

ASIC (Senior Staff Members—Determination) Instrument 2019/117

**About this compilation**

**Compilation No. 5**

This is a compilation of *ASIC (Senior Staff Members—Determination) Instrument 2019/117* as in force on 1 July 2023. It includes any commenced amendment affecting the legislative instrument to that date.

This compilation was prepared by the Australian Securities and Investments Commission.

The notes at the end of this compilation (the ***endnotes***) include information

about amending instruments and the amendment history of each amended provision.

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Part 1—Preliminary

1 Name of legislative instrument

This is the *ASIC (Senior Staff Members—Determination) Instrument 2019/117*.

3 Authority

This instrument is made under section 122A of the *Australian Securities and Investments Commission Act 2001*.

4 Definitions

In this instrument:

***ASIC Act*** means the *Australian Securities and Investments Commission Act 2001*.

***Corporations Act*** means the *Corporations Act 2001*.

***Credit Act*** means the *National Consumer Credit Protection Act 2009*.

***Markets Disciplinary Panel*** or ***MDP*** means a panel of staff members who perform functions and exercise powers in relation to alleged contraventions of the market integrity rules under Part 7.2A of the Corporations Act.

***staff member*** has the meaning given by subsection 5(1) of the ASIC Act.

Part 2—Determination

5 Senior staff members for all purposes

A staff member who holds or acts in any of the following positions is a senior staff member:

(aa) Chief Executive Officer;

(a) Executive Director;

(b) Senior Executive Leader;

(c) Senior Executive Specialist;

(d) without limiting anything in the paragraphs above and to avoid doubt:

1. Chief of Staff;
2. Chief Financial Officer;
3. Chief Technology Officer;
4. Chief Risk Officer;
5. Commission Counsel;
6. General Counsel;
7. Special Counsel.

6 Senior staff members for limited purposes

*Markets Disciplinary Panel*

(1) A staff member who holds or acts in a position of MDP Chair, MDP Deputy Chair or MDP Member is a senior staff member for the purposes of performing functions and exercising powers in relation to any matter referred to the Markets Disciplinary Panel.

*Senior staff members for employment purposes*

(3)     A staff member who holds or acts in any of the following positions is a senior staff member for the purposes of performing functions and exercising powers in relation to the employment of staff (including the terms and conditions of employment) under section 120 of the ASIC Act:

(a)     Head, People and Development;

(b)     Senior Manager, People and Development.

*Registry functions and powers*

(4)     A staff member who holds or acts in a position in the Australian Taxation Office of Deputy Registrar, Deputy Commissioner or Assistant Commissioner whose services are being made available to assist ASIC is a senior staff member for the purposes of performing functions and exercising powers in relation to registry matters:

(a)    as a delegate of the Minister under:

(i)      subsections 147(2), 601DC(2) and 1213B(6) of the Corporations Act;

(ii)     subsections 27(2), 28(2) and 32(3) of the *Business Names Registration Act 2011*;

(iii)    subsections 9(1) and 9(2) of the *Business Names Registration (Availability of Names) Determination 2015;*

(b)    as a delegate of ASIC under section 37 and subsections 41(1) and 47(1) of the *Business Names Registration Act 2011.*

Endnotes

Endnote 1—Instrument history

| Instrument number | Date of FRL registration | Date of commencement | Application, saving or transitional provisions |
| --- | --- | --- | --- |
| 2019/117 | 3/5/2019 (*see* F2019L00668) | 1/7/2019 |  |
| 2019/606 | 27/6/2019 (*see* F2019L00901) | 1/7/2019 | - |
| 2021/0139 | 15/3/2021 (*see* F2021L00233) | 16/3/2021 | - |
| 2021/344 | 10/5/2021 (see F2021L00557) | 11/5/2021 | - |
| 2022/0427 | 6/6/2022 (see F2022L00742) | 7/6/2022 | - |
| 2023/0470 | 29/6/2023 (see F2023L00895) | 1/7/2023 | - |
| 2023/0558 | 30/6/2023 (see F2023L00932) | 1/7/2023 | - |

Endnote 2—Amendment history

ad. = added or inserted am. = amended LA = *Legislation Act 2003* rep. = repealed rs. = repealed and substituted

| Provision affected  | How affected |
| --- | --- |
| Section 2 | rep. s48D LA |
| Section 4  | am.2022/0427 |
| Subpara 5(aa) | ad. 2021/0139am. 2023/0558 |
| Subpara 5(d) | rs. 2023/0470 |
| Sub-subpara 5(d)(ia) | ad. 2021/0139 |
| Sub-subpara 5(d)(ib) | ad. 2021/0139 |
| Sub-subpara 5(d)(iiia) | ad. 2021/0139 |
| Subsection 6(2) | rep. 2022/0427 |
| Subsection 6(3) | ad. 2019/606am. 2021/344rs. 2023/0470 |
| Subsection 6(4) | ad. 2022/0427 |