



Legislative Instrument

EXCLUDED CLASSES OF TRANSACTIONS AND ENTITIES FOR THIRD PARTY REPORTS ON SHARES AND UNITS DETERMINATION 2018

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

Michael Ingersoll

Deputy Commissioner of Taxation

Dated: 27 March 2018

Name of instrument

- 1) This instrument is the *Excluded Classes of Transactions and Entities for Third Party Reports on Shares and Units Determination 2018*.

Commencement

- 2) This instrument commences on 1 July 2017

Repeal of previous instrument

- 3) This instrument replaces Legislative instrument No. F2016L00660 *Excluded Classes of Transactions and Entities For Third Party Reports on Shares and Units Determination 2016* registered 5 May 2016. The previous instrument is repealed on the commencement of this instrument.

Application

- 4) 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

- 5) 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:

- a) 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.
- 6) 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 of Schedule 1 to the *Taxation Administration Act 1953* in relation to a transaction where, at the time of the transaction:
- a) the unit trust has fewer than 10 beneficiaries, and
 - b) the total market value of the assets held by the trustee in the unit trust 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 where, at the time of the transaction:
- a) the trustee is not required to hold an Australian financial services licence, within the meaning of section 761A of the *Corporations Act 2001*, and
 - b) 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.
- 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 that relates to shares in a company that are not listed for quotation in the official list of an Australian financial market.
- 9) 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:
- a) 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
 - b) that report will identify, as the owner of the shares or units, the entity that is absolutely entitled to them as a beneficiary of the trust.
- 10) An entity to which this instrument applies is not required to provide information to the Commissioner of Taxation under table items 6, 7 or 8 in section 396-55 of Schedule 1 to the *Taxation Administration Act 1953* in relation to a transaction where any entity is required to provide information to the Commissioner in relation to the transaction pursuant to Division 392 of Schedule 1 to the *Taxation Administration Act 1953* (which is about employee share schemes).

Additional Information

- 11) 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*.