

# Attachment 2 to CP 288: Draft instrument



**ASIC**

Australian Securities & Investments Commission

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

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I, <insert name>, delegate of the Australian Securities and Investments Commission, make the following legislative instrument.

Date 2017

[DRAFT ONLY—NOT FOR SIGNATURE]

<signature>

<insert name>

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## Part 1—Preliminary

### 1 Name of legislative instrument

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

### 2 Commencement

This instrument commences on the later of:

- (a) day after it is registered on the Federal Register of Legislation; and
- (b) the date of commencement of Schedule 1 to the *Corporations Amendment (Crowd-sourced Funding) Act 2017*.

Note: The register may be accessed at [www.legislation.gov.au](http://www.legislation.gov.au).

### 3 Authority

This instrument is made under section 741 of the *Corporations Act 2001*.

### 4 Schedule

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

### 5 Interpretation

In this instrument:

*Act* means *Corporations Act 2001*.

## Schedule 1—Amendments

### *ASIC Corporations (Consents to Statements) Instrument 2016/72*

#### 1 After section 7

Insert:

#### **7A CSF offer documents: statements for which consent not required**

Chapter 6D of the Act applies to all persons as if section 738M were modified or varied by, after subsection (2), inserting:

*“Statements by official persons, or in books, journals etc*

(2A) Subsection (2) does not apply to a statement that:

- (a) fairly represents what purports to be a statement made by an official person; or
- (b) is a correct and fair copy of, or extract from, what purports to be a public official document; or
- (c) is a correct and fair copy of, or extract from, a statement which has already been published in a book, journal or comparable publication;

provided the statement was not made, or published, in connection with any or all of the persons, their business, or the promotion the subject of the CSF offer document or any property to be acquired by the company which is the subject of the CSF offer document.

#### *Historical geological data*

(2B) Subsection (2) does not apply to a historical geological report reference that is included in a CSF offer document provided all of the following are satisfied:

- (a) the historical geological report reference is included in a geological report (the **current report**) set out in the CSF offer document;
- (b) the report (the **previous report**) to which the historical geological report reference relates is available for inspection or acquisition by any person, with or without payment of a fee, at or from:

- (i) a governmental department, authority or agency of an Australian State or Territory or of the Commonwealth; or
- (ii) an operator of a prescribed financial market;
- (c) the previous report was not prepared in connection with the preparation of the CSF offer document;
- (d) the previous report was not prepared or commissioned by a person:
  - (i) with whom the person offering securities, or an associate, has shared an interest in a tenement the subject of the current report; or
  - (ii) from whom the person offering securities, or an associate, has purchased the tenement; or
  - (iii) where the person offering securities is not the issuer:
    - (A) with whom the issuer, or an associate, has shared an interest in a tenement that is covered by the current report; or
    - (B) from whom the issuer, or an associate, has purchased the tenement; or
  - (iv) who is an associate of:
    - (A) the person offering the securities; or
    - (B) where the person offering the securities is not the issuer—the issuer; or
  - (v) where the securities are a legal or equitable right or interest in a share or a debenture:
    - (A) who is the issuer of the share or debenture, or an associate; or
    - (B) with whom the issuer of the share or debenture, or an associate, has shared an interest in a tenement that is covered by the current report; or
    - (C) from whom the issuer of the share or debenture, or an associate, has purchased the tenement;

- (e) the current report states, close to the historical geological report reference:
  - (i) the name of the person who prepared the previous report; and
  - (ii) that the person who prepared the previous report has not consented to the use of the historical geological report reference in the CSF offer document.

If the current report includes more than one historical geological report reference which relates to the previous report, paragraph (e) only has to be complied with in relation to the first occurring reference provided it is apparent that the subsequent references are from the same source.

#### *Trading data*

- (2C) Subsection (2) does not apply to a trading data reference that is included in a CSF offer document provided both of the following are satisfied:
- (a) the trading data to which the trading data reference relates reflects trading on an approved financial market;
  - (b) the CSF offer document states, close to the trading data reference:
    - (i) the name of the person who prepared the trading data; and
    - (ii) that the person who prepared the trading data has not consented to the use of the reference in the CSF offer document.

If the CSF offer document includes more than one trading data reference relating to trading data prepared by the same person, paragraph (b) only has to be complied with in relation to the first occurring reference provided it is apparent that the subsequent references are from the same source.

- (2D) In this section:

***approved financial market, geological report, historical geological report reference, trading data and trading data reference*** have the same respective meanings as in subsection 636(3D).”