with the client. The agent lender's relevant interests would not change when securities in the lending pool are lent to a third-party borrower. This can result in the agent lender needing to give a substantial holding notice over all the lending pool securities when it enters into an authorisation agreement (and when new securities are added to the lending pool) but not when the agent exercises rights over specific securities under that agreement to loan securities to a third-party borrower.

ASIC relief for agent lenders

Deferral relief until lending right exercised

- RG 222.115 We consider that an agent lender has more substantive control over a client's securities once they have been lent out to a third-party borrower. It is at this point the agent lender usually has the discretion to terminate securities lending transactions and recall the lent securities.
- RG 222.116 [ASIC Instrument 2021/821](#) therefore provides that for the purposes of the substantial holding disclosure requirements, the agent lender does not acquire a relevant interest until the securities are lent out: see notional s609(10C). As with the deferral relief provided for prime brokers, this relief aims to ensure any disclosure obligation as part of the substantial holding disclosure requirements is aligned with the agent lender's more substantive control over the securities.

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- RG 222.117 The deferral relief is conditional on:
- (a) the lender not being subject to any restriction with the agent (other than a ‘permissible restriction’) in how the lender can deal with the securities; and
 - (b) the agent acquired the lending authority in the ordinary course of carrying on an agency lending business: see notional s609(10C), as inserted by [ASIC Instrument 2021/821](#).

Retention of interest in lent securities

- RG 222.118 As with principal lenders, agent lenders generally have a relevant interest in securities that have been transferred to a borrower through a securities lending arrangement. This is due to the agent lender’s right to terminate securities lending arrangements (which results in a recall of the lent securities). However, without our relief, an agent lender may lose their relevant interest in lent securities if the borrower loses its relevant interest (see RG 222.57). This can complicate substantial holding disclosure. Therefore, we have provided relief so that an agent lender retains a relevant interest in lent securities for the purposes of Pt 6C.1 regardless of the borrower’s dealings with the lent securities: see notional s608(8B).

ASIC relief: Attaching authorisation agreement

- RG 222.119 Similar to relief for securities lending agreements, we have provided relief so that agent lenders do not need to attach authorisation agreements to their substantial holding notices: see notional s671B(4B)–(4C), as inserted by [ASIC Instrument 2021/821](#). The effect of our deferral relief is that disclosure of any substantial holding (or change in a substantial holding) arising from the authorisation agreement would occur once securities have been lent. The disclosure relief is conditional on the substantial holding notice disclosing specified key information about the authorisation agreement.

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G Tracing notices

Key points

ASIC and key persons for listed entities can issue tracing notices to certain individuals requiring them to disclose information about relevant interests, deemed economic interests and offsetting short positions that they or their associate hold—or have given instructions about—in the voting securities in a listed entity.

The class of individuals that can receive an ASIC-issued tracing notice is wider than the class of individuals that can be issued a tracing notice from the key person of a listed entity or a notice ASIC issues at a member's request.

The information that must be disclosed in response to an ASIC-issued tracing notice on its own initiative is greater than the disclosures that must be made in response to tracing notices from key persons or ASIC in response to a member request.

Who can issue a tracing notice?

RG 222.120 ASIC and key persons for listed entities can direct certain individuals to disclose information about the voting securities in a listed entity that they or an associate holds or that they have given instructions about: see s672A and 672B(2). These directions are known in this guide as 'tracing notices'.

Note: 'Instructions' in this context include instructions about the acquisition or disposal of voting securities, or derivatives that result in a person having a deemed economic interest in a number of voting securities, or the exercise of rights attached to such voting securities and derivatives: see 'instructions' as defined in s9.

RG 222.121 ASIC may issue a tracing notice:

- (a) on its own initiative (ASIC-issued tracing notice) (see s672A(1)); and
- (b) in response to a request from a member of a listed entity (member-initiated tracing notice) (see s672B(2)).

How to request a tracing notice from ASIC

RG 222.122 Applications from members of listed entities for ASIC to issue a member-initiated tracing notice should be submitted through the [ASIC Regulatory Portal](#) using the 'Apply for an ASIC approval, consent, statement, nomination or other' transaction and selecting 'ASIC Direction'. A fee will apply for lodging the transaction: see item 23 of Schedule 1 of the *Corporations (Fees) Regulations 2001*.

Note: A separate request must be made for the dispatch of multiple notices. If a member wants us to dispatch more than one tracing notice, a separate fee is required for each notice.

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- RG 222.123 If a member requests ASIC to issue a member-initiated tracing notice, we must do so unless we consider that it would be unreasonable to do so in the circumstances: see s672B(2)(b). For example, it will be unreasonable to require a person to disclose information if the request is unnecessary or vexatious.
- RG 222.124 Members of a listed entity have standing to enforce a member-initiated tracing notice given by ASIC: see s1325A(3)(c).

Who can be issued with a tracing notice?

ASIC-issued tracing notice

- RG 222.125 ASIC may issue an ASIC-issued tracing notice to:
- (a) a member of the relevant listed entity;
 - (b) a person named in a previous disclosure following a tracing notice as having a relevant interest or deemed economic interest in, or having given instructions about, voting securities in or derivatives relating to the relevant listed entity;
 - (c) a person who ASIC suspects, on reasonable grounds, has a relevant interest or deemed economic interest in, or who has given instructions about, voting securities in or derivatives relating to the relevant listed entity; or
 - (d) a person who ASIC suspects, on reasonable grounds, is an associate of a person described in paragraph (c): see s672A.

Other tracing notices

- RG 222.126 Key persons and ASIC—when issuing a member-initiated tracing notice—may issue a tracing notice to:
- (a) a member of the relevant listed entity; or
 - (b) a person named in a previous disclosure following a tracing notice as having a relevant interest in, or having given instructions about, voting securities in the relevant listed entity; or
 - (c) a person who the key person (for a tracing notice they issue) or member (for a member-initiated tracing notice) suspects, on reasonable grounds, has a relevant interest in, or has given instructions about, voting securities in the relevant listed entity.

Standard of suspicion

- RG 222.127 The suspicion of a key person or member requesting ASIC to issue a member-initiated tracing notice on the basis that they hold a suspicion, on

reasonable grounds, must be at least partly based on information disclosed in accordance with Ch 6C—for example, information disclosed in substantial holding disclosures or in response to tracing notices: see s672B(4).

- RG 222.128 This requirement for the suspicion to be based at least partly on information corresponds to the standard upon reasonable grounds for suspicion in s41(5) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*. It is a higher standard of suspicion compared to the standard for ASIC. This is intended to strike a balance between streamlining the tracing notice process and preventing its use for improper purposes.

Note: See the [Explanatory memorandum](#) for the *Treasury Laws Amendment (Strengthening Financial Systems and Other Measures) Act 2025* (Explanatory memorandum) at paragraph 1.218.

What information can be sought via a tracing notice?

- RG 222.129 The information that must be disclosed in response to tracing notices is summarised in Table 6 and aligns with the information that must be disclosed in a substantial holding notice.

Table 6: Information that must be disclosed

Recipient	ASIC-issued tracing notice	Other tracing notices
Any recipient	<ul style="list-style-type: none"> • Details of the discloser’s relevant interests and deemed economic interests in the listed entity, including circumstances that give rise to those interests and details of the discloser’s offsetting short positions (if relevant). • Details of any agreement through which the discloser would have a relevant interest, deemed economic interest or offsetting short position. • Name of each associate and details of the nature of the association. • Name and address of anyone else with a deemed economic interest in voting securities in the relevant listed entity, including the nature and extent of the deemed economic interest and the circumstances that gave rise to it. • Name and address of anyone who instructed the discloser about derivatives. • Details of any instructions received. • Any other particulars prescribed by regulations. 	<ul style="list-style-type: none"> • Details of the discloser’s relevant interests in the listed entity, including circumstances that give rise to the interest. • Any other particulars prescribed in regulations.

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Recipient	ASIC-issued tracing notice	Other tracing notices
Member of a listed entity	<ul style="list-style-type: none"> • Where an ASIC-issued tracing notice specifies securities, the discloser must include: <ul style="list-style-type: none"> – the name and address of anyone else with a relevant interest in any of the specified securities; – details of the nature and extent of the person's relevant interests; – details of the circumstances that gave rise to the relevant interest; – the name and address of anyone that instructed the discloser about any of the specified securities; and – details of the instructions (including dates). 	Where another tracing notice specifies particular securities, the discloser must include: <ul style="list-style-type: none"> – the name and address of anyone else with a relevant interest in any of the specified securities; – details of the nature and extent of the person's relevant interests; – details of the circumstances that gave rise to the relevant interest; – the name and address of anyone that instructed the discloser about any of the specified securities; and – details of the instructions (including dates).
Persons named in previous disclosure as having an interest or giving instructions		
Persons suspected of having an interest or giving instructions		
Associate of suspected person		Not applicable

RG 222.130 Unless specified otherwise in the notice, if information disclosed in response to an ASIC-issued tracing notice includes details of a person's own, or any other person's, relevant interests or deemed economic interests, the information must be accompanied by:

- (a) a copy of any document or documents that set out the terms of any agreement that contributed to those interests, which is in writing and readily available to the discloser; and
- (b) a statement giving full and accurate details of any contract, scheme or arrangement that contributed to the interests which is not in writing and readily available to the holder: see s672AF(1) and (3).

Note: The copy of the document described in paragraph (a) must be endorsed as a true copy of the document: see s671AF(2).

RG 222.131 When giving the statement referred to in RG 222.130(b), if the contract, scheme or arrangement that is not in writing only contributed to another person's relevant interests and deemed economic interests, the discloser only needs to disclose details about the contract, scheme or arrangement:

- (a) where it relates to the other person's relevant interests, that are known to them; or
- (b) where it relates to the other person's deemed economic interests, that are known to them from information that is not publicly available, irrespective of whether the details are also knowable based on public information: see s672AF(5).

RG 222.132 More information must be disclosed in response to an ASIC-issued tracing notice than in response to other tracing notices (including member-initiated

tracing notices issued by ASIC). This is because Parliament intended for ASIC to be able to use this power to uncover undisclosed information, particularly information relating to a foreign listed entity: see the [Explanatory memorandum](#) at paragraph 1.227.

RG 222.133 However, there are limitations on the information that must be provided in response to tracing notices, irrespective of whether they are ASIC-initiated or other tracing notices. For example, information about other persons with relevant interests must only be disclosed by an individual to the extent that such information is known to them—that is, they are not obliged to check publicly available information concerning arrangements to which they have no connection: see Explanatory memorandum at paragraph 1.228.

How ASIC processes tracing notices

RG 222.134 We must pass information disclosed in response to a member-initiated tracing notice to that member unless we consider it would be unreasonable in all the circumstances to do so: see s672C(b).

RG 222.135 We will generally also pass on information disclosed in response to any member-initiated tracing notice to the relevant listed entity, since the entity must then include information in its register of relevant interests that is required under s672DA. We will not disclose the identity of a member who requested us to issue a member-initiated tracing notice to the listed entity: see s672C.

RG 222.136 We will only pass on information we receive from tracing notices to a person referred to in s672C (i.e. the key person for a listed entity or the member who requested we issue a member-initiated tracing notice). However, other persons may obtain beneficial ownership information for a listed entity by inspecting or obtaining a copy of its register of relevant interests.

RG 222.137 Where ASIC receives a response to an ASIC-issued tracing notice, we may pass on information to a person referred to in s672C but may not do so in all cases. We will not generally pass on information that is only required by an ASIC-issued tracing notice and not information disclosed in response to a tracing notice issued by the key person for a listed entity.

What is the deadline for responding to a tracing notice?

RG 222.138 Tracing notices must be responded to within two business days after:

- (a) the notice is received, or
- (b) ASIC notifies the person that it refuses to grant an exemption (see RG 222.140–RG 222.142) from the obligation to respond: see s672AB and s672AC.

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- RG 222.139 Section 672AA describes the circumstances in which a person will be deemed to have received a tracing notice depending on the method of service used.

Relief from responding to a tracing notice

- RG 222.140 We can exempt a person from Pt 6C.2 or declare that it applies as if specified provisions were omitted, modified or varied: see s673. However, we do not envisage that we will often grant an exemption from the requirement to provide information in response to a tracing notice.
- RG 222.141 Because of the importance of the Ch 6 purposes of promoting a fully informed market, we think there must be special reasons present before we will grant relief from the obligation to provide information in response to a tracing notice. To be special, the information or the cost or difficulty of providing it must be extraordinary, unusual or atypical. We will generally refuse requests that appear to be made simply to delay compliance.
- RG 222.142 Difficulty in complying with a tracing notice within the time required is generally not a special reason.
- RG 222.143 For some recipients (e.g. nominee companies), a tracing notice may involve providing a wide range of information in a short time. This difficulty can be mitigated if the direction specifies the information to be disclosed, including because the discloser and recipient have agreed on the information to be provided. This is because, in such circumstances, only the specified information needs to be disclosed: see s672BD(a).

Timeframe to apply for relief

- RG 222.144 Where a person requests that ASIC provide an exemption from the requirement to disclose information in response to a tracing notice, they must make this request no later than two business days after they receive the tracing notice. If a person does not request an exemption within two business days after receiving a tracing notice, their request cannot be considered.

H Registers of relevant interests

Key points

Certain information that the key person of a listed entity receives in response to a tracing notice must be recorded in a register of relevant interests.

The register of relevant interests must meet location and form requirements and be open for inspection at no cost to members of the listed entity, academics and journalists. Other persons may inspect the register at a cost that does not exceed the maximum cost specified in the regulations.

Any person may request a copy of the register or a part of the register, which the key person must provide within specified timeframes and at no greater cost than is specified in the regulations.

Information required in a register of relevant interests

RG 222.145 A key person for a listed entity must record in the register of relevant interests that they are required to maintain information they receive in response to a tracing notice they have issued or that they have received from ASIC under s672C: see s672DA(2)–(3).

RG 222.146 The information from the notice must be recorded in the register of relevant interests within two business days of receipt: see s672DB(4).

Note: For listed entities that were not incorporated or formed in Australia, this obligation only applies in relation to securities quoted on a declared financial market: see s672DE.

RG 222.147 The register of relevant interests must contain:

- (a) the name and address of a person that has a relevant interest in securities of the relevant listed entity;
- (b) details of the nature and extent of a person's relevant interest in securities of the relevant listed entity;
- (c) details of the circumstances giving rise to a person's relevant interest in securities of the relevant listed entity;
- (d) details of instructions that a person has given about:
 - (i) the acquisition or disposal of securities in the relevant listed entity;
 - (ii) exercise of any voting or other rights attached to securities in the relevant listed entity; and
 - (iii) any other matter relating to securities in the relevant listed entity; and
- (e) the name and address of a person that has given instructions described in paragraph (d): see s672DB.

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Required form of a register of relevant interests

RG 222.148 The register of relevant interests must meet the requirements specified for its form in Part 5 of ASIC Instrument 2026/XXX. They include a requirement that the register be kept in a delimited file format: see section 26(2) of ASIC Instrument 2026/XXX.

Note: The register may also be kept in other formats in addition to a delimited file format: see the Note to section 26(2).

RG 222.149 The register of relevant interests must consolidate information that the key person receives in response to tracing notices that they issued and any information the key person receives from ASIC under s672C. Consolidation means bringing together all information received from the responses in a single register for the listed entity that is readily understandable. It cannot comprise only collated tracing notice responses that the key person receives in response to tracing notices they issued or received from ASIC under s672C.

RG 222.150 Table 7 outlines the information that, to the extent applicable, must be included in each entry in the register of relevant interests and the information must be ordered consistently: see sections 26(3)–(4) of ASIC Instrument 2026/XXX.

Table 7: Information that must be included in register of relevant interest entries

Category of information	Details
Notice and record of particulars	<ul style="list-style-type: none"> the disclosure notice identifier, being a unique identifier for the information disclosed in the entry (see the 'disclosure notice identifier' definition in section 26(5) of ASIC Instrument 2026/XXX); the date of the disclosure; the member identifier, being a unique identifier that links to the member's record in the listed entity's member register, e.g. a unique combination of the member's name and address (see the 'member identifier' definition in section 26(5) of ASIC Instrument 2026/XXX); the disclosable securities; and the number of disclosable securities the subject of the disclosure.
Details of relevant interest	<ul style="list-style-type: none"> details of the nature and extent of a person's relevant interest in the disclosable securities; and details of the circumstances that give rise to a person's relevant interest in the disclosable securities.

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Category of information	Details
Name of person with relevant interest	<ul style="list-style-type: none"> • if a person with a relevant interest in the disclosable securities is not a natural person—the name of the person; • if a person with a relevant interest in the disclosable securities is a natural person—the person's: <ul style="list-style-type: none"> – last name; and – first name; and – other given names (if any).
Address of person with relevant interest	<ul style="list-style-type: none"> • the address of a person with a relevant interest in the disclosable securities, including, where applicable: <ul style="list-style-type: none"> – the unit or apartment number; and – the level or floor; and – the building name or number; and – the street address; and – the locality or suburb; and – the state; and – the postcode; and – the country.
Details of instructions	<ul style="list-style-type: none"> • the details of any instructions that a person has given about: <ul style="list-style-type: none"> – the acquisition or disposal of the disclosable securities; or – the exercise of any voting or other rights attached to the disclosable securities; or – any other matter relating to the disclosable securities.
Name of person who has given instructions	<ul style="list-style-type: none"> • if a person who has given instructions referred to in the preceding row is not a natural person—the name of the person; • if a person who has given instructions referred to in the preceding row is a natural person—the person's: <ul style="list-style-type: none"> – last name; and – first name; and – other given names (if any). • if a person has given instructions referred to in the preceding row—the address of the person, including, where applicable: <ul style="list-style-type: none"> – the unit or apartment number; and – the level or floor; and – the building name or number; and – the street address; and – the locality or suburb; and – the state; and – the postcode; and – the country.

RG 222.151 A key person will not satisfy the form requirements for the register of relevant interests unless a person searching the register can distinguish and locate separate entries and those entries are logically organised. For example, the key

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person may maintain an index or search function that identifies separate entries by their date and by the persons to whom they relate.

- RG 222.152 A register of relevant interests must not record any ‘sensitive information’ about a person, as defined in s6 of the *Privacy Act 1988* (Privacy Act), without express consent: see s15 of the Privacy Act and Australian Privacy Principle (APP) 3.3. A key person is also not required to include any analysis of information from a tracing notice in the register.
- RG 222.153 Sensitive information may include information or an opinion about a person’s racial or ethnic origin, trade union membership or associations, political association membership, sexual orientation or practices and criminal record. For more information, see ‘What is sensitive information?’ on the [What is personal information?](#) page on the Office of the Australian Information Commissioner website.

Storing a register of relevant interests

- RG 222.154 The register of relevant interests must be kept at the key person’s:
- (a) registered office;
 - (b) Australian principal place of business;
 - (c) place in Australia where work maintaining the register is done; or
 - (d) a place ASIC has approved: see s672DC(1).
- RG 222.155 A key person must notify ASIC within seven business days after the register of relevant interests:
- (a) is established at a place that is not the key person’s registered office or Australian principal place of business; or
 - (b) moved from one place to another, unless the move is between the key person’s registered office and Australian principal place of business: see s672DC(3)–(4) and [Form 6074](#) *Notice regarding location of register of relevant interests—s672DA(4)*.

Who can inspect the register of relevant interests?

- RG 222.156 The register of relevant interests must be available for inspection by:
- (a) a member of the listed entity;
 - (b) an academic or journalist; or
 - (c) any other person: see s672DD(2).

Note: For definitions of ‘academic’ and ‘journalist’, see s9.

- RG 222.157 There must be no fee for a member of the listed entity, academic or journalist to inspect the register. The fee for any other person to inspect the register must not exceed the amount prescribed in item 1 of the table in Sch 4 of the Corporations Regulations: see s672DD(2)–(3).

Requesting copies of the register of relevant interests

- RG 222.158 A person may request the key person for a listed entity give them a copy of the register or copy of part of the register: see s672DD(4). The key person may impose a fee to provide a copy of the register or part of the register. The fee must not exceed the amount prescribed in item 3 of the table in Sch 4 of the Corporations Regulations.
- RG 222.159 The key person must provide a copy of a register or part of a register before the end of 21 days from the date of the request if no fee applies. If a fee applies, the copy of the register or part of the register must be provided before the end of 21 days from the date of payment of that fee: see s672DD(5).
- RG 222.160 It is important that copies of registers or parts of registers are provided in a timely manner. ASIC will only allow a key person more than 21 days to provide a person with a copy, or part of, the register in exceptional circumstances: see s672DD(5).

Format of copies of registers

- RG 222.161 When a copy of the register or part of the register is requested, the default format provided must be easily downloadable and in a delimited file format: see notional 672DD(5A), as inserted by section 27 of ASIC Instrument 2026/XXX.
- RG 222.162 If the requester asks for the register or part of the register in a different format, the key person may provide the alternative format that is requested at their discretion. Consistent with the requirement upon registers or parts of registers to be in delimited file format, the copy in the alternative format must be a clear reproduction of the register or part of the register and be in readable form: see s1306(4).
- RG 222.163 A copy provided in electronic form must be accessible using commonly available software. File integrity should be checked before provision. If a link is provided, the link should enable direct download without additional steps that would prevent timely access.
- RG 222.164 We consider that if the key person has provided a copy of a register or part of a register to a person, they do not need to provide another copy of that register or part of the register to that person if its content is unchanged. In these circumstances, the key person may send a statement that there has been no change in its contents.

I Freezing orders

Key points

ASIC may make a freezing order in response to a contravention of the substantial holding disclosure and beneficial ownership tracing requirements.

ASIC's powers to make a freezing order extend to persons that were incorporated or formed outside Australia but hold securities listed on a declared financial market.

For guidance on ASIC's approach to enforcement generally, which would inform our approach to making freezing orders, see Information Sheet 151 *ASIC's approach to enforcement* ([INFO 151](#)).

- RG 222.165 ASIC may make freezing orders in relation to securities in a listed entity if we consider that a person has contravened the substantial holding disclosure and beneficial ownership tracing requirements that apply in relation to that entity: see s673A(1) and s673B.
- RG 222.166 We may only make a freezing order if we are of the opinion that doing so assists in achieving any of the following purposes:
- (a) protecting the rights or interests of persons or groups who have been, are being, will be or are likely to be affected by the contravention in question;
 - (b) ensuring that persons who have failed to comply with a requirement under Ch 6C do not benefit from that non-compliance;
 - (c) encouraging persons who are or were involved in failures to comply with a requirement under Ch 6C to rectify the contravention; and
 - (d) protecting ASIC's ability to inquire about contraventions and obtain remedies from a court or the Takeovers Panel in relation to the contravention—for example, ASIC may seek a civil order of divestiture (a form of remedial order) under s1325A of the Corporations Act: see s672A(2).
- RG 222.167 If we believe that a freezing order would be likely to prejudice the rights or interests of a person not involved in the relevant contravention, we must have regard to that prejudice, and any agreement or relationship that the affected person has with a person involved in the contravention: see s673A(4).
- RG 222.168 However, the fact we must have regard to these factors, does not:
- (a) limit the matters we may consider in making a freezing order; or

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- (b) require us to come to an opinion about whether making the order would have the prejudicial effect identified: see s673A(5).

RG 222.169 Where a freezing order relates to derivative-based interests, we would expect to have regard to the impact of a freezing order on a counterparty to the derivative. For example, where possible, we would expect to provide an opportunity for a counterparty to provide submissions to ASIC in respect of a freezing order. Where appropriate, we may prefer a freezing order targeting the derivative interest rather than freezing the disposal of underlying securities held as a hedge by an arm's length counterparty if that counterparty has not contravened Ch 6C.

Interim orders

RG 222.170 We may make an interim order if, in our opinion, a person has failed to comply with the substantial holding disclosure and beneficial ownership tracing requirements and we are considering making a freezing order in relation to the contravention. We are not required to hold a submission or hearing process when making an interim order: see s678(1).

RG 222.171 The interim order will last 21 days, unless revoked earlier: see s673B(2).

RG 222.172 The making of interim orders allows us to take immediate temporary action in circumstances where, for example, we consider that the delay while the submission or hearing process is completed will prejudice the purposes the order seeks to achieve.

Appendix

RG 222.173 This appendix provides accessible text for Figure 1.

Table 8: Examples: s671B and securities lending

Situation	Example 1	Example 2	Example 3
Initial transaction (T)	A buys shares representing a 5% relevant interest in X Co from B on market. (Scenario 1)	A enters agreement to lend the shares bought in Scenario 1 to C. A agrees to deliver the borrowed shares to C at T+3 days (T+3) . (Scenario 2)	C executes a covered short sale of the X Co shares delivered by A in Scenario 2 to D. (Scenario 3)
Relevant interests in X Co at T	From Scenario 1, A acquires a relevant interest of 5% in X Co from B and B retains a relevant interest of 5% in X Co. (Outcome 1)	From Scenario 2, A retains a relevant interest of 5% in X Co and C has a relevant interest of 5% in X Co. (Outcome 2)	From Scenario 3, A retains a relevant interest of 5% in X Co, C retains a relevant interest of 5% and D acquires a relevant interest of 5%. (Outcome 3)
s671B requirement by T+2 days (T+2)	A must lodge a substantial holding notice if Outcome 1 exists. (Obligation 1)	C must lodge a substantial holding notice if Outcome 2 exists. (Obligation 2)	D must lodge a substantial holding notice if Outcome 3 exists. (Obligation 3)
Relevant interest in X Co at T+3	A becomes holder of the shares acquired in Outcome 1. There is no change in A's reported relevant interest. B no longer holds the shares and ceases to have a relevant interest. (Acquisition 1)	A retains a relevant interest in the shares lent in Scenario 2. C now holds the X Co shares. There is no change in C's reported relevant interest. (Acquisition 2)	A retains a relevant interest of 5% in the shares delivered to D in Scenario 3. C ceases to have a relevant interest of 5%. There is no change in D's reported relevant interest. (Acquisition 3)
s671B requirement by T+5 days (T+5)	From Acquisition 1, B must give notice of ceasing to have a substantial holding in X Co. (Notification 1)	From Acquisition 2, neither A nor C need to lodge a substantial holding notice. (Notification 2)	From Acquisition 3, C must give notice of ceasing to have a substantial holding in X Co. (Notification 3)

Note: This table provides a text alternative for Figure 1.

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Key terms

Term	Meaning in this document
AFS licence	Has the meaning given in s9 of the Corporations Act
AFS licensee	A person who holds an AFS licence under s913B of the Corporations Act
agent lender	Has the same meaning given in notional s608(8C) as inserted by ASIC Instrument 2021/821
AMLSA	Australian Master Securities Lending Agreement
ASIC	Australian Securities and Investments Commission
ASX	The exchange market known as ASX, operated by ASX Limited
authorisation agreement	Has the same meaning given by notional s608(8C) as inserted by ASIC Instrument 2021/821
beneficial ownership tracing requirements	The requirements in Pt 6C.2
borrower	See 'securities lending'
Corporations Act	<i>Corporations Act 2001</i> , including any regulations made for the purposes of the Act
Corporations Regulations	<i>Corporations Regulations 2001</i>
CP 107 (for example)	An ASIC consultation paper (in this example numbered 107)
CS facility	A clearing and settlement facility as defined by s768A
CS facility licence	An Australian CS facility licence under s824B that authorises a person to operate a CS facility in Australia
CS facility licensee	A person who holds a CS facility licence Note: This is a definition contained in s761A of the Corporations Act.
custodial business	Has the meaning given in ASIC Instrument 2021/821
custodian	The holder of an Australian financial services licence carrying on a custodial business
declared financial market	Has the meaning given in s9D of the Corporations Act Note: References to 'prescribed financial market' or 'prescribed financial markets' in any ASIC instrument (e.g. ASIC Instrument 2023/688) should apply as if the references are to a declared financial market or declared financial markets, respectively: see s1705G.

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Term	Meaning in this document
deemed economic interest	Has the meaning given by Div 2 of Pt 6C.1A of the Corporations Act
deemed non-physically settleable derivative-based holding percentage	Has the meaning given in s671BL(1) of the Corporations Act
deemed physically settleable derivative-based holding percentage	Has the meaning given in s671BL(1) of the Corporations Act
disclosable movement	Has the meaning given in s671BK of the Corporations Act
Explanatory memorandum	Explanatory Memorandum to the <i>Treasury Laws Amendment (Strengthening Financial Systems and Other Measures) Act 2025</i>
GMRA	Global Master Repurchase Agreement
GMSLA	Global Master Securities Lending Agreement
holding percentage	Has the meaning given in s671BL(1) of the Corporations Act
INFO 151 (for example)	An ASIC information sheet (in this example numbered 151)
instructions	Has the meaning given in s9 of the Corporations Act
lender	See 'securities lending'
listed entity	A Chapter 6C body under s671A(a) of the Corporations Act
notional s608(8A)	A section of the Corporations Act, notionally inserted by legislative instrument (in this example numbered 608(8A))
offsetting short position	Has the meaning given by Div 3 of Pt 6C.1A of the Corporations Act
offsetting short position percentage	Has the meaning given in s671BM of the Corporations Act
register of relevant interests	A register kept under s672DA of the Corporations Act
relevant interest	Has the meaning given in s9 of the Corporations Act
relevant market operator	Has the same meaning given in s9 of the Corporations Act
RG 5 (for example)	An ASIC regulatory guide (in this example numbered 5)

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Term	Meaning in this document
s671B (for example)	A section of the Corporations Act (in this example numbered 671B)
securities lending	The term used to describe a common market transaction where securities are temporarily transferred from the owner (the lender) to another party (the borrower)
substantial holding	Has the meaning given in s 9 of the Corporations Act
substantial holding notice	A notice given under s671B of the Corporations Act
takeover provisions	The provisions of Ch 6 of the Corporations Act that regulate the acquisition of corporate control
tracing notice	A direction given under s672A and s672B of the Corporations Act

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Related information

Headnotes

agent lending, deemed economic interests, prime broking, register of relevant interests, relevant interests, securities lending, substantial holding disclosure, substantial holding notice, tracing notice.

Legislative instruments

[*ASIC Corporations \(Securities Lending Arrangements\) Instrument 2021/821*](#)

ASIC Corporations (Listed Entities Enhanced Beneficial Ownership) Instrument 2026/XXX

Regulatory guides

[RG 5](#) *Relevant interests and deemed economic interests*

Legislation

Anti-Money Laundering and Counter-Terrorism Financing Act 2006, s41(5)

Corporations Act 2001, Ch 6, 6C; Pt 6C.1, Pt 6C.2; s9, 12, 602(a), 606, 608, 608(1), 608(2), 608(8), notional s608(8A)–(8C), 609, 609(1), 609(2), 609(6), 609(7), 609(9B), notional 609(19A), notional 609(10C), 609B, 633(1), 650F(1), 654B, 671A, 671AO, 671B, 671B(1)–(3), notional 671B(3A), notional 671B(3D), 671B(4), notional 671B(4A)–(4C), notional 671B(4G), 671BA(1)–(3), 671BB, 671BF(1)–(2), 671BG(2)–(6), 671BK, 671C, 671D, 671E, 672A, 672AA, 672AB–672AC, 672AF(1)–(3), 672AF(5), 672B, 672BD, 672C, 672DA, 672DB, 672DC, 672DD, notional 672DD(5A), 672DE, 673, 673A–673B, 678(1), 1041H, 1306 and 1325A

Privacy Act 1988, s6, 15

Corporations Regulations 2001, Sch 4

Cases

Beconwood Securities Pty Ltd v ANZ Group Ltd [2008] FCA 594

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ASIC forms

[Form 6074](#) *Notice regarding location of register of relevant interests—*

ASIC Substantial Holding Notice

Other publications

[GN 20](#) *Equity derivatives*

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