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The Proper Officer
The Australian Securities and Investments Commission
By email: rri.consultation@asic.gov.au

Dear Sir/Madam,

ASIC CORPORATIONS (HORSE SCHEMES) INSTRUMENT 2016/790

On behalf of the Queensland Racing Integrity Commission ('QRIC'), thank you for the opportunity to provide feedback on the Australian Securities and Investment Commission's ('ASIC') proposal to remake the *ASIC Corporations (Horse Schemes) Instrument 2016/790* ('the Instrument'). The proposed remake of the Instrument affords an opportunity to further strengthen compliance and integrity within the syndication framework, while promoting informed participation and reinforcing the protection of syndicate member interests.

QRIC acts as Lead Regulator in respect of horse racing syndications in Queensland.

QRIC is supportive in principle of ASIC's proposal to extend the relief provided in the Instrument for a further five years. This submission sets out the areas that, in our view, present opportunities to strengthen the regulatory framework for managed investment schemes.

Set out below herein are the specific issues posed in relation to the Instrument, and QRIC's response to each.

Is the relief under the instrument fit for purpose? Can the relief be amended to reduce complexity and/or compliance burdens while maintaining appropriate consumer protections? If so, how?

In QRIC's view, the relief afforded under the Instrument remains fit for purpose, subject to minor refinement. The following revisions are suggested for the consideration of ASIC: -

- The establishment of a clearly articulated and accessible point of contact, preferably a group monitored email within ASIC for lead regulators, together with defined processes for the escalation of queries, notifications and reports under the Memorandum of Understanding.

At present, the absence of a nominated contact point has resulted in practical difficulties in engaging ASIC in relation to potential breaches.

- The removal of the requirement to prepare and submit annual financial statements for individual syndications.

QRIC does not consider that substantive simplification is required.

The original intent of the relief under the Instrument was to reduce the compliance burden imposed on the operators of small-scale horse racing syndicates whilst promoting informed and confident investment in small-scale horse racing syndicates. In QRIC's view, the Instrument continues to give effect to that objective and strikes an appropriate balance to managed investment scheme regulation. The Instrument has, in practical effect, contributed to the professionalisation of racehorse syndication as a regulated activity, which has in turn strengthened protections for syndicate members.

QRIC cautions against simplification where it would, in substance, operate to dilute existing regulatory safeguards, and weaken protection for consumers.

In QRIC's view, it is important that the interests of investors are adequately safeguarded in circumstances where horse racing syndicates are operated mainly for the enjoyment of horse racing and having an ownership interest in a racehorse. This cohort frequently includes first-time participants with limited or no prior exposure to managed investment schemes or the requisite technical knowledge.

QRIC advises that it is presently undertaking a review and audit of racehorse syndication in Queensland which, to date, indicates that a significant proportion of operators demonstrate a limited awareness of the regulatory requirements. While a small minority have expressed concern as to the perceived compliance burden, the prevailing experience has been that, once apprised of their obligations, most participants have been amenable to compliance. In response, QRIC has adopted an approach directed at engagement, education, and, where necessary, enforcement, in order to promote adherence to the framework. The findings to date suggest that the difficulty may lie not in the substance of the regulatory settings, but rather in their level of practical visibility, consistent application, and degree of enforcement across the regulatory landscape, including at the level of lead regulators. In that regard, QRIC considers that increased monitoring, guidance and oversight by ASIC – particularly to ensure that lead regulators are discharging their roles adequately – will provide a more effective and efficient way to improve standards of governance and compliance.

QRIC does not support any proposal to remove the requirement to hold an Australian Financial Services Licence as this may weaken protection for consumers. The Australian Financial Services Licence general obligations including the obligation to ensure financial services are provided efficiently, honestly and fairly, have adequate arrangements for managing conflicts of interest,

maintain adequate risk management systems, and maintain competence afford significant protection to investors. Further, protection is also afforded by other Australian Financial Service Licence requirements, including financial requirements, client money obligations and breach reporting obligations.

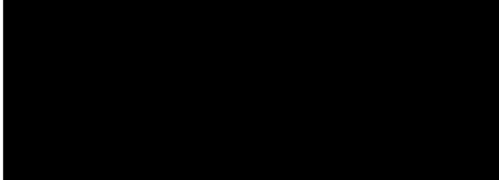
Are the key thresholds in the relief appropriate, particularly the limits on the amount raised from the issue of interests in a horse racing syndicate, and the number of participants in the syndicate, for the purposes of relying on the relief in section 5? If not, why not?

QRIC considers that there is merit in increasing the limits to ensure they remain contemporaneously appropriate. In particular, QRIC considers that: -

- the maximum number of owners permitted in a syndication may be increased from 50 to 100; and
- the maximum syndication value may be increased from \$500,000 to \$750,000,

to reflect the increased costs associated with the purchase, training and maintenance of racehorses, and to facilitate broader and more accessible participation in syndications.

Thank you again for providing QRIC with the opportunity to provide feedback. QRIC would welcome the opportunity to further engage with ASIC on the matters raised in this submission.



Commissioner
Queensland Racing Integrity Commission