



SYNDICATION POLICY

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1. INTRODUCTION

1.1 The purpose of this Policy

The purpose of this Harness Racing Victoria ("**HRV**") Syndication Policy ("**Policy**") is to set out the requirements and conditions that must be satisfied by applicants seeking registration as a Promoter and by existing registered Promoters with respect to the promotion of interests in a managed investment scheme ("**MIS**") that has the principal purpose of racing one or more horses and distributing prize money won by the horse(s) to the participants of the scheme (hereafter known in this Policy as a "**harness racing scheme**" or "**scheme**").

Capitalised terms used in this Policy have the meaning given to them in the Glossary.

1.2 Overview of regulatory function

ASIC

The Australian Securities and Investments Commission ("**ASIC**") is an independent, Commonwealth Government body that regulates, among other things, the provision of financial services in relation to financial products (such as MISs) and the registration of MISs under the Corporations Act 2001 (Cth) ("**Corporations Act**") and the regulations made under it.

ASIC Relief

As a consequence of negotiation between the Australian Racing Industry and ASIC in 2002, ASIC issued regulatory guidance and relief to reduce the regulatory burden on persons intending to promote small scale horse racing schemes and enable a horse racing scheme to be operated without being registered under section 601ED of the Corporations Act provided the conditions of the relief are complied with.

The current versions of ASIC's guidance and the relief instrument are available on the ASIC website www.asic.gov.au:

- ASIC's Regulatory Guide 91 – horse racing and breeding schemes and horse racing syndicates ("**RG 91**"); and
- ASIC Corporations (Horse Schemes) Instrument 2016/790 (last updated 5 October 2021) ("**Instrument**").

The information in this Policy reflects the Instrument as last updated on 5 October 2021. If further updates are made to the Instrument or RG 91 this Policy will be reviewed and updated if HRV considers it necessary to do so.

Lead Regulator (Harness Racing Victoria)

A lead regulator is defined in the Instrument as a body that is responsible for the administration of thoroughbred racing or harness racing in a State or Territory in Australia which has entered into a memorandum of understanding with ASIC that meets certain requirements as specified in the Instrument and is approved by ASIC.

ASIC and HRV entered into a memorandum of understanding on 29 January 2018 ("**MOU**") and ASIC approved HRV as a lead regulator on 30 January 2018. The MOU (including as amended by agreement between ASIC and HRV from time to time) sets out the framework of the co-regulatory arrangements between ASIC and HRV and remains in effect until the Instrument is repealed or ceases as the result of sunseting under the Legislation Act 2003 (Cth) or the parties agree to its termination.

HRV's obligations as a lead regulator under the MOU and the Instrument include:

- (1) maintaining a register of Promoters approved and registered by HRV;
- (2) removing from the register (and notifying ASIC) of any Promoter which does not comply with this Policy relating to the promotion and operation of harness racing schemes;
- (3) having in place adequate arrangements for:
 - (i) reviewing and approving PDSs (within a reasonable time) for a harness racing scheme where the lead regulator is satisfied the PDS is accurate and meets requirements specified in the Instrument;
 - (ii) ensuring the Promoter provides to HRV all relevant documents in relation to the harness racing scheme in accordance with section 5(7) of the Instrument;
 - (iii) dealing with complaints and disputes received by HRV about the conduct of Promoters, Managers or the operation of harness racing schemes;
 - (iv) regularly monitoring Advertising of harness racing schemes for inappropriate, misleading or deceptive content; and
 - (v) regularly monitoring compliance by Promoters and Managers of harness racing schemes with the requirements of the Instrument and the Promoter's AFS Licence and the Manager's AFS Licence (if any);
- (4) notifying ASIC if HRV identifies conduct by a Promoter or Manager of a harness racing scheme that may involve breaches of Chapter 7 of the Corporations Act (including breaches of its AFS licence (as applicable) or the Instrument) in addition to taking any action against the Promoter or Manager in relation to that conduct that is appropriate for HRV as lead regulator to take;

- (5) ensuring that all employees and Associates of a Promoter that is registered with HRV have agreed to be bound by the rules and requirements of HRV relating to harness racing schemes;
- (6) lodging with ASIC an annual report of HRV's performance of its functions as set out above; and
- (7) ensuring adequate resources are assigned to HRV giving effect to its undertakings under this MOU.

As noted by ASIC in RG 91 at RG 91.34, HRV as a lead regulator has responsibility for supervising the activities of small scale harness racing schemes on a day to day basis.

Registration as a Promoter with Harness Racing Victoria

If you are in the business of promoting harness racing schemes in which the public or a section of the public is to be invited to invest funds to acquire or lease a horse or horses with the expectation of benefits such as sharing in any prize money from racing the horse(s), in circumstances where the day to day operation of the scheme will be managed on behalf of the Investors by you and/or a Manager, then you are likely to be operating an MIS.

If so and depending on the circumstances, you may also be required to register the MIS so that it is a registered scheme under the Corporations Act, unless you wish (if you operate in Victoria) to rely on the relief granted under the Instrument insofar as it applies to HRV, in which case you will need to obtain the approval of HRV, and be placed on HRV's Register of Promoters.

If a Promoter intends to promote interests in a harness racing scheme and rely on the relief provided under the Instrument as it applies to HRV, then:

- (a) it is a pre-requisite to the grant to a person of an approval to promote interests in the harness racing scheme that the person and each harness racing scheme they intend to promote meets the requirements set out in the Instrument and this Policy and any other rules, regulations or guidelines of HRV; and
- (b) HRV may carry out such investigations of the Promoter (including any harness racing schemes currently or previously promoted by the Promoter) as it considers necessary to assess the Promoter's ability and appropriateness to perform such role and comply with the Instrument and this Policy and any other rules, regulations or guidelines of HRV. For this purpose the Promoter is required under the conditions of the Instrument to provide information and assistance to HRV as is reasonably requested by HRV with respect to the Promoter and any harness racing scheme it intends to promote.

HRV **will not** approve and register you as a Promoter **unless**:

- (a) you hold an AFS licence authorising you to provide relevant financial services in relation to the harness racing scheme that you wish to promote; and
- (b) the harness racing scheme that you intend to promote meets the requirements as specified in the Instrument and this Policy (see section 1.3 for more detail).
- (c) you provide all documents that are required to be provided to HRV with respect to the harness racing scheme you intend to promote (see section 3.2 for more detail);
- (d) HRV is satisfied:
 - (i) as to your ability and appropriateness to perform such role and the ability and appropriateness of any separate Manager of the scheme to perform their role;
 - (ii) that you and your employees and Associates (which include, if you are a body corporate, all of its Directors and secretary) have agreed to be bound by the rules and requirements of the Instrument and this Policy; and
- (e) that the PDS for the harness racing scheme meets the requirements specified in the Instrument and this Policy (for more detail see sections 3.5 and 4).

HRV will record any Promoter which satisfies the requirements for approval and registration in a Register of Promoters established by HRV for such purpose (see Section 2 for more information about the role of Promoter and HRV's general requirements for obtaining registration as a Promoter).

HRV will issue to the Promoter a Promoter Registration No. that is to be included in the PDS for any harness racing scheme promoted by the Promoter.

No promotional activities with respect to a harness racing scheme may be carried out until such time as HRV notifies the Promoter of:

- (a) their having been recorded in the Register of Promoters with respect to the harness racing scheme and given a Promoter Registration No.;
- (b) the PDS for the scheme has been approved by HRV; and
- (c) any proposed Advertising with respect to the scheme has been approved.

The Promoter must also comply with any applicable obligations relation to the notice, retention and access requirements for a PDS as specified in section 1015D of the Corporations Act. A Promoter must cease (and ensure other persons cease) carrying out any promotional activities with respect to a harness racing scheme if HRV notifies the Promoter that they have been removed from the Register of Promoters for failing to comply with the

requirements that apply to the scheme including its promotion as set out in this Policy.

For information about ongoing obligations as Promoter see section 3.16.

1.3 Horse-racing schemes

The requirement to register as a Promoter with HRV arises if the Promoter wishes to make offers (which includes inviting an offer or application) to persons to acquire interests in a harness racing scheme that is an MIS as defined in the Corporation Act and that would otherwise be required to be registered with ASIC under section 601ED of the Corporations Act and if the Promoter wishes to have relief from such registration by relying on the Instrument.

Registration of a harness racing scheme under section 601ED of the Corporations Act would require the harness racing scheme and its operator to meet all the requirements of Chapter 5C of the Corporations Act and applicable regulations. The Instrument provides relief from the need to register a harness racing scheme (and therefore to comply with these requirements) provided the requirements of the Instrument are met (which includes the requirement to register with a lead regulator such as HRV).

What is an MIS?

An MIS is a scheme that has the following features:

- people contribute money or money's worth as consideration to acquire rights to benefits produced by the harness racing scheme; and
- any contributions are to be pooled, or used in a common enterprise, to produce financial benefits, or benefits consisting of rights or interests in property, for the harness racing scheme's Members who hold an interest in the harness racing scheme (whether as contributors to the harness racing scheme or as people who have acquired interests from holders); and
- the Members do not have day-to-day control over the operation of the harness racing scheme (whether or not the Members have the right to be consulted or to give directions).

Unless an exemption applies, an MIS is required to be registered if it:

- (a) it has more than 20 Members (also referred to as Participants); or
- (b) regardless of the number of Members, it is promoted by a person who is in the business of promoting MISs (or their Associate); or
- (c) ASIC has made a determination that the scheme is to be aggregated with other closely related schemes and the number of Members of the aggregated schemes exceeds 20.

An MIS is not required to be registered if it:

- (a) has 20 or less Members; and
- (b) is promoted by a person who is not in the business of promoting MIS or is not an Associate of a person in such a business; and
- (c) there is no determination made by ASIC as referred to above.

This would generally only be the case for a scheme of 20 or less Members to be promoted on a one time only basis by a person who does not promote other MISs (and who is not an Associate of a person who promotes other MISs).

There is also an exemption from registration of an MIS in the Corporations Act with respect to an MIS if all Investors in the scheme are limited to wholesale clients within the meaning of the section 761G and section 761GA of the Corporations Act (or otherwise do not need to be given a PDS at the time they are offered interests in the MIS).

A scheme will not be an MIS (and therefore not required to be registered) in a number of circumstances including if:

- (a) the Members have day to day control over the operation of the scheme (unlikely to be the case except in very small schemes where the Members each get involved in the running of the scheme and make day to day decisions relating to it);
- (b) the Promoter is a body corporate and each Member is a related body corporate of the Promoter; or
- (c) the scheme involves buying shares in a body corporate that acquires or leases the horse and operates the scheme (although there may be other implications of this approach such as the need to prepare a prospectus and potentially AFS licensing).

In the recent decision of the New South Wales Supreme Court of Appeal in *Spicer Thoroughbreds Pty Ltd v Stewart* [2023] NSWCA 82, the court found that a horse racing syndicate was not an MIS (based on the limited facts found by the primary judge) where, in relation to that syndicate:

- (a) there were no ongoing management fees paid to a promoter of the original transaction beyond the purchase price of the horse; and
- (b) the ongoing 'operational' role of third parties was limited to providing a 'concierge service', being the provision of updates on a syndicate's horse/s and facilitating communications between the trainer and co-owners.

The court noted however that a different decision may have arisen if the full facts of the case had been able to be considered by the court.

Any person, including horse trainers, who wishes to structure, operate and promote a scheme so that it is not an MIS or otherwise not required to be registered and so does not need to comply with the Instrument and this Policy

(on the basis that relief from registration is not required) will need to obtain their own legal advice. See the Important Notice at section 1.5.

For harness racing schemes where the Promoter wishes to take advantage of the relief from the registration requirement under section 601ED of the Corporations Act, to meet the requirements of the Instrument (and obtain relief from the requirement to register a harness racing scheme that is provided under the Instrument) the harness racing scheme must:

- (a) have no more than 50 Members;
- (b) raise no more than \$500,000 from the issue of interests in the scheme;
- (c) have a PDS that contains certain required information and statements and that has been approved by HRV. See sections 3.5 and 4 for more detail; and
- (d) have a Syndicate Agreement in a form approved by HRV for the harness racing scheme that includes terms required by the Instrument. See section 3.11 for more detail.

See section 3.2 for the information that must be provided to HRV regarding any harness racing scheme that is intended to be promoted and have registered with HRV.

To be able to rely on the relief provided in the Instrument the harness racing scheme must also be registered by HRV and given a registered number within 45 days after applications for the minimum number of interests in the scheme are received or the minimum amount is raised, if minimums are specified in the PDS, or the scheme is fully subscribed if required in the PDS.

If however, applications for the minimum number of interests in the scheme are not received or the minimum amount required for the scheme as specified in the PDS is not raised or if the PDS requires the scheme to be fully subscribed and full subscription has not been reached, within 6 months after the date of approval of the PDS by HRV, all amounts received from applicants must be repaid to them (together with interest, if any) within 10 Business Days after the end of the 6 month period.

See section 3.6 for provisions regarding holding money in an applications account pending issue of interests in the harness racing scheme.

1.4 Appointment of a Manager to operate the Harness racing scheme

A Manager in relation to a harness racing scheme, means the person holding office as manager under the Syndicate Agreement or otherwise holding office as Manager of the harness racing scheme with approval of HRV.

The Promoter or another person nominated by the Promoter may be the Manager notwithstanding that they have no ownership interest in a horse associated with a harness racing scheme, subject to the approval of HRV.

If the Promoter nominates another person to be the Manager with the approval of HRV, the Manager will need to either hold an AFS Licence or be appointed as an Authorised Representative of the Promoter so that it may carry out its role in operating the scheme, including dealing with respect to interests in the harness racing scheme, giving any financial product advice in relation to the scheme and operating the scheme bank account.

A person deals in relation to interests in a harness racing scheme if, unless an exemption applies, they issue, apply for or acquire, vary or dispose of an interest in the scheme as principal or agent or if they arrange for another person to deal in an interest in the scheme (for example if they arrange for a person to acquire an interest in the scheme).

A person gives financial product advice, unless an exemption applies, if they make a recommendation or provide a statement of opinion or a report of such things that is intended (or may reasonably be regarded as having been intended) to influence a person in making a decision in relation to an interest in the scheme. Financial product advice is general advice unless the provider of the advice takes into account one or more of the person's objectives financial situation and needs or a reasonable person might expect this to be the case, in which case the advice is personal advice and additional disclosure obligations apply.

When the Promoter nominates a person **other than** themselves in the role of Manager, the Promoter remains fully responsible for the actions and decisions of the Manager. Furthermore, the Promoter shall remain fully responsible for ensuring that the Manager is adhering to this Policy, the Syndicate Agreement, the Rules of Racing, the Instrument and any other rules, regulations or guidance of HRV.

For information about the requirements applicable to the Syndicate Agreement required to be entered into between the Promoter, the Manager and Members in the harness racing scheme see section 3.11.

For information about the role of the Manager see section 3.12.

1.5 Important Notices

Please note that the information provided in this Policy in relation to the regulation or otherwise of harness racing schemes is not to be taken as legal advice. Any person requiring information about the application of the law and this Policy to themselves or a scheme they wish to promote and/or manage should obtain their own legal advice. HRV will not provide you with any legal advice and if application is made for a person to be a Promoter and register one or more harness racing schemes, HRV will not consider whether or not the schemes are or are not an MIS and whether or not a scheme would require registration as HRV will be entitled to assume the applicant has obtained its own legal advice.

If you require any approval or registration from HRV, HRV will provide you with the appropriate form upon request.

1.6 Policy Commencement and previous approvals

This Policy comes into operation and effect on and from December 2023 and may be updated from time to time.

Unless otherwise provided for, all Promoter approvals, permits, registrations, authorisations and any other rights or privileges granted under or pursuant to the Rules of Racing are deemed to continue in full force and effect until their expiration.

2. ROLE AND GENERAL REQUIREMENTS FOR OBTAINING REGISTRATION AS A PROMOTER

2.1 Role of Promoter

The role of the Promoter is to, amongst other things:

- (a) lodge the relevant PDS with HRV for approval;
- (b) open a separate bank account to hold subscription money raised until the offer of scheme interests is fully subscribed or other Minimum Subscription Requirements in the PDS are met; and
- (c) promote the offer and comply with its AFS Licence, this Policy and any other rules, regulations or guidelines made by HRV and take responsibility for the scheme as a whole including compliance by any separate Manager with its obligations.

2.2 Overview of the general requirements

The general requirements for obtaining registration from Harness Racing Victoria as a Promoter of a harness racing scheme is that the person (**Applicant**):

- (a) **Experience:** has the practical experience reasonably required to carry on the activity of a Promoter; and
- (b) **Age:** if an individual, is at least 18 years of age; and
- (c) **Financial resources:** has adequate financial resources to establish, promote and manage harness racing schemes without material risk of being unable to pay his or her debts as and when they fall due; and
- (d) **Character:** has satisfied HRV that the Applicant is of good reputation and character and is a fit and proper person to hold an approval to establish, promote and manage harness racing schemes within Victoria, which in the case of a body corporate means the officers and responsible managers of the Applicant and any controllers of the Applicant are fit and proper persons (HRV may waive the requirement for demonstration of fit and proper person requirements with respect to an officer or responsible manager of the Promoter if that person can demonstrate that it has satisfied ASIC's fit and proper person requirements in the previous 12 months); and
- (e) **AFS Licence:** has been granted an AFS Licence by ASIC that would permit the operation and promotion of harness racing schemes.

2.3 Application

An Applicant must:

- (a) complete and lodge the Promoter Application Form (available from HRV on request), together with the supporting documents required by the Instrument and this Policy as set out in sections 2.4 below and section 3.2 below in relation to the harness racing scheme the Applicant wishes to promote and provide payment of the fees charged by HRV;
- (b) satisfy HRV that the Applicant is a suitable person to be granted registration as a Promoter by providing the documentation and information referred to below; and
- (c) confirm in writing that they have read and understood and agree to be bound by this Policy, the Instrument and the Rules of Racing and any other rules, regulations and guidance of HRV and that they will ensure their employees and Associates who are or will be involved in the promotion of the scheme or any future schemes to be registered with HRV will do, or have done, likewise.

2.4 Documents required to support the Application

The Applicant must provide the following documents with their Promoter Application Form, and satisfy the following information requirements, to support their application for registration as a Promoter unless HRV approves otherwise:

- (a) **AFS licence:** a copy of the Applicant's full AFS licence and the name of its nominated key person for approval by HRV if required under the Promoter's AFS licence and confirmation that all conditions of its AFS licence have been and will continue to be met;
- (b) **Assessments:**
 - (i) documentation evidencing the incorporation of the Applicant (where the Applicant is a body corporate);
 - (ii) where the Applicant is a body corporate, documentation outlining:
 - (A) the names and addresses of all Directors of the Applicant;
 - (B) the names, registered addresses, and ACNs (as applicable) of all shareholders of the Applicant; and
 - (C) the number of shares held by each shareholder of the Applicant;
 - (iii) resume-style history of each Director of a body corporate Applicant and any shareholder(s) that 'control' (as determined in accordance with section 50AA of the Corporations Act) the Applicant (**Controlling Shareholder(s)**) and each nominated key person;
 - (iv) a document or policy detailing how the Promoter will manage its own debts;

- (v) Harness Racing Disciplinary History Assessment of the Applicant, and each Director of the Applicant and any Controlling Shareholder(s); and
 - (vi) a National Police Record Check and National Bankruptcy Check for the Applicant and where relevant each Director and other officer (as defined in section 9 of the Corporations Act) of the Applicant, and any Controlling Shareholders (or if the Controlling Shareholders are bodies corporate, each Director and officer of each Controlling Shareholder) and any nominated key person (if they are not one of the above persons and it is a requirement of the Promoter's AFS Licence) that, in each case is not more than 12 months old;
- (c) **References:**
- (i) two harness racing industry character references for the Promoter (if an individual) and any key persons nominated for approval by HRV if required under the Promoter's AFS Licence (provided by persons who are experienced in harness racing or breeding, including licensed trainers, AFS Licence-holders, Bloodstock Agents or prominent thoroughbred owners);
 - (ii) financial resources references:
 - (A) three (3) industry-supplier credit references. Note that these references should state that you hold an account with the supplier and that you settle your accounts within the specified trading terms);
 - (B) one (1) credit reference from a registered auction house. Note that this reference should state that you hold an account with the auction house and that you settle your accounts within the specified trading terms);
 - (iii) a credit report, relating to the Applicant and if the Applicant is a body corporate, each Director of the Applicant and each Controlling Shareholder, from an accredited reporting agency within Australia. This report should list your (or your entity's) personal details, loan enquiries, credit providers, serious debt and credit infringements, commercial credit and public record information including bankruptcy data and default judgments;
 - (iv) a reference from a Certified Practising Accountant or Chartered Accountant completed on the relevant entity's letterhead;
 - (v) bank account statements for the Applicant for the six (6) month period prior to the date that the Application is submitted;
 - (vi) if requested by HRV, a guarantee of up to \$20,000 or other amount from a lending institution ensuring that the liabilities of the Promoter will be met, insofar as, if the Promoter fails to settle a debt, the lending institute will settle it; and

(vii) in the case of a Promoter, a Certificate of Currency with respect to professional indemnity insurance held by the Promoter and confirmation it meets ASIC's requirements.

(d) **Interview:**

HRV may require the Applicant or any Director or other officer of the Applicant or any proposed Manager nominated by the Applicant if separate from the Applicant to attend an interview and provide such further information as is required by HRV.

2.5 Acknowledgement

The Applicant (and any employee or other Associates of the Applicant) will be required to acknowledge and agree in writing to be bound by this Policy, the Instrument, the Rules of Racing and any other rules, regulations and guidance of HRV with effect on and from the Applicant's registration as a Promoter. The Promoter will also need to ensure that any new employees or other Associates after the time of registration also acknowledge and agree in writing to be so bound.

3. GUIDELINES AND CONDITIONS

3.1 Overview of guidelines and conditions

These guidelines and conditions apply to Applicants, Managers and existing Promoters. In particular they apply when an application to be granted registration as a Promoter is made by a person or entity, and where relevant when an application is made by an existing Promoter to obtain approval of a PDS for a new harness racing scheme, approval of a Manager nominated by the Promoter and approval of an appointment or change to a key person of the Promoter and, if applicable, the Manager.

3.2 Documentation to be provided to HRV in relation to harness racing schemes

The Promoter must provide to HRV for approval, the following documents in relation to each harness racing scheme it wishes to Promote as part of its application to be registered as a Promoter or subsequently if it is an existing Promoter:

- (a) a copy of all documentation that is proposed to be provided to prospective Investors in relation to a harness racing scheme before they are provided including:
 - (i) a pro forma copy of the Syndicate Agreement;
 - (ii) if applicable, a pro forma copy of the Finance Lease Agreement;
 - (iii) a pro forma of any other agreement establishing or affecting the scheme;
 - (iv) a pro forma of any agreement that relates to the scheme and to which a Member of the scheme is required to be a party;
 - (v) a draft PDS that meets the requirements of the Instrument and as specified in this Policy (see sections 3.5 and 4); and
 - (vi) draft of any other information proposed to be provided to prospective Investors;
- (b) any proposed Advertisement for interests in the scheme or other statement reasonably likely to induce people to acquire interests in the scheme before such Advertisement or statement is published; and
- (c) information as to whether the Promoter intends to be Manager of the scheme or wishes to nominate a person to act as Manager (in which case it must also provide a copy of the Manager's AFS Licence or Authorised Representative Appointment) and confirmation that the Promoter will accept full responsibility for the performance of the Manager (noting that if the Manager holds its own AFS Licence which contains a condition that it have a key person approved by HRV, the Promoter must also seek from the Manager and provide or the Manager must provide similar information

about the Manager's key person as is required for the Promoter's key person so that HRV may give consideration to the approval of the Manager's key person);

- (d) a comprehensive 3 to 5 year Business Plan detailing the structure and intended objectives of the harness racing scheme they are intending to promote; and
- (e) a projected profit/loss budget and cash flow statement, including potential horse purchases and related income and expenses (itemised) (taking into account any relevant guidance in ASIC's Regulatory Guide 170 as though the information was being prepared for information in a PDS) with respect to a harness racing scheme that is proposed to be registered, covering the period of 12 months after registration of the scheme.

The Promoter must also provide to HRV for its approval any changes proposed to be made to any of the above documents previously submitted or a change to a key person previously approved or new key person appointment and, in relation to a change to the PDS, any website update, if permitted under ASIC's PDS Update Relief, but otherwise by means of a Supplementary or Replacement PDS in accordance with Part 7.9, Division 2 Subdivision D of the Corporations Act.

3.3 No promotion before PDS approval is granted

A Promoter is not permitted to Advertise, publish or disseminate information about a harness racing scheme which may induce people to acquire interests in a harness racing scheme without the prior approval of HRV. A Promoter must only provide a PDS to an interested party once the PDS has been approved by HRV.

A Promoter should note that the application for approval of a proposed PDS contains an undertaking from the Promoter to HRV that the Promoter will not circulate any information to Investors other than the approved PDS and any accompanying documents which have also been approved by HRV.

Offers: A person must not promote an offer of interests in a harness racing scheme that would otherwise be required to be registered with ASIC unless:

- (a) the person is listed on the Register of Promoters;
- (b) an offer of interests in the scheme is accompanied by a PDS, which has been approved by HRV;
- (c) the PDS contains HRV's PDS approval number and the Promoter's Promoter registration no.; and
- (d) all other requirements of the Instrument and this Policy have been complied with.

Advertising or other published statements: A Promoter must not (and must not permit any other person) to Advertise a harness racing scheme or an offer

of interests in a harness racing scheme or publish any statement that is reasonably likely to induce people to acquire an interest in a harness racing scheme unless the Advertisement or statement has been approved by HRV.

3.4 Denial and Refusal

If an offer of an interest in a harness racing scheme is made in breach of this Policy or an Advertisement or statement regarding an interest in a harness racing scheme is made in breach of the Policy, HRV may take any or all of the steps specified in section 3.17 of this Policy as it considers reasonable in the circumstances.

3.5 Product Disclosure Statement

Only Promoters who are registered or who have applied for registration may lodge a PDS to Harness Racing Victoria for its review.

Furthermore, only approved PDSs may be distributed to potential Investors by Promoters.

In considering whether to approve a PDS, the Promoter must give a declaration to HRV that the proposed PDS is accurate, contains no materially false or misleading and deceptive statements or omissions and complies with the requirements of the Instrument (which specifies that the requirements that apply to the contents of a PDS in Part 7.9 Division 2 Subdivision C in the Corporations Act apply as well as certain information that ASIC considers is necessary to include as specified in the Instrument) and this Policy.

For the avoidance of doubt, any update to a PDS must be provided to HRV for approval before distribution to prospective Investors.

In considering whether or not to give its approval to a PDS for the offer of interests in a harness racing scheme, HRV may wish to seek information to confirm the accuracy of matters stated in the PDS, seek matters to be clarified or further disclosure to be provided and enquire in relation to specific issues to ensure that the PDS fully discloses information to meet the requirements of the Instrument and this Policy and which would reasonably be required by Investors to make a fully informed decision as to whether to participate in a harness racing scheme. The Promoter must provide all assistance and information reasonably requested by HRV in connection with its review of the PDS.

HRV does not, however, have a responsibility to itself confirm the accuracy of information in the PDS or to inquire into the financial prospects or viability of harness racing schemes and does not accept liability for the contents of the PDS and such matters.

To the extent that HRV may have discretion whether to approve a proposed PDS in a particular case it will consider any relevant submission as to the exercise of that discretion having regard to the requirements of ASIC, the Instrument, the Corporations Act, this Policy and HRV's role as lead regulator.

All information within the PDS must be true and correct and not misleading. A PDS must also be up to date at the time is given to a prospective Investor.

If the Promoter becomes aware that information in the PDS is not accurate or is misleading or is out of date, the PDS must not be further provided to Investors without an update to the PDS being prepared (which may include an update by means of a Supplementary PDS or Replacement PDS or by website update if this is in accordance with ASIC's PDS Update Relief) and approved by HRV.

If an application is made by a prospective Investor for an interest in the scheme, the Promoter (or Manager) must be satisfied that the applicant has received the relevant update and does not wish to opt for the return of their application money before the application money is accepted and paid to the bank account for the harness racing scheme.

The Promoter must also consider the extent to which a change should be notified to existing Participants in the scheme (if any) and notify existing Investors as appropriate or required by Chapter 7 of the Corporations Act.

If HRV becomes aware that information in a PDS is out of date, incorrect or misleading it may require the Promoter to update the PDS and follow the procedures above and require the Promoter to cease promoting the harness racing scheme pending approval of an update.

If HRV approves the PDS it will issue a PDS approval number to the Promoter.

The detailed requirements for the preparation of a PDS and documents required to be provided by the Promoter and included with the PDS are contained in section 4 of this Policy.

3.6 Applications Account/Minimum Subscription Requirements

The Promoter must open an account that complies with the requirements of section 1017E of the Corporations Act into which it must pay any application monies received pending the minimum amount of applications or the minimum value specified in the PDS for the scheme being received or full subscription being received if the PDS requires full subscription (**Minimum Subscription Requirements**).

For the scheme to have the benefit of the relief provided by the Instrument, the scheme must have been registered by HRV within 45 days of the Minimum Subscription Requirements being met from the date of approval of the PDS. On or before registration, the Promoter will also need to ensure that the matters at clause 3.8 have been addressed.

HRV will need to receive notification from the Promoter of the date that the Minimum Subscription Requirements have been met and confirmation that the matters specified at clause 3.8 have been addressed or have occurred at least 5 Business Days prior to expiry of the 45 days to allow for processing time. HRV will aim to confirm the date of registration of the Scheme to the Promoter, generally within 2 Business Days of receiving such notice and the requirements in clause 3.8 having been met but in any event before the expiry of 45 days.

Provided notice is given to HRV of the Minimum Subscription Requirements being met along with the requirements specified in clause 3.8 prior to the expiry of the 45 days notwithstanding less than 5 Business days has been given, HRV will nonetheless register the scheme, however notice of scheme registration may not be provided in that circumstance until after the expiry of the 45 days.

HRV is not responsible if the scheme is not registered because it has not received notice of the Minimum Subscription Requirements being met and the requirements at clause 3.8 are not received on or before the end of the 45 day period.

Until the Minimum Subscription Requirements are met, the Promoter must hold the monies of Investors in the section 1017E account/Applications Account.

As required by the Instrument, if the Minimum Investment Requirements are not met within 6 months from the date of PDS approval by HRV, the Promoter must return all application monies (plus interest, if any) to the applicants within 10 Business Days of the end of the 6 month period. The Promoter must confirm to HRV and provide evidence that it has done so.

Once the Minimum Subscription Requirements are met in accordance with the above requirements applications may be accepted, the Syndicate Agreement (and any Finance Lease Agreement or other document that the PDS requires Members to enter into) may be entered into with members and the money in the applications account paid into the Scheme bank account as referred to below. The Formation Expenses may be deducted from the applications money after the Minimum Subscription Requirements are met and before the money is paid into the Scheme bank account (or alternatively deducted from the Scheme bank account).

3.7 Scheme Bank Account

The Manager of a harness racing scheme must in its capacity as an AFS Licensee or authorised representative of the Promoter, as applicable, establish and keep a separate trust bank account with an Australian bank in respect of the scheme and subject to the Minimum Subscription Requirements being met in accordance with the requirements as outlined in **clause 3.6** use that account for the deposit and payment of all Formation Expenses (unless the Formation Expenses have been deducted from the application money on acceptance of applications after the Minimum Subscription Requirements have been met) and all other expenses relating to the operation of the scheme. All money in the account must be held on trust for Participants in the scheme. The Manager must not co-mingle any money in the Scheme bank account with its own money or the money of any other schemes.

3.8 Passing Clear Title and horse registration

It remains the responsibility of the Promoter to ensure that before or on registration of the harness racing scheme with HRV, the Participants in the scheme have either:

- (a) clear and unencumbered title to the whole of the horse(s) the subject of the scheme; or
- (b) a lease for the whole of the horse(s) the subject of the scheme under a Finance Lease Agreement.

In the case of unencumbered title being provided, the Promoter must ensure that it provides to HRV and HRV receives on or before registration of the scheme:

- (a) a vendor release statement from the vendor or auction house confirming that the horse has been devolved to the scheme or Participants with unencumbered title (**Vendor Release Statement**); and
- (b) confirmation that:
 - (i) Members have unencumbered title to each horse the subject of the scheme; and
 - (ii) any personal property security interests registered against the title of each horse has been released.

In the case of the lease of a horse, confirmation that a Finance Lease Agreement has been entered into with Members must be provided.

Following the acquisition or lease of the horse, the Promoter is required to register the horse with HRV for racing purposes (if the related horse is not presently registered) or, if it is presently registered for racing purposes, notify HRV of the change of ownership or lease information for racing purposes. This must be done within 45 days from the date of registration of the harness racing scheme by HRV.

3.9 Harness Racing Victoria's Fees and Costs

The current fees charged by HRV including with respect to your application for approval and registration as a Promoter and other approvals or actions by HRV and HRV's annual review fee are set out in HRV's fee schedule available at www.trots.com.au.

We may change these fees from time to time subject to 30 days' notice before the changed fees apply to persons who have obtained approval as a Promoter on the basis of a previous fee schedule (otherwise the changed fees will apply immediately).

3.10 Limits on the Number of Investors

The Promoter must only promote interests in harness racing schemes of between one (1) and fifty (50) persons.

3.11 Syndicate Agreement

Promoters must ensure that Investors in a harness racing scheme receive a copy of the approved PDS and make their application using an application form included in or accompanying the PDS which attaches a pro forma copy of the Syndicate Agreement.

The Promoter and Manager must not execute the Syndicate Agreement for themselves or require prospective Members to execute or execute on behalf of any prospective Member (or accept applications or make use of application money for any Formation Expenses or pay application money or any balance of application money into the scheme bank account) unless and until the Minimum Subscription Requirements are met within 6 months of the issue of the PDS.

The Syndicate Agreement must set out the role of the Manager and be in the standard form approved by HRV (unless HRV agrees to any changes to the standard form provided they are not inconsistent with the requirements of the Instrument, this Policy or the Rules of Racing).

The terms of the Syndicate Agreement must require:

- (a) unless excluded, modified or varied with the written agreement of all Participants in the harness racing scheme, that the Manager of the harness racing scheme is to manage the scheme in accordance with the terms of the Syndicate Agreement throughout its duration unless that person:
 - (i) retires after being given written consent by the majority of the Participants in the scheme who are not Associates of the retiring Manager or Promoter;
 - (ii) is removed in accordance with the terms of the Syndicate Agreement; or
 - (iii) otherwise retires or is removed after being given written consent by HRV; and
- (b) that if the Manager of the Scheme retires or is removed in accordance with paragraph (a), a new Manager will be appointed in accordance with the Syndicate Agreement who must become subject to the terms of the Syndicate Agreement.

The Syndicate Agreement may be executed by the Promoter on behalf of Participants if a power of attorney with appropriate authorisations (including to complete all necessary details) is included in the application form included in or accompanying the PDS.

3.12 Role of Manager

Unless otherwise approved by HRV, the Promoter will remain fully responsible for the actions and decisions of a person appointed as Manager who is not the Promoter and approved by HRV, and furthermore, shall remain fully responsible

to ensure that the appointed Manager is adhering to this Policy, the Rules of Racing, the Instrument and any other rules, regulations or guidance of HRV.

The role of a Manager must be set out in the Syndicate Agreement and the Manager must manage the harness racing scheme in accordance with the Syndicate Agreement.

In particular, the role of a Manager whose role is to operate the scheme (and who therefore relies on the exemption in the Instrument from the requirement to register the scheme) includes:

- (a) keeping accounting records which correctly record and explain the transactions and financial position of the harness racing scheme to which the Syndicate Agreement relates and enable financial statements to be prepared in respect of the harness racing scheme from time to time. These accounting records include, but are not limited to, the preparation of monthly profit and loss statements and a monthly balance sheet and cash flow statements for the scheme prepared on a yearly basis;
- (b) at the end of each financial year, preparing financial statements in respect of the harness racing scheme;
- (c) lodging the financial statements for the harness racing scheme with Harness Racing Victoria within 90 days after the end of each financial year;
- (d) providing further financial documentation as required, when requested by the Lead Regulator.
- (e) lodging a copy of the financial statements for the harness racing scheme with ASIC within 14 days after receiving a written request from ASIC; and
- (f) keeping a separate trust account with an Australian bank in respect of the harness racing scheme for depositing and paying all money relating to the operation of the harness racing scheme (which money must not be commingled with the Manager's own monies or the monies of any other scheme).

The Manager with the approval of the Promoter (if separate) may appoint other persons to provide other services to or on behalf the Manager with respect to the operation of the scheme including but not limited to the Syndicate Representatives referred to in the Syndicate Agreement, a trainer licensed by the Principal Racing Authority, other administration personnel to manage communications with owners in relation to the horse and its training and races, or organising races in which case references to such persons in the PDS must not be confused with the roles of the Promoter and/or Manager and the Manager retains responsibility for the activities of such persons who it has appointed.

Unless the Manager holds its own AFS Licence with appropriate authorisations for the operation of a horse racing scheme, the Promoter must appoint the Manager as its Authorised Representative.

3.13 Review of Stud Book Records

Prior to the release of a PDS, Harness Racing Victoria may at the request of the Promoter or on its own volition examine the Stud Book record of a horse which is to be owned or leased by the Members of the harness racing scheme for racing as a Partnership or Syndicate.

If the horse is found to be ineligible to be registered under the Rules of Racing, Harness Racing Victoria will require the Promoter to either attend to the rectification of the defect to the satisfaction of HRV acting reasonably before the release of a PDS or to disclose the relevant facts in the PDS. Harness Racing Victoria will require that such disclosure indicates that unless and until the issue giving rise to ineligibility is rectified, the horse which is to be owned or leased by the harness racing scheme Members will not be registered to race and the Members will be given their money back if there is a failure to rectify the issue giving rise to ineligibility.

3.14 Location and training of Horses

Harness Racing Victoria cannot register a harness racing scheme horse(s) in a Partnership or Syndicate until the associated horse has been registered in accordance with the Rules of Racing.

The Rules of Racing require that registration of a Partnership or Syndicate by Harness Racing Victoria is directed to horses which are to be raced in accordance with the Rules of Racing.

Generally, therefore, Harness Racing Victoria will only approve a Promoter, review a PDS (and register a scheme) when the associated horse is (or is intended to be) located within Victoria.

In most cases where an associated horse is (or is intended to be) located in a State other than Victoria, the Promoter and any PDS should be approved by the relevant interstate lead regulator.

However, Harness Racing Victoria may, from time to time, give consideration to approving a Promoter, and review a PDS when an offer is being promoted by a person or entity that is not Victorian-based and the circumstances that apply to the associated horse satisfies HRV that the horse can be raced in accordance with the Rules of Racing.

3.15 Advertising

Only a Promoter may Advertise interests in a harness racing scheme once a PDS is approved unless HRV approves otherwise. Harness Racing Victoria exercises discretion in considering whether to approve Advertising of a harness racing scheme. The Promoter must ensure that Advertising does not contain any material information not contained in the PDS and that the Advertising does not contain information which is false, misleading or deceptive.

Harness Racing Victoria will generally withhold approval for Advertising which it reasonably considers would be prejudicial to the reputation of the harness

racing industry or which would likely undermine public confidence in investing in harness racing schemes.

3.16 Ongoing obligations of Promoters

A Promoter is obliged to satisfy the following conditions on an ongoing basis including where relevant with respect to each harness racing scheme of which it is the Promoter:

- (a) The Promoter must maintain its approval as a Promoter and registration on the Register of Promoters.
- (b) Before or on registration of the harness racing scheme with HRV, the Promoter must ensure that either:
 - (i) the Members of the harness racing scheme have unencumbered title to the whole of the harness racing scheme horses; or
 - (ii) the Members of the harness racing scheme lease the whole of the harness racing scheme horses under a Finance Lease Agreement.
- (c) The Promoter must not Advertise interests in a harness racing scheme or publish any statement that is reasonably likely to induce people to acquire interests in a harness racing scheme or permit anyone else to do so without the prior approval of HRV.
- (d) The Promoter must not give a PDS to a prospective Investor unless it has been approved by HRV.
- (e) The Promoter must comply with the conditions of its AFS Licence, the Syndicate Agreement, the Instrument, this Policy and any other rules, regulations or guidance of HRV and ensure that the Manager (if a separate person from the Promoter) also complies with, as applicable, its AFS Licence or Authorised Representative Appointment, the Syndicate Agreement, the Instrument, this Policy and any other rules, regulations and guidance of HRV. If the Manager has its own AFS Licence the Manager must provide to the Promoter a copy of any reportable situation that it is required to report to ASIC.
- (f) The Promoter must promptly provide HRV with a copy of each of the following:
 - (i) any Syndicate Agreement or amended Syndicate Agreement that has been entered into in relation to a harness racing scheme;
 - (ii) any Finance Lease Agreement or amended Finance Lease Agreement that has been entered into in relation to a harness racing scheme;
 - (iii) any other agreement or amended form of the agreement establishing or affecting the harness racing scheme entered into in relation to a harness racing scheme agreement;

- (iv) any other agreement, or amended form of the agreement, that relates to the harness racing scheme and to which a Member of the harness racing scheme is a party;
 - (v) each PDS for a harness racing scheme (and each update or Supplementary or replacement PDS for a harness racing scheme);
 - (vi) any other information to be provided by the Promoter to an offeree in relation to the harness racing scheme, before providing the information to the offeree; and
 - (vii) any Advertisement for interests in the harness racing scheme.
- (g) The Promoter must, no later than 5 Business Days prior to the expiry of the 45 days after the Minimum Subscription Requirements are met, give notice to HRV of the date that the Minimum Subscription Requirements were met and the information required at 3.8, (in which case HRV will notify the Promoter of the scheme having been registered generally within 2 Business Days of receiving the notice and the information but in any event before the expiry of 45 days of the Minimum Subscription Requirements being met). Provided notice and the required information is received by HRV on or prior to the expiry of the 45 days notwithstanding less than 5 Business Days' notice has been given, HRV will register the scheme, however in that circumstance notice of scheme registration may not be provided until after the expiry of the 45 days. HRV is not responsible if the scheme is not registered because a Promoter fails to ensure that HRV receives notice as to the Minimum Subscription Requirements and the other matters required being met in a timely manner to enable registration of the scheme by HRV on or before expiry of the 45 day period.
- (h) The Promoter must (and must ensure where applicable that the Manager must):
- (i) provide any assistance or information reasonably required by HRV from time to time for the purposes of its role as lead regulator including in relation to its monitoring the compliance of the Promoter and Manager with their AFS Licence or Authorised Representative Appointment, as applicable, the Instrument, this Policy, the Rules of Racing and any other rules, regulations or guidelines made by HRV that apply in relation to a harness racing scheme of which they are Promoter and Manager, as applicable;
 - (ii) not engage in acts or omissions in relation to the harness racing scheme unless the Promoter reasonably believes those acts or omissions are in compliance with the Instrument, this Policy, the Rules of Racing and any other rules, regulations or guidelines made by HRV that apply to the Promoter or Manager in relation to the harness racing scheme;
 - (iii) take all necessary steps to ensure the harness racing scheme is operated honestly, efficiently and fairly operated;

- (iv) provide any assistance or information reasonably required by ASIC;
- (v) comply with the requirement to give periodic reports to Members of a harness racing scheme under s1017D as if interests in the harness racing scheme were a managed investment product;
- (vi) notify HRV for the purpose of its approval and provide any supporting information required of any change in the person or persons nominated as a key person as required by the Promoter's or Manager's AFS Licence and immediately inform ASIC in writing of the name and address of each key person approved by HRV (including the key person approved at the time of registration of the Promoter or approval of the Manager); and
- (vii) ensure all employees and Associates of the Promoter have agreed to be bound by this Policy and the Instrument.

The Promoter must provide a report to HRV annually within 90 days of the end of a financial year (or such other period agreed to by HRV) in the form and containing the information required by HRV (unless HRV agrees that any information specified in the report is not required). A copy of the Annual Report form can be provided to the Promoter upon request to HRV.

Failure to comply with any of the above obligations, may result in the Promoter's registration being cancelled and/or the registration of a harness racing scheme or approval of a PDS for which it is responsible being withdrawn.

3.17 Breach of regulations

If an offer of interests in a harness racing scheme or any Advertisement or statement in relation to it is made in breach of the Rules of Racing, the Instrument or this Policy, it may result in Harness Racing Victoria:

- (a) withdrawing approval for the PDS;
- (b) declining any future PDS until the original matter has been investigated thoroughly by Harness Racing Victoria, and reported to ASIC if required;
- (c) requesting that the Registrar of Racehorses not register the particular horse, or any other horses associated with the individual or entity, due to the breach; and
- (d) declining any nomination or entry of the horse in any race of HRV;
- (e) issuing the Promoter with an order to show cause why they should continue to hold approval to promote shares in horses under the Instrument.

Removal from Register of Promoters: Harness Racing Victoria may remove a Promoter from the Register of Promoters maintained by Harness Racing Victoria for the purposes of the Instrument (either permanently or temporarily) if the Promoter:

- (a) breaches conditions of their AFS Licence or their AFS Licence is suspended or cancelled or if they are subject to a banning order by ASIC;
- (b) breaches any of the conditions of the Instrument or applicable provisions of Chapter 7 of the Corporations Act;
- (c) breaches the provisions of this Policy or HRV's Rules of Racing;
- (d) ceases to meet ASIC's fit and proper person requirements;
- (e) conducts itself in a manner that HRV reasonably considers would bring the harness racing industry and the operation of harness racing schemes into disrepute or cause loss to a harness racing scheme;
- (f) fails to comply with its obligations under the Syndicate Agreement or properly supervise the Manager (if separate from the Promoter) and ensure that the Manager is complying with the Syndicate Agreement and this Policy.

Unless the Promoter no longer has an AFS licence, HRV will not permanently remove a Promoter from its register of Promoters without first giving the Promoter a reasonable opportunity to:

- (a) be heard and giving due consideration to their submissions; and/or
- (b) to rectify any breach referred to above that is capable of rectification (although it does not need to do so in the case of repeated and significant breaches).

A Promoter who retains an AFS Licence may if permitted by HRV continue to be a party to an existing Syndication Agreement but must not promote any new harness racing schemes.

3.18 Complaints and breaches

Should HRV receive a complaint about the conduct of the Promoter, Manager or the operation of a harness racing scheme, each case will be investigated by HRV's Stewards. Subject to the details of the matter, the Promoter and Manager or if a company, Directors or employees of the Promoter or Manager may be required to attend a Steward's hearing or inquiry (or any other hearing or inquiry) to further discuss (or consider) the matter relating to any reports of a breach.

HRV will make reports to ASIC where required under its MOU with ASIC or the Instrument.

If applicable, notwithstanding the requirements of this Policy, the Promoter must ensure that all complaints in relation to a harness racing scheme are dealt with as required by the provisions of Chapter 7 of the Corporations Act including ASIC's requirements and reported to ASIC where required.

4. REQUIREMENTS FOR THE PREPARATION OF A PRODUCT DISCLOSURE STATEMENT

4.1 Contents of a PDS

A PDS for a harness racing scheme must be prepared by the Promoter but may only be issued by the Promoter upon being approved by HRV. For the avoidance of doubt, any supplementary or replacement PDS or other update to the PDS must also be approved by HRV before being issued by the Promoter.

A PDS which invites people to invest in a harness racing scheme that would, but for the relief in the Instrument require registration, must contain information that enables potential Investors to make a fully informed decision as to whether to acquire an interest in the harness racing scheme in accordance with the requirements of the Corporations Act.

As required by the Instrument, a PDS for a harness racing scheme must contain the information specified in the Instrument and also meet any requirements of Part 7.9, Division 2, Subdivision C of the Corporations Act (which includes an obligation that the PDS is expressed in a manner that is clear, concise and effective).

HRV does not intend to set out in this Policy a list of all information required to be included in a PDS by the Corporations Act as it is your responsibility to ensure these requirements are met.

HRV consider however that a PDS presented to it for approval is likely to need to include the following information to the extent relevant (noting however that some of the below information is information that is specifically required under the Instrument):

- (a) **Details of Promoter:** In the case of a Promoter, the full name, AFS Licence number and contact details of the Promoter along with their Promoter registration number and a statement that the Promoter is currently on HRV's register of promoters.
- (b) **Manager:** A statement that the Promoter also acts as Manager or if that is not the case, the full name and contact details of the Manager of the harness racing scheme that has been approved by HRV including any AFS Licence number or Authorised Representative number (as applicable) and a statement that the Manager will be required to manage the scheme in accordance with the Syndicate Agreement, the Instrument, this Policy, the Rules of Racing and any other rules, regulations or guidelines made by HRV that apply in relation to such manager or management or operation of the harness racing scheme.
- (c) **Harness Racing Victoria:**
 - (i) full name and contact details of HRV;
 - (ii) prominent display of the following disclaimer on the front page of the PDS or inside front cover:

" A copy of this Product Disclosure Statement (PDS) was approved by Harness Racing Victoria (HRV) for publication (PDS Approval No. <insert number> on <insert date>. In approving the PDS HRV has regard to whether the PDS includes information to meet specified content requirements under *ASIC Corporations (Horse Schemes) Instrument 2016/790* and the HRV Syndication Policy. HRV does not verify the information and does not specifically check whether all content requirements as required by Subdivision C of Division 2 of Part 7.9 of the Corporations Act 2001 (Cth) have been met. The Promoter is solely responsible for ensuring all disclosure requirements relevant to the Harness Racing Scheme the subject of this PDS are met and that the PDS does not contain any misleading statements or omissions. To the maximum extent permitted by law, no liability as to the accuracy and completeness of the contents of this PDS is accepted by HRV, its officers, employees or agents. In particular (but without limiting the generality of this disclaimer) HRV does not warrant, and has no responsibility for the commercial merits or prospects of the Harness Racing Scheme referred to in this PDS or the manner in which the Harness Racing Scheme may operate. Investors should be aware that an investment in a Harness Racing Scheme may give rise to a loss of capital and no prize money or other income may be received and, if received, may be less than the fees and expenses incurred. Potential participants' financial circumstances may vary, and accordingly, HRV recommends that potential participants obtain independent financial and legal advice in relation to the Horse Racing Scheme and how it might apply to their circumstances should they decide to invest in the Horse Racing Scheme to which this PDS relates."

- (d) **Important Information:** A prominent statement before any other contents in the PDS (but after the HRV disclaimer) as follows:

"IMPORTANT INFORMATION

This PDS is dated <insert date preparation completed, which is the date preparation is completed ie relevant information inserted after receiving Lead Regulator Approval>. It should be read in its entirety before submitting an application to acquire interests in the Scheme. Before deciding to apply for interests in the Scheme (ie share(s)) pursuant to any invitation or offer made in or accompanied by this PDS you should consider the suitability for you of the Harness Racing Scheme the subject of this PDS. An application can only be accepted if the current application form which is included in or accompanies the PDS is completed and signed. The Promoter reserves the right not to accept an application without giving a reason. In particular the Promoter will not accept applications if they would give rise to more than 50 participants in the Scheme or the amount raised would exceed \$500,000 or if the application is from a Disqualified Person (as defined in Part 16 of the Australian Rules of Racing) or a person below the age

of 18 or with a legal disability such that they would not be contractually bound by any terms and conditions applying to the Scheme. To the extent this PDS may contain any financial product advice it is general advice only which does not take into account your objectives, financial situation or needs or those of any particular person. If you are in any doubt as to whether this Harness Racing Scheme is suitable for you, you should seek your own advice from a financial product adviser and other professional advice including legal advice as necessary to enable you to make an informed decision as to whether to subscribe to this Harness Racing Scheme. Any invitation to apply for a share/interest in the Harness Racing Scheme the subject of this PDS is made only to persons in Australia."

- (e) **Harness racing scheme documents:** summarise the key features of any documents that constitute the harness racing scheme and participation in the harness racing scheme and attach pro forma copies of documents required to be executed by or on behalf of Members:
- (i) any agreements establishing the harness racing scheme (including the management of the harness racing scheme such as the Syndicate Agreement and agreements relating to the appointment of persons to provide services to the scheme);
 - (ii) any agreement required to be executed by Participants in the harness racing scheme; and
 - (iii) any lease of the horse under a Finance Lease Agreement.
- (f) **Price of interests:** the number and price in Australian dollars to acquire interests offered to be issued in the harness racing scheme and other relevant terms (including any Minimum Subscription Requirements, a statement that the Promoter has given an undertaking (included with the PDS) to obtain registration of the scheme by HRV within 45 days of the Minimum Subscription Requirements being met or the return of the purchase price (with interest if any) within 10 Business Days if the Minimum Subscription Requirements are not met within six months after the date of the approval of the PDS by HRV as required by the Instrument).
- (g) **Horse(s):**
- (i) identify the horse(s) and pedigree (name, sire, dam, sex and age) to which the scheme relates;
 - (ii) state the current owners of the horse(s);
 - (iii) state the racing performance (if any) of the horse(s) in the harness racing scheme or in the case of a horse that has not raced, state that is the case and what is the aim as to when it will start being raced and in what races;
 - (iv) state the racing performance of the sire and dam of the horse(s) in the harness racing scheme; and

- (v) state whether registration of a Partnership or Syndicate under the Rules of Racing has been applied or obtained with respect to horse(s) in the harness racing scheme.
- (h) **Prohibited Substance:** a notice that a Participant may elect to have a horse tested for a prohibited substance under the Rules of Racing, with the cost of testing to be borne by all Participants (whether or not they elected to have the horse tested).

Items (i) to (l) below apply to harness racing schemes where Members are to receive unencumbered title, with respect to each horse:

(i) **Title:**

- (i) state that Investors in the harness racing scheme will obtain unencumbered title to the whole of the harness racing scheme horse(s), upon the harness racing scheme being fully subscribed;
- (ii) if title is subject to the completion of the purchase price of the harness racing scheme horse(s) by the Promoter, the PDS must fully disclose and specify any credit arrangements or vendor terms made between the owner, auction house and Promoter, in order for the Promoter to settle the purchase price before or on registration of the Partnership or Syndicate with Harness Racing Victoria including the following disclosure as relevant:
 - (A) if the horse was purchased at Public Auction by way of “credit arrangement” afforded by the auction house, details of the purchase price, any amount paid towards the purchase price, the amount owing on the purchase price, the settlement date for the full purchase price and any interest to be charged following the settlement date (and provide to HRV an invoice issued by the auction house that supports that information).
- (j) if the horse was purchased at Public Auction by way of “vendor terms” afforded by the vendor or owner of the harness racing scheme horse, details of the purchase price, any amount paid towards the purchase price, the amount owing on the purchase price, the settlement date for the full purchase price and any interest to be charged following the settlement date (and provide to HRV information reasonably requested by HRV in support of the information provided which may include an invoice issued by the owner bank account statements of the Promoter and the owner that display any transfer of payment for the purchase of the relevant horse(s) to satisfy Harness Racing Victoria that such purchase of the harness racing scheme horse is of a genuine nature). **Vendor Release Statement:** A statement to the effect that the PDS includes a copy of the letter from the vendor or auction house confirming that the horse has been devolved to the harness racing scheme or Participants in the harness racing scheme with unencumbered title, OR confirmation by the Promoter that the Vendor Release Statement will be provided to the lead regulator

before or on registration of the harness racing scheme with the lead regulator.

- (k) **Possession:** A statement that the Promoter has made a statutory declaration attached to the PDS that:
 - (i) the Promoter has a legally enforceable right to possession of the horse OR that the Promoter will, before or on registration of the harness racing scheme with the lead regulator, have a legally enforceable right to possession of the horse; and
 - (ii) the Promoter will, before or on registration of the harness racing scheme with the lead regulator, ensure that the Participants in the harness racing scheme will have unencumbered title to the horse.
- (l) **Personal Property Security Interest:** A statement that the Promoter has provided confirmation included with the PDS that any personal property security interest registered against the title to the horse has been released or will be released and that the Promoter will, before or on registration of the harness racing scheme with the lead regulator, confirm to the lead regulator that the personal property security interest has been released.
- (m) **Disclosures of commissions and other payments or benefits:** If the Promoter has received, either directly or indirectly, any benefit, payment, rebate, commission or reimbursement from any person in relation to or in connection with the acquisition or purchase of the horse and/or its syndication to Investors, the Promoter must fully disclose the details of such arrangements in the PDS (however note that no commissions or other payments or benefits made be paid or received if to do so would be in breach of the conflicted remuneration provisions in Part 7.7A of the Corporations Act).
- (n) **Currency:** If any purchase price for the horse(s) was in foreign currency, the Promoter must disclose in the PDS the purchase price in that currency and its conversion to Australian dollars as at the date of purchase by applying the ANZ “sell” rate for Australian dollars as at that date.
- (o) **Conflict (Actual or Perceived):** Details of any actual or perceived conflict of interest of the Promoter or Manager in relation to the harness racing scheme.
- (p) **Free Service:** For each horse to which the harness racing scheme relates, a statement as to whether the Promoter was entitled to a free service to its sire.
- (q) **Lease (Finance):** If the Participants in the harness racing scheme lease the whole of the horse under a Finance Lease Agreement a statement should be made in the PDS that the Promoter has made a statutory declaration that is included with the PDS that the Promoter will, before or on registration of the harness racing scheme with the Lead Regulator, ensure that Participants in the harness racing scheme lease the horse under the Finance Lease Agreement.

- (r) **Trainer:**
- (i) full name and contact details and details of stables and history;
 - (ii) an acceptance letter from the trainer confirming that he or she will train the horse and information about where the horse will be stabled for that purpose; and
 - (iii) state the obligations and expenses that will likely be incurred by participants in the harness racing scheme arising from the training services to be provided by the trainer.
- (s) **Public purchase(s):** if the horse(s) in the harness racing scheme was purchased at a Public Auction (in the sales ring), in addition to the requirements outlined within this Policy, the Promoter must:
- (i) state the place and date of the Public Auction, the price paid for the horse(s) (and if applicable, the passed-in price), the name of the vendor(s) and purchaser;
 - (ii) state whether business associates, personal associates or family members of the Promoter were involved in the sale of the harness racing scheme horse(s) and the nature of the association between any of those parties and the Promoter;
 - (iii) if the horse(s) was passed-in and purchased outside of the sales ring, the Promoter may be required to obtain an independent Valuation by a Bloodstock Agent of the horse(s) in the harness racing scheme. The independent Valuation must be attached to the PDS and the following requirements must be met:
 - (A) the independent Valuation must be prepared not more than 30 days prior to interests in the harness racing scheme being offered to the public;
 - (B) each horse must be independently valued separately;
 - (C) the methodology for the independent Valuation must be disclosed which includes confirmation as to the horse's identity and pedigree, market conditions, recent sales prices and other relevant factors that were taken into account;
 - (D) a statement from the independent Valuer must be included as to whether the Valuer has or will have any financial or other interest in the horse(s) in the harness racing scheme arising from or relating to the acquisition by the Promoter of the horse(s) in the harness racing scheme or the offer of interests in the harness racing scheme to the public or revenue raised in connection with the establishment or operation of the harness racing scheme;

- (E) an express statement must be included in the independent Valuation that it has been prepared by the Valuer for inclusion in the PDS and an acknowledgement by the valuer that it may be relied upon by prospective Investors who may invest in the harness racing scheme; and
 - (F) the independent Valuation must include a statement confirming that the independent Valuer is a Member of the Federation of Bloodstock Agents Australia Limited or some other entity acceptable to Harness Racing Victoria.
- (t) **Pedigree Analysis:** include as an attachment in the PDS an independent pedigree analysis of the horse(s) in the harness racing scheme which includes the outline of any conformational changes since the purchase, any pedigree updates, previous sibling auction prices or any other relevant matter relating to the purchase.
- (u) **Private acquisition(s):** if the horse(s) in the harness racing scheme was acquired by means other than by way of Public Auction (sales ring purchase), whether purchased or otherwise, in addition to the requirements outlined within this Policy, the Promoter must disclose in the PDS;
- (i) specifically how the horse was acquired;
 - (ii) the name of the owner(s);
 - (iii) whether, prior to its acquisition, the horse was previously presented for Public Auction, and if previously presented, provide the place and date of any sale, the name of the vendor(s) and purchaser and the price paid for the horse(s) or passed-in price; and
 - (iv) if a horse in the harness racing scheme was purchased through a private sale, the place and date of sale, the name of the vendor(s) and purchaser, the nature of the association between any of the parties involved in the acquisition and the price paid for the horse(s).
 - (v) obtain one (1) independent Valuation by a Bloodstock Agent (or other expert acceptable to Harness racing Victoria) of the horse(s) in the harness racing scheme. The independent Valuation must be attached to the PDS and meet the following requirements:
 - (A) the independent Valuation must be prepared not more than 30 days prior to interests in the harness racing scheme being offered to the public;
 - (B) each horse must be independently valued separately;
 - (C) the methodology for the independent Valuations must be disclosed which includes confirmation as to the horse's identity and pedigree, market conditions, recent sales prices and other relevant factors that were taken into account;

- (D) a statement from the independent Valuer must be included as to whether he or she has or will have any financial or other interest in the horse in the harness racing scheme arising from or relating to the acquisition by the Promoter of the horse in the harness racing scheme or the offer of interests in the harness racing scheme to the public or revenue raised in connection with the establishment or operation of the harness racing scheme;
 - (E) an express statement must be included in the independent Valuations that they have been prepared by the independent Valuer for inclusion in the PDS and an acknowledgement by the independent Valuer that it may be relied upon by prospective Investors who may invest in the harness racing scheme; and
 - (F) the independent Valuation must include a statement confirming that the independent Valuer(s) is a Member of the Federation of Bloodstock Agents Australia Limited.
- (v) **Veterinary Certificate:** obtain a Veterinary Certificate and include a copy in the PDS. The Veterinary Certificate must meet the following requirements:
- (i) the Certificate must be prepared not more than 30 days prior to the interest in the harness racing scheme being offered to the public;
 - (ii) the Certificate must include the following:
 - (A) a statement of the examination conducted by the Veterinarian on the horse, the form that it took, the tests that were conducted and the findings that were made;
 - (B) a statement whether the horse has any abnormalities or deformities that would likely prevent the horse from racing to its full potential;
 - (C) a statement from the Veterinarian as to whether the Veterinarian has or will have any financial or other interest in the horse(s) in the harness racing scheme arising from or relating to the acquisition by the Promoter of the horse(s) in the harness racing scheme or the offer of interests in the harness racing scheme to the public or revenue raised in connection with the establishment or operation of the harness racing scheme; and
 - (D) an express statement in the Veterinary Certificate that the Veterinary Certificate has been prepared by the Veterinarian for inclusion in the PDS and an acknowledgement that it may be relied upon by prospective Investors who may invest in the harness racing scheme.

- (w) **Insurance:** state whether the horse(s) is insured for mortality insurance, and if so, provide and attach to the PDS a Certificate of Currency from a licensed insurer that provides mortality insurance coverage for the horse(s) in the harness racing scheme for the period specified in the coverage. If the horse(s) is not insured, state this in the PDS.
- (x) **Fees and costs:** set out all fees and costs payable by Members in relation to the harness racing scheme including the Formation Expenses break down as set out below. As stated in the Instrument, this would include fees payable by the Promoter or Manager to trainers or suppliers and costs relates to the Promoter's business such as administration and legal costs. Any disclosure of Fees and costs should also meet the applicable requirements of the Corporations Act and Corporations Regulations including dollar disclosure (noting that Schedule 10 of the Corporations Regulations as modified by ASIC Corporations (Disclosure of Fees and Costs) Instrument 2019/1070 only applies to registered schemes.
- (y) **Formation Expenses break down:** state the Formation Expenses that are incurred or anticipated by the Promoter in respect of the horse(s) to be owned or leased in the harness racing scheme as follows:
- (i) training services fees and agistment costs;
 - (ii) veterinary services and cost of veterinary certificate(s);
 - (iii) insurance (if any);
 - (iv) Valuation (if any);
 - (v) transport;
 - (vi) fees incurred in advertising the horse (including):
 - (A) where the horse will be advertised;
 - (B) when will the advertisements be promoted?
 - (C) by what method will the horse be promoted/advertised?
 - (vii) purchase price of or lease payments with respect to the horses(s);
 - (viii) Promoter fee(s);
 - (ix) Promoter profit margin;
 - (x) all fees paid or to be paid to Harness Racing Victoria;
 - (xi) any buyer or buyer's agent-related rebates or incentives; and
 - (xii) any other fees, whether initial or ongoing.

- (z) **Purpose:** summary of Business Plan for the scheme including scheme purpose/objectives.
- (aa) **Disqualified Persons:** a statement that a person may not become a member of a harness racing scheme if they are a Disqualified Person.

4.2 Other matters

Unless it is expressly stated where a matter for disclosure is required to be placed it is unnecessary to follow the order or use the headings of the above information. If you consider that any of the content specified above is not relevant in the case of a scheme you wish to register you may be asked to satisfy HRV or any person reviewing the PDS on behalf of HRV that the relevant disclosure is not relevant.

5. GLOSSARY

Accountant means a Certified Practising Accountant or Chartered Accountant.

Advertise, Advertising, Advertisement means a form of communication disseminated on or in any medium (including online) that refers to a harness racing scheme and is intended to or may reasonably be regarded as having the intention to induce viewers, readers or listeners to acquire interests in the harness racing scheme the subject of this Policy.

AFS Licence holder means an entity or person that has been granted an Australian Financial Services Licence.

Applicant means a person who makes application to HRV to be placed on the Register of Promoters or to register a scheme.

ASIC means the Australian Securities and Investments Commission.

AFS Licence means an Australian Financial Services Licence issued by the Australian Securities and Investments Commission that contains the necessary authorisations for the promotion and dealing in interests in a harness racing scheme.

ASIC means the Australian Securities and Investments Commission which is the Government body responsible for the regulation and enforcement of laws pertaining to financial products and the protection of consumers investing in such products, including harness racing schemes.

Associate has the meaning given to that term in section 9 of the Corporations Act.

Authorised Representative means an entity or person (which may include the Manager if separate from the Promoter) that has been appointed in accordance with Part 7.6 Division 5 of the Corporations Act by a registered Promoter to, as required, issue or arrange for the Promoter to issue interests in a harness racing scheme or otherwise promote or provide financial product advice in relation to the harness racing scheme or hold custody of any financial products that are the assets of the scheme.

Bank Guarantee means a guarantee from a lending institution ensuring that the liabilities of the entity will be met, insofar as, if the entity fails to settle a debt, the lending institution will settle it.

Bloodstock Agent means a Member of the FBA Limited.

Business Day means a day other than a Saturday, Sunday or public holiday in the State of Victoria.

Business Plan means a formal statement of a set of business goals and the reasons why these goals are believed to be attainable, and the steps to be taken to reach these goals. The plan should also contain background information

about the person or entity attempting to implement the business plan and reach these goals.

Certificate of Currency means a certificate of currency of insurance issued by a licensed insurer in respect of a harness racing scheme that provides mortality insurance coverage for the horse(s) the subject of that harness racing scheme.

Certified Practising Accountant means a Member of CPA Australia.

Chartered Accountant means a Member of the Institute of Chartered Accountants in Australia.

Corporations Act means the *Corporations Act 2001* (Cth) and any regulations or instruments issued by ASIC for the purposes of amending the operation of the Corporations Act, as amended from time to time.

Director has the meaning provided in section 9 of the Corporations Act.

Disqualified Person has the meaning given to it in Part 16 of the Rules of Racing.

FBA Limited means the Federation of Bloodstock Agents Limited.

Finance Lease Agreement means the standard form finance lease agreement the terms of which have been approved by HRV for use in relation to a scheme.

Financial Statements mean a true and fair profit and loss account and statement of assets and liabilities for the harness racing scheme;

Formation Expenses means the expenses described in a PDS relating to the costs for establishing the harness racing scheme, including, but not limited to the purchase price or lease of the horse(s).

Harness Racing Disciplinary History Assessment means an assessment or check of an individual's records in relation to the Rules of Racing.

Harness racing scheme or **scheme** means a scheme for the racing of a horse or horses as described in the Instrument.

HRV or Harness Racing Victoria means Harness Racing Victoria ABN 22 764 910 853.

Instrument means ASIC Corporations (Harness Scheme) Instrument 2016/790, dated 25 August 2016 as amended or replaced from time to time.

Investor means a person who invests money or may invest money in a harness racing scheme in order to obtain an interest in the scheme and become a Member of the scheme and participate in any benefits produced by the harness racing scheme.

Managed Investment Scheme or MIS has the meaning provided in section 9 of the Corporations Act.

Manager means a person holding office as manager under a Syndicate Agreement or otherwise holding office as manager of the harness racing scheme with the approval of HRV.

Member has the meaning given to that term in section 9 of the Corporations Act.

Minimum Subscription Requirement refers to the minimum applications that are required to be received or the minimum amount required to be raised as specified in a PDS for a harness racing scheme (and includes full subscription if the PDS specifies that full subscription is required).

MOU means the memorandum of understanding between ASIC and HRV dated on 29 January 2018.

National Bankruptcy Check means an official bankruptcy search of Australian databases which provided information on whether a person has been bankrupt in Australia or if the person has resided overseas for more than 1 year in the last 10 years, has been declared bankrupt in such overseas jurisdictions during that time.

National Police Record Check means an official Police search of Australian databases which provides information on whether a person has a criminal record in Australia or if the person has resided overseas for more than 1 year in the last 10 years, has a criminal record in such overseas jurisdictions during that time.

PDS Update Relief means ASIC Corporations (Updated Product Disclosure Statements) Instrument 2016/1055 or any replacement instrument of relief;

Participant refers to a person who is a Member of a harness racing scheme (being a person who holds an interest in the scheme whether jointly or otherwise).

Partnership means an association of two or more persons formed for the purposes of racing horse(s) which has been duly approved under the Rules of Racing and, for the purposes of this Policy is a harness racing scheme.

PDS or Product Disclosure Statement means a statement that applies to the interests in a harness racing scheme being offered, issued or recommended and contains all such information that is necessary to be provided to potential Investors as required by the Instrument and HRV, and shall be taken to include:

- (a) any supplementary product disclosure statement (see section 1014D of the Corporations Act); and
- (b) any replacement product disclosure statement (see section 1014J of the Corporations Act); and
- (c) any website update as permitted in accordance with ASIC's PDS Update Relief.

Policy means this HRV Syndication Policy as amended from time to time;

Promoter means an entity or person that has been registered by the Harness Racing Victoria to offer to sell or invite people to buy interests in harness racing schemes and otherwise promote the schemes.

Promoter Application Form means an application form that is required for completion by an Applicant in order for Harness Racing Victoria to assess the suitability of the applicant to be registered as a Promoter and seek certain other approvals as required in this Policy.

Public Auction means a public auction conducted by a licensed auctioneer for the sale of thoroughbred livestock.

Register of Promoters means the register of Promoters approved by HRV that is maintained by HRV.

RG 91 means ASIC Regulatory Guide 91 - Horse racing and breeding schemes and horse racing syndicates as updated from time to time.

Rules of Racing means the rules of racing adopted by Harness Racing Victoria from time to time which comprise the Australian Harness Rules of Racing and Harness Racing Victoria Local Rules as adopted from time to time and available at <https://www.harness.org.au/rules/rules.htm>).

Stud Book means the record of Australian Harness Racing bloodlines maintained by the Australian Stud Book.

Syndicate means an association of persons formed for the purpose of racing horse(s) which has been duly approved under the Rules of Racing and which, for the purpose of this Policy is also a harness racing scheme.

Syndicate Agreement means the standard form syndicate agreement governing the harness racing scheme the terms of which have been approved by HRV and that is legally enforceable as between the Manager and the Participants in the harness racing scheme.

Valuation means a written and dated report prepared by a Bloodstock Agent, or a person otherwise approved by Harness Racing Victoria, that assesses the value or price (or appraisal) of a horse.

Valuer means a Bloodstock Agent, or other suitably qualified or experienced person approved by Harness Racing Victoria, who assesses the value or price (or appraisal) of a horse.

Vendor Release Statement means the letter from the vendor or auction house confirming that the horse has been devolved to the scheme or participants in the scheme with unencumbered title.

Veterinary Certificate means a written and dated certificate completed by a qualified veterinarian in relation to the examination conducted by the veterinarian into a horse that will be promoted in a harness racing scheme.