



**ASIC**

Australian Securities & Investments Commission

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## **ASIC Corporations (Amendment) Instrument 2017/571**

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I, Grant Moodie, delegate of the Australian Securities and Investments Commission, make the following legislative instrument.

Date 6 November 2017

Grant Moodie

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## **Part 1—Preliminary**

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

This is the *ASIC Corporations (Amendment) Instrument 2017/571*.

### **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 1075A(1) of the *Corporations Act 2001*.

### **4 Schedules**

Each instrument that is specified in a Schedule to this instrument is amended as set out in the applicable items in the Schedule.

## Schedule 1—Amendments

### *ASIC Corporations (Division 4 Financial Products) Instrument 2015/1030*

#### 1 Section 4 (definitions)

Insert in the appropriate alphabetical order the following definitions:

***foreign quoted shares***, in relation to transferable custody receipts, means shares of a foreign company that is listed on the New York Stock Exchange, NASDAQ Global Market or NASDAQ Global Select Market, where the shares are in a class of shares that are able to be traded on at least one of those financial markets.

***transferable custody receipts*** means units of beneficial ownership in foreign quoted shares where the units:

- (a) arise from a custodial and sub-custodial arrangement under which:
  - (i) a custodian holds, directly or indirectly, the foreign quoted shares on behalf of, or in trust for, a financial services licensee that holds an Australian financial services licence that covers the provision of a custodial or depository service; and
  - (ii) the financial services licensee holds their equitable rights or interests in the shares arising from the custodial arrangement mentioned in subparagraph (i) on behalf of, or in trust for, a person; and
- (b) are issued without the involvement of the issuer of the foreign quoted shares; and
- (c) are able to be traded on the financial market operated by Chi-X.

#### 2 Section 4 (definition of *eligible products*)

After paragraph (d) insert:

- (da) transferable custody receipts;

#### 3 Subsection 5(1) (notional subsection 1074BB(1) of the Act)

After paragraph (d) insert:

- (da) transferable custody receipts;

#### 4 Subsection 5(1) (notional subsection 1074BB(2) of the Act)

Insert in the appropriate alphabetical order the following definitions:

**foreign quoted shares**, in relation to transferable custody receipts, means shares of a foreign company that is listed on the New York Stock Exchange, NASDAQ Global Market or NASDAQ Global Select Market, where the shares are in a class of shares that are able to be traded on at least one of those financial markets.

**transferable custody receipts** means units of beneficial ownership in foreign quoted shares where the units:

- (a) arise from a custodial and sub-custodial arrangement under which:
  - (i) a custodian holds, directly or indirectly, the foreign quoted shares on behalf of, or in trust for, a financial services licensee that holds an Australian financial services licence that covers the provision of a custodial or depository service; and
  - (ii) the financial services licensee holds their equitable rights or interests in the shares arising from the custodial arrangement mentioned in subparagraph (i) on behalf of, or in trust for, a person; and
- (b) are issued without the involvement of the issuer of the foreign quoted shares; and
- (c) are able to be traded on the financial market operated by Chi-X Australia Pty Ltd.

**5 Subsection 5(2) (heading)**

Omit “*Warrants*”, substitute “*Transferable custody receipts and warrants*”

**6 Subsection 5(2)**

Before paragraph (a) insert:

- (aa) transferable custody receipts;

**7 Paragraph 5(2)(a)**

Omit “ASX Limited or Chi-X Australia Pty Ltd”, substitute “ASX or Chi-X”.