

EXPLANATORY STATEMENT

Issued by authority of the Minister for Superannuation, Financial Services and the Digital Economy

Australian Securities and Investments Commission Act 2001

Australian Securities and Investments Commission Amendment (Delegation) Regulations 2021

Section 251 of the *Australian Securities and Investments Commission Act 2001* (the Act) provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

These Regulations permit the Australian Securities and Investments Commission (ASIC) to delegate certain registry functions to the Commonwealth Registrars appointed under the *Commonwealth Registers Act 2020*, the *Corporations Act 2001*, and the *National Consumer Credit Protection Act 2009*.

As part of the Digital Business Plan, the Australian Government is implementing a modern approach to managing Commonwealth business registers via the implementation of the Modernising Business Registers (MBR) Program. The MBR Program will transform business services by creating a single source of trusted and accessible business data and provide efficient registry service delivery. The initial focus of this Program is on the business registers administered by ASIC. An interim delegation from ASIC to the Commonwealth Registrars facilitates a gradual transfer of registry functions which is synchronised with the development of supporting technology systems.

The Regulations enable the delegation by prescribing the Commonwealth Registrars as persons to whom ASIC may delegate its functions and powers under paragraph 102(2)(c) of the Act. Subsection 102(1) of the Act permits ASIC to delegate all or any of its functions and powers to persons specified in subsection 102(c), including persons prescribed under paragraph 102(2)(c).

The Act specifies no conditions that need to be satisfied before the power to make the Regulations may be exercised.

Separate consultation on these Regulations was undertaken with ASIC and the Australian Taxation Office (the proposed Commonwealth Registrars) who support the Regulations as proposed. The MBR Program has also been subject to extensive public consultation and has received broad support from industry and government stakeholders.

Details of the Regulations are set out in Attachment A.

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

The Regulations commence on, and enable delegations on or after, the day following their registration.

A Regulation Impact Statement is not required because this Regulation has no more than a minor impact on business, individuals or community organisations (OBPR Ref. 22346).

A statement of Compatibility with Human Rights is at [Attachment B](#).

Details of the *Australian Securities and Investments Commission Amendment (Delegation) Regulations 2021*

Section 1 – Name of the Regulations

This section provides that the name of the Regulations is the *Australian Securities and Investments Commission Amendment (Delegation) Regulations 2021* (the Regulations).

Section 2 – Commencement

Schedule 1 to the Regulations commences on the day after the instrument is registered on the Federal Register of Legislation.

Section 3 – Authority

The Regulations are made under the *Australian Securities and Investments Commission Act 2001* (the Act).

Section 4 – Schedule

This section provides that each instrument that is specified in the Schedules to this instrument will be amended or repealed as set out in the applicable items in the Schedules, and any other item in the Schedules to this instrument has effect according to its terms.

Schedule 1 – Amendments

Australian Securities and Investments Commission Regulations 2001

Item 1 inserts a new section 8AAAA into the *Australian Securities and Investments Commission Regulations 2001*. Subsections 8AAAA(1), (3), and (5) prescribe the Registrars for the purposes of paragraph 102(2)(c) of the Act. Persons to whom Registrars may delegate their functions under a law of the Commonwealth and who are approved by the Registrars are also prescribed.

This item enables ASIC to delegate registry functions to the Registrars as necessary to facilitate the eventual complete transfer of such functions to the Registrars. The requirement for persons to have been approved by the Registrars ensures that delegations will be consistent with the Registrars' operational plans. The approval process is intended to be covered by memoranda of understanding between ASIC and the Registrars.

Statement of Compatibility with Human Rights

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

Australian Securities and Investments Commission Amendment (Delegation) Regulations 2021

This Legislative Instrument 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 of the Legislative Instrument

These Regulations permit ASIC to delegate certain registry functions to the Commonwealth Registrars appointed under the *Commonwealth Registers Act 2020*, the *Corporations Act 2001*, and the *National Consumer Credit Protection Act 2009*.

The Regulations permit the delegation by prescribing the Commonwealth Registrars as persons to whom ASIC may delegate its functions and powers under paragraph 102(2)(c) of the *Australian Securities and Investments Commission Act 2001*.

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.