Legislative Instrument

EXCLUDED CLASSES OF TRANSACTIONS AND ENTITIES FOR THIRD PARTY REPORTS ON SHARES AND UNITS DETERMINATION 2016

I, Greg Williams, Deputy Commissioner of Taxation, make this determination under subsection 396-70(4) Schedule 1 to the *Taxation Administration Act 1953*.

**Greg Williams**

Deputy Commissioner of Taxation

Dated: 2 May 2016

**Name of instrument**

1. This instrument is the *Excluded Classes of Transactions and Entities for Third Party Reports on Shares and Units Determination 2016.*

**Commencement**

1. This instrument commences on 1 July 2017.

**Application**

1. This instrument applies to:

a) companies whose shares are listed for quotation in the official list of an Australian financial market,

b) trustees of a unit trust, and

c) trustees of a trust (other than a unit trust) who hold shares in a company or units in a unit trust to which one or more beneficiaries of the trust are absolutely entitled, in relation to transactions in an income year for which the trustee does not give the Commissioner of Taxation an income tax return.

**Determination**

1. An entity to which this instrument applies is not required to provide information to the Commissioner of Taxation under table items 6 or 8 in section 396-55 of Schedule 1 to the *Taxation Administration Act 1953* in relation to a transaction where:
	1. the transaction relates to a share in a company that is listed for quotation in the official list of an Australian financial market, and

b) data in relation to transactions on that Australian financial market is not

 required to be delivered to the Australian Securities and Investments

 Commission under the market integrity rules.

1. A trustee of a unit trust is not required to provide information to the Commissioner of Taxation under table item 7 in section 396-55 ofSchedule 1 to the *Taxation Administration Act 1953* in relation to a transactionwhere, at the time of the transaction:
2. the unit trust has less than 10 beneficiaries, and
3. the total market value of the assets held by the trustee in the unit trust is less than $5 million.
4. A trustee of a trust (other than a unit trust) is not required to provide information to the Commissioner of Taxation under table item 8 in section 396-55 of Schedule 1 to the *Taxation Administration Act 1953* in relation to a transaction where, at the time of the transaction**:**
5. the trustee is not required to hold an Australian financial services licence, within the meaning of section 761A of the Corporations Act 2001, and
6. the total market value of the assets held by the trustee in all trusts of which it is a trustee is less than $5 million.
7. A trustee of a trust (other than a unit trust) is not required to provide information to the Commissioner of Taxation under table item 8 in section 396-55 of Schedule 1 to the *Taxation Administration Act 1953* in relation to a transaction that relates to shares in a company that are not listed for quotation in the official list of an Australian financial market.
8. A trustee of a trust (other than a unit trust) is not required to provide information to the Commissioner of Taxation under table item 8 in section 396-55 of Schedule 1 to the *Taxation Administration Act 1953* in relation to a transaction where the trustee can reasonably expect that:
9. some other entity will include information about the transaction in a report given to the Commissioner of Taxation under table item 5, 6, 7 or 8 in section 396-55 of Schedule 1 to the Taxation Administration Act 1953, and
10. that report will identify, as the owner of the shares or units, the entity who is absolutely entitled to them as a beneficiary of the trust.
11. A trustee of a trust (other than a unit trust) is not required to provide information to the Commissioner of Taxation under table item 8 in section 396-55 of Schedule 1 to the *Taxation Administration Act 1953* in relation to a transaction where the trustee is required to provide information to the Commissioner in relation to the transaction under Division 392 of Schedule 1 to the *Taxation Administration Act 1953*.

**Additional Information**

1. This instrument does not prevent the reporting of information where not reporting it would impose an increased administrative burden on the reporting entity.

**Definitions**

***Australian financial market*** means a financial market (within the meaning of Chapter 7 of the *Corporations Act 2001*) operating under an Australian market licence granted under subsection 795B(1) of that Act.

***market integrity rules*** means rules made under section 798G of the *Corporations Act 2001*.