

ASIC Corporations (Amendment) Instrument 2023/142

I, Claire LaBouchardiere, delegate of the Australian Securities and Investments Commission, make the following legislative instrument.

Date 21 December 2023

Claire LaBouchardiere

**Contents**

[Part 1—Preliminary 3](#_Toc153967487)

[1 Name of legislative instrument 3](#_Toc153967488)

[2 Commencement 3](#_Toc153967489)

[3 Authority 3](#_Toc153967490)

[4 Schedules 3](#_Toc153967491)

[Schedule 1—Amendments 4](#_Toc153967492)

[*ASIC Corporations (Post Balance Date Reporting) Instrument 201/842* 4](#_Toc153967493)

[*ASIC Corporations (Disclosing Entities) Instrument 2016/190* 4](#_Toc153967494)

[*ASIC Corporations (Rounding in Financial/Directors’ Reports) Instrument 2016/191* 6](#_Toc153967495)

Part 1—Preliminary

1 Name of legislative instrument

This is the *ASIC Corporations (Amendment) Instrument 2023/142.*

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 subsections 341(1) and 992B(1) of the *Corporations Act 2001.*

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

*ASIC Corporations (Post Balance Date Reporting) Instrument 201/842*

**1      Section 1**

Omit “201/842”, substitute “2015/842”.

**2 Subsection 4(1) (definition of *relevant entity*)**

After “registered scheme”, insert “, registrable superannuation entity”.

**3 Subsection 5(1)**

After “Part 2M.3 of the Act”, insert “, and a retail CCIV does not have to comply with Part 2M.3 of the Act in relation to a sub-fund,”.

**4 Subparagraph 5(2)(a)(i)**

After “relevant entity”, insert “or sub-fund (as the case may be)”.

**5 Sub-subparagraph 5(2)(a)(i)(B)**

After “relevant entity’s”, insert “or sub-fund’s (as the case may be)”.

*ASIC Corporations (Disclosing Entities) Instrument 2016/190*

**6 Section 4 (definition of *directors’ report*)**

Repeal the definition.

**7      Section 4**

Insert:

***disclosing entity***:

(a) a retail CCIV is a ***disclosing entity***in relation to a sub-fund of the retail CCIVif any securities referable (within the meaning of subsection 1232F(2) of the Act) to the sub-fund are ED securities; and

(b) otherwise, ***disclosing entity*** has the same meaning as in section 9 of the Act.

**8      Section 5 (heading)**

Omit “Bodies or schemes”, substitute, “Entities”.

**9      Subparagraph 5(1)(a)(ii)**

Omit “year.”, substitute, “year; and”.

**10       After subsection 5(1)**

Insert:

(1A) A retail CCIV (the ***entity***) that is a disclosing entity in relation to a sub-fund of the retail CCIV at the end of its financial year (the ***relevant financial year***) does not have to comply with the requirements of Chapter 2M of the Act to the extent that those requirements apply to the entity as a disclosing entity in relation to the sub-fund, if the entity stops being a disclosing entity in relation to the sub-fund before the day 3 months after the end of the relevant financial year.

**11       Paragraph 5(2)(a)**

Repeal the paragraph, substitute:

(a)     in the case of:

(i) a company or scheme—the entity complies with Chapter 2M of the Act as if it had not been a disclosing entity at the end of the relevant financial year; and

(ii) a retail CCIV—the retail CCIV complies with Chapter 2M of the Act in relation to the sub-fund as if it had not been a disclosing entity in relation to the sub-fund at the end of the relevant financial year; and

**12       Paragraph 5(2)(b)**

After “disclosing entity”, insert “(or in the case of a retail CCIV, a disclosing entity in relation to the sub-fund)”.

**13 Subsection 6(1)**

Repeal the subsection, substitute:

*Relief*

(1) None of the following (each an ***entity***) has to comply with sections 302 or 306 of the Act for a half-year within the entity’s first financial year (the ***relevant financial year***) where that year lasts for 8 months or less:

(a) a company that is a disclosing entity;

(b) a registered scheme that is a disclosing entity;

(c) a retail CCIV that is a disclosing entity in relation to a sub-fund of the retail CCIV.

**14 Sub-subparagraph 6(2)(a)(i)(A)**

Repeal the sub-subparagraph, substitute:

(A) is listed; and

Note 1: A retail CCIV will be listed if its single sub-fund is included in such an official list even if the retail CCIV is not so included (see the definition of ***listed*** in section 9 of the Act).

Note 2: Neither a retail CCIV that has more than one sub-fund nor such a sub-fund may be listed: see section 1222N of the Act.

**15 Sub-subparagraph 6(2)(a)(i)(B)**

Omit “of which the entity is included on the official list”, substitute “in relation to which the entity is listed”.

**16 Sub-subparagraph 6(2)(a)(ii)(A)**

Omit “an unlisted disclosing entity”, substitute “unlisted”.

**17 Paragraph 6(2)(b)**

Repeal the paragraph, substitute:

(b)     in the case of:

(i) a company or scheme—the directors’ report of the entity for the relevant financial year explains the effect of this section and states that the entity relied on it; and

(ii) a retail CCIV—the directors’ report of the retail CCIV in relation to the sub-fund for the relevant financial year explains the effect of this section and states that the retail CCIV relied on it in relation to the sub-fund.

*ASIC Corporations (Rounding in Financial/Directors’ Reports) Instrument 2016/191*

**18       Section 4 (paragraph (e) of the definition of *entity*)**

Omit the paragraph, substitute:

(e) a retail CCIV in relation to a sub-fund of the retail CCIV;

(f) a registrable superannuation entity.