



**ASIC**

Australian Securities & Investments Commission

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## **ASIC Corporations (Chapter 5C— Miscellaneous Provisions) Instrument 2017/125**

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I, Stephen Yen PSM, delegate of the Australian Securities and Investments Commission, make the following legislative instrument.

Date: 3 July 2017

Stephen Yen

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## **Part 1—Preliminary**

### **1 Name of legislative instrument**

This is the *ASIC Corporations (Chapter 5C—Miscellaneous Provisions) Instrument 2017/125*.

### **2 Commencement**

This instrument commences on the day after it is registered on the Federal Register of Legislation.

Note: The register may be accessed at [www.legislation.gov.au](http://www.legislation.gov.au).

### **3 Authority**

This instrument is made under subsection 601QA(1) of the *Corporations Act 2001*.

### **4 Definitions**

In this instrument:

*Act* means the *Corporations Act 2001*.

## Part 2—Declarations

### 5 Relief to permit constitutional provisions incorporating listing rules by reference

Chapter 5C of the Act applies to all persons as if section 601GA were modified or varied by inserting after subsection 601GA(4):

“(5) Despite subsections (1) to (4), if the registered scheme:

- (a) is admitted to the official list of an eligible Australian market or the responsible entity of the scheme is proposing to seek such admission; and
- (b) is required or permitted for the purposes of the listing rules of the eligible Australian market to include a listing rule consistency provision in its constitution;

the constitution of the registered scheme may include a listing rule consistency provision.

(6) In this section:

***eligible Australian market*** means a financial market operated by:

- (a) Sydney Stock Exchange Limited ACN 080 399 220; or
- (b) ASX Limited ACN 008 624 691.

***listing rule consistency provision*** means, in relation to a registered scheme and an eligible Australian market, a provision in the constitution of the scheme to the effect that if the scheme is admitted to the official list of the market:

- (a) notwithstanding anything contained in the constitution, if the listing rules of the market prohibit an act being done, the act shall not be done; and
- (b) nothing contained in the constitution prevents an act being done that the listing rules of the market require to be done; and
- (c) if the listing rules of the market require an act to be done or not to be done, authority is given for that act to be done or not to be done (as the case may be); and
- (d) if the listing rules of the market require the constitution to contain a provision and it does not contain such a

provision, the constitution is taken to contain that provision; and

- (e) if the listing rules of the market require the constitution not to contain a provision and it contains such a provision, the constitution is taken not to contain that provision; and
- (f) if any provision of the constitution is or becomes inconsistent with the listing rules of the market, the constitution is taken not to contain that provision to the extent of the inconsistency.”.

## **6 Compliance plan may incorporate provisions from another scheme's plan as amended from time to time**

- (1) Chapter 5C of the Act applies to a responsible entity of a registered scheme as if section 601HB were modified or varied as follows:
  - (a) in subsection (1) after “time”, insert “or from time to time”; and
  - (b) in subsection (2) after “time”, insert “or from time to time as the case may be”.
- (2) The declaration in subsection (1) applies where the compliance plan for the registered scheme (excluding any part incorporated by reference under section 601HB) contains a statement to the effect that the responsible entity will review the appropriateness of the compliance plan when any amendment is made to a part of a compliance plan that is incorporated by reference in it.

## **7 Related bodies corporate and external members of compliance committee**

Chapter 5C of the Act applies to a responsible entity of a registered scheme and to a member of a compliance committee of a registered scheme as if section 601JB were modified or varied as follows:

- (a) in subsection (3) after “(2)(a)”, insert “and paragraph (4)(a)”; and
- (b) in subsection (4) after “responsible entity” (wherever occurring), insert “or a related body corporate”.