

**Australian Securities and Investments Commission  
Corporations Act 2001 - Subsection 340(1) - Order**

**Enabling legislation**

1. The Australian Securities and Investments Commission (*ASIC*) makes this instrument under subsection 340(1) of the *Corporations Act 2001* (the *Act*).

**Title**

2. This Order is ASIC Instrument 20-0752.

**Commencement**

3. This instrument commences on the day it is signed.

**Order**

4. Pasminco Finance Limited (subject to deed of company arrangement) ACN 007 289 296 (*Pasminco Finance*) does not have to comply with any of the following obligations under Part 2M.3 of the Act:

- (a) report to members of Pasminco Finance under section 314 within the time required by section 315;
- (b) send reports to a member of Pasminco Finance in accordance with a request under subsection 316(1) within the time required by subsection 316(2); and
- (c) lodge reports with ASIC under subsection 319(1) within the time required by subsection 319(3),

in relation to the financial years ending 30 June 2020 and 30 June 2021.

This paragraph applies until the last day of the deferral period.

5. Pasminco Finance does not have to comply with an obligation under Part 2M.3 of the Act of a kind specified in paragraph 4 in relation prior financial years of Pasminco Finance but only to the extent that:

- (a) the Part would have imposed, but for this paragraph 5, a continuing obligation on Pasminco Finance from the date of this instrument; and
- (b) Pasminco Finance had previously sought, and been granted, relief from such an obligation from ASIC.

This paragraph applies until the last day of the deferral period.

**Conditions**

6. Pasminco Finance:
  - (a) must comply with any obligation to which paragraphs 4 and 5 apply by no later than the last day of the deferral period;

- (b) must arrange for a notice explaining the relief granted by this instrument to be published both:

- (i) in a prominent place on Pasminco Finance's website; and
- (ii) in a place that is readily accessible on a website maintained by the External Administrator or any external administrator appointed after the External Administrator;

Note: If the external administrator is a member of a firm then the firm's website will satisfy the requirement in (ii).

- (c) must have adequate arrangements in place to answer, within a reasonable period of time and without charge, any reasonable questions asked by a member of Pasminco Finance about the External Administration or any later external administration or managing controllership occurring after the appointment of the External Administrator during the deferral period; and
- (d) must immediately notify ASIC in writing if the External Administrator ceases to exercise all or most of the management powers and functions of Pasminco Finance, other than as a result of liquidation separately notified to ASIC.

- 7. Pasminco Finance need not comply with the condition specified in subparagraph 6(a) (other than an obligation referred to in paragraph 4(c) or 4(d)) if, by no later than the last day of the deferral period, Pasminco Finance arranges for a prescribed notice to be published both:

- (a) in a prominent place on Pasminco Finance's website; and
- (b) in a place that is readily accessible on a website maintained by the External Administrator or any external administrator appointed after the External Administrator during the deferral period.

Note: If the external administrator is a member of a firm then the firm's website will satisfy the requirement in (b).

- 8. This order will cease to apply in relation to the financial years of Pasminco Finance from the date of any failure to comply with a condition in paragraph 6 (subject to paragraph 7) in relation to the financial years.
- 9. To avoid doubt, subject to paragraph 7, if an obligation to which paragraph 4 applies has not been complied with by the day after the end of the deferral period or the day after this order ceases to apply under paragraph 8, whichever occurs first, this order has no application from that date to any continuing obligation.

#### **Interpretation:**

In this instrument:

***deferral period*** means the period starting on the date of this instrument and ending on whichever is the earlier of:

- (a) 15 June 2022; or

- (b) the date on which a disclosure document is lodged with ASIC in relation to any offer for issue or sale of securities that needs disclosure to investors under Chapter 6D of the Act; or

Note: Where a company is undertaking public fundraising for a recapitalisation, up-to-date financial reports are information that is reasonably required by investors in a disclosure document lodged under s710.

- (c) if Pasminco Finance has a managing controller and is not also under external administration, the date Pasminco Finance ceases to have a managing controller appointed; or
- (d) if Pasminco Finance has an external administrator appointed and does not have a managing controller, the date Pasminco Finance cease to be under external administration; or

Note: A company that has been granted an individual deferral, must comply with any deferred financial reporting obligations in accordance with the Corporations Act or obtain further deferral relief before the deferral expires, except where a liquidator is appointed or the company ceases.

- (e) the date on which a liquidator is appointed to Pasminco Finance.

**external administration** means where an external administrator has been appointed to Pasminco Finance.

**External Administrator** means an administrator of the deed of company arrangement in respect of Pasminco Finance that was executed and dated 4 October 2002.

**external administrator** means:

- (a) an administrator of Pasminco Finance appointed under section 436A, 436B or 436C of the Act;
- (b) where Pasminco Finance has executed a deed of company arrangement that has not yet terminated, the administrator of the deed appointed under Part 5.3A of the Act;
- (c) a provisional liquidator of Pasminco Finance.

**managing controller** means a managing controller appointed in relation to property of Pasminco Finance.

**prescribed notice** means a notice that contains statements to the following effect:

- (a) the reports for the relevant financial year of Pasminco Finance have been lodged with ASIC; and
- (b) Pasminco Finance will send copies of the reports to a member of Pasminco Finance free of charge if the member asks for the reports in writing; and

- (c) the reports are available for download on the relevant website together with a hypertext link to the reports.

Dated this 5th day of August 2020

A handwritten signature in black ink, appearing to read 'Priti Joshi', written in a cursive style.

Signed by Priti Joshi  
as a delegate of the Australian Securities and Investments Commission