

EXPLANATORY STATEMENT

Issued by authority of the Assistant Treasurer

Corporations Act 2001

Corporations Amendment (Remuneration Disclosures) Regulation 2016

Subsection 1364(1) of the *Corporations 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.

The *Corporations Amendment (Remuneration Disclosures) Regulation 2016* (the Regulation) makes a number of technical amendments to the *Corporations Regulations 2001* (the Principal Regulation) to clarify and correct the remuneration disclosure requirements following the removal of these requirements from the relevant accounting standards and the subsequent amendments to the Principal Regulation as part of the *Corporations and Related Legislation Amendments Regulation 2013 (No. 1)* (the Amendment Regulation).

In 2011, the Australian Accounting Standards Board (AASB) announced the withdrawal of certain remuneration disclosure requirements contained in the accounting standards (AASB 124 *Related Party Transactions*). In 2013, the Amendment Regulation made a number of amendments to move these requirements into the Principal Regulation. Subsequently, stakeholders raised some concerns about the Amendment Regulation relating to unintentional expansion and reduced clarity of the remuneration disclosure requirements.

The Regulation addresses these stakeholder concerns and amends the Principal Regulation to provide clarity and ensure that the original policy intent of the Amendment Regulation is met.

Details of the Regulation are set out in the [Attachment](#).

Under the *Corporations Agreement 2002* (the Corporations Agreement), the State and Territory Governments referred their constitutional powers with respect to corporate regulation to the Commonwealth. Pursuant to subclause 506(1) of the Corporations Agreement, the Legislative and Governance Forum for Corporations has been consulted, and approved, the Regulation.

The Act does not impose any other conditions that need to be satisfied before the power to make the Regulation may be exercised.

Public consultation was undertaken on a draft version of the Regulation in November 2014 and a number of key stakeholders were also contacted directly to inform them that the draft regulation was available for consultation. The Regulation was then amended to take account of feedback from the consultation process.

The Regulation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003* and commences on the day after it is registered on the Federal Register of Legislation.

Details of the Corporations Amendment (Remuneration Disclosures) Regulation 2016

Section 1 – Name of Regulation

This section provides that the title of the Regulation is the *Corporations Amendment (Remuneration Disclosures) Regulation 2016* (the Regulation).

Section 2 – Commencement

This section provides that the Regulation commences on the day after it is registered on the Federal Register of Legislation.

Section 3 – Authority

This section provides that the Regulation is made under the *Corporations Act 2001* (the Corporations Act).

Section 4 – Schedules

This section provides that 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

Disclosures relating to equity instruments

- Item 18 of subregulation 2M.3.03(1) of the *Corporations Regulations 2001* (the Principal Regulation) currently requires the disclosure of information relating to “any equity instrument (other than an option or a right) held by each key management person...”.
- Item 2 of the Regulation limits disclosures under Item 18 to equity instruments issued or issuable by the disclosing entity or any of its subsidiaries, ensuring that only relevant disclosures are included in the Remuneration Report.

Disclosures relating to classes of equity instruments

- Subregulation 2M.3.03(3) currently requires certain disclosures relating to equity instruments (Items 15 and 16) to be separated into classes of equity instrument. However, similar Items inserted by the *Corporations and Related Legislation Amendments Regulation 2013 (No. 1)* (the Amendment Regulation) (Items 17, 18 and 19) are not subject to this provision, requiring that companies produce aggregate, and less useful, information.

- Item 3 of the Regulation changes the scope of subregulation 2M.3.03(3) to include the disclosures relating to classes of equity instruments inserted by the Amendment Regulation (Items 17, 18 and 19) to ensure that relevant company information is disclosed and prevent inconsistencies between disclosures of similar information.

Disclosures relating to non-recourse loans

- Subregulation 2M.3.03(3A) currently excludes non-recourse loans from the remuneration disclosures required in relation to loans offered by the disclosing entity to certain persons, including key management personnel. This clarifies that the same loan does not have to be disclosed both in relation to remuneration and in relation to loans to employees.
- The original accounting standard excluded “*loans involved in transactions that are in substance options, including non-recourse loans*” from remuneration disclosures relating to loans.
- Item 5 of the Regulation clarifies the operation of subregulation 2M.3.03(3A) to ensure that it replicates the operation of the original accounting standard, to prevent unnecessary changes in company disclosure practices.

Minor amendments

- The Regulation makes a number of minor amendments to provide clarity and ensure consistency in the Principal Regulation with the replaced accounting standard.
- These minor amendments include:
 - clarifying that the disclosures required by subregulation 2M.3.03(1) and subparagraph 2M.3.03(3)(b)(i) apply to a ‘disclosing entity or the relevant subsidiary that issued the equity instrument’ (Items 1 and 4 of the proposed Regulation);
 - restructuring the drafting in Items 17-19 of the table in subregulation 2M.3.03(1) to ensure that these items are dealt with consistently (Item 2 of the proposed Regulation); and
 - changing the exclusion in subregulation 2M.3.03(3B) so that it is triggered only if all three elements in paragraphs (a), (b) and (c) apply, consistent with the replaced accounting standard (Item 6 of the proposed Regulation).

Statement of Compatibility with Human Rights

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

Corporations Amendment (Remuneration Disclosures) Regulation 2016

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

The *Corporations Amendment (Remuneration Disclosures) Regulation 2016* makes a number of technical amendments to the Principal Regulation to clarify and correct the remuneration disclosure requirements following the removal of these requirements from the relevant accounting standards and the subsequent amendments as part of the *Corporations and Related Legislation Amendments Regulation 2013 (No. 1)*.

Human rights implications

This Regulation does not engage any of the applicable rights or freedoms.

Conclusion

This Regulation is compatible with human rights as it does not raise any human rights issues.