

## **EXPLANATORY STATEMENT for**

### **ASIC Corporations (Directors' Report Relief) Instrument 2016/ 188**

Prepared by the Australian Securities and Investments Commission

*Corporations Act 2001*

The Australian Securities and Investments Commission (ASIC) makes *ASIC Corporations (Directors' Report Relief) Instrument 2016/188* under subsection 341(1) of the *Corporations Act 2001* (the Corporations Act).

Subsection 341(1) provides that ASIC may make an order in writing in respect of a specified class of companies, registered schemes or disclosing entities, relieving any of the directors, the companies, registered schemes or disclosing entities themselves, or the auditors of the companies, registered schemes or disclosing entities from all or specified requirements of Parts 2M.2, 2M.3 and 2M.4 (other than Division 4) of the Corporations Act.

#### **1. Background**

Part 2M.3 of the Corporations Act requires certain entities to prepare an annual financial report and a directors' report (the reports). Generally, the reports must be lodged with ASIC and sent to members. Disclosing entities are also required to prepare a financial report and directors' report for a half year.

The Corporations Act specifies the information to be included in a directors' report. This information varies depending on the type of entity (e.g. disclosing entity, public company or proprietary company, or registered scheme).

There may be instances where some of the information required to be included in the directors' report is more useful to users if it is included in the financial report or in a document separate to the reports (separate document). More flexibility may allow related information to be located in the same place and presented more effectively.

#### **2. Purpose of the instrument**

*ASIC Corporations (Directors' Report Relief) Instrument 2016/188* allows certain information to be transferred from the directors' report to the financial report or a separate

document, provided that the reports are not distributed or made available without any separate document accompanying them.

Class Order [CO 98/2395] is repealed by Schedule 2 to the *ASIC Corporations (Amendment and Repeal) Instrument 2016/247*.

### **3. Operation of the instrument**

The instrument allows some information to be transferred from the directors' report to the financial report or to a separate document which accompanies the directors' report and financial report.

The directors' report must incorporate by reference the information that has been transferred and include a prominent cross reference to the page or pages of the financial report or separate document where the information has been set out.

The entity cannot, and must also take reasonable steps to ensure another person does not, distribute or make available the directors' report and financial report without any separate document.

The separate document must be lodged with ASIC as if it was part of the report to be lodged under sections 319 or 320 of the Corporations Act. The transferred information must also be included in or accompany a concise report.

### **4. Consultation**

ASIC has consulted with stakeholders through Consultation Paper 240 which was issued on 1 October 2015 and was open for comment to 30 October 2015.

The Office of Best Practice Regulation has assessed that a Regulatory Impact Statement is not necessary for this instrument.

## **Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

### **ASIC Corporations (Directors' Report Relief) Instrument 2016/188**

*ASIC Corporations (Directors' Report Relief) Instrument 2016/188 is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the Human Rights (Parliamentary Scrutiny) Act 2011.*

#### **Overview**

The objective of the legislative instrument is to allow some information to be transferred from the directors' report to the financial report or to a separate document accompanying the directors' report and financial report.

#### **Human rights implications**

This legislative instrument does not engage any of the applicable rights or freedoms.

#### **Conclusion**

This legislative instrument is compatible with human rights as it does not raise any human rights issues.

**Australian Securities and Investments Commission**