



Corporations (Coronavirus Economic Response) Determination (No. 4) 2020

I, Josh Frydenberg, Treasurer, make the following determination.

Dated 22 September 2020

Josh Frydenberg
Treasurer

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Part 1—Preliminary

1 Name

This instrument is the *Corporations (Coronavirus Economic Response) Determination (No. 4) 2020*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| Commencement information | | |
|---------------------------------|--|-------------------|
| Column 1 | Column 2 | Column 3 |
| Provisions | Commencement | Date/Details |
| 1. The whole of this instrument | The day after this instrument is registered. | 24 September 2020 |

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under section 1362A of the *Corporations Act 2001*.

4 Schedule 1

Each instrument that is specified in Schedule 1 to this instrument is amended or repealed as set out in the applicable items in that Schedule, and any other item in that Schedule has effect according to its terms.

5 Definitions

Note: A number of expressions used in this instrument are defined in the Act, including the following:

- (a) listed disclosing entity;
- (b) unlisted disclosing entity.

In this instrument:

Act means the *Corporations Act 2001*.

Part 2—Modification of continuous disclosure obligations

6 Operation of section 674 of the Act modified

- (1) For the purposes of paragraph 1362A(1)(b) of the Act, the operation of the civil penalty provisions in subsections 674(2) and (2A) of the Act in relation to:
 - (a) a listed disclosing entity mentioned in subsection 674(1) of the Act; and
 - (b) a person mentioned in subsection 674(2A) of the Act;is modified as set out in this section.
- (2) Omit paragraph 674(2)(c) of the Act and substitute the following:
 - (c) that information is not generally available; and
 - (d) the entity knows or is reckless or negligent with respect to whether that information would, if it were generally available, have a material effect on the price or value of ED securities of the entity;

7 Operation of section 675 of the Act modified

- (1) For the purposes of paragraph 1362A(1)(b) of the Act, the operation of the civil penalty provisions in subsections 675(2) and (2A) of the Act in relation to:
 - (a) a listed disclosing entity mentioned in paragraph 675(1)(a) of the Act; and
 - (b) an unlisted disclosing entity; and
 - (c) a person mentioned in subsection 675(2A) of the Act;is modified as set out in this section.
- (2) Omit paragraph 675(2)(b) of the Act and substitute the following:
 - (b) the entity knows or is reckless or negligent with respect to whether the information would, if it were generally available, have a material effect on the price or value of ED securities of the entity; and

8 Operation of section 677 of the Act modified

- (1) For the purposes of paragraph 1362A(1)(b) of the Act, the operation of section 677 of the Act in relation to the civil penalty provisions in subsections 674(2) and (2A) and subsections 675(2) and (2A) of the Act in relation to:
 - (a) a listed disclosing entity mentioned in subsection 674(1) or paragraph 675(1)(a) of the Act; and
 - (b) a person mentioned in subsection 674(2A) or 675(2A) of the Act; and
 - (c) an unlisted disclosing entity;is modified as set out in this section.
- (2) Omit from section 677 the words “a reasonable person would be taken to expect information to have a material effect on the price or value of ED securities of a disclosing entity if”, and substitute “an entity knows or is reckless or negligent with respect to whether information would have a material effect on the price or value of ED securities of the entity if the entity knows or is reckless or negligent with respect to whether”.

9 Meaning of *knowledge* and *recklessness*

In subsections 674(2) and 675(2) and section 677 of the Act, as the operation of those provisions is modified under sections 6, 7 and 8 of this instrument, *knowledge* and *recklessness* have the same meaning as in the *Criminal Code*.

10 Operation of offence provisions not affected

To avoid doubt, nothing in this instrument affects the operation of a provision of section 674 or 675 of the Act as an offence provision.

Part 3—Miscellaneous

11 Repeal

This instrument is repealed at the end of the period of 6 months beginning on the day after it was made.

Schedule 1—Repeals

Corporations (Coronavirus Economic Response) Determination (No. 2) 2020

1 The whole of the instrument

Repeal the instrument.