

**Australian Securities and Investments Commission
Corporations Act—Paragraphs 926(2)(a) and 951B(1)(a)—Exemption and
Revocation**

Enabling legislation

1. The Australian Securities and Investments Commission makes this instrument under paragraphs 926A(2)(a) and 951B(1)(a) of the *Corporations Act 2001* (the *Act*).

Title

2. This instrument is ASIC Class Order [CO 05/1122].

Commencement

3. This instrument commences on the date it is registered under the *Legislative Instruments Act 2003*.

Note: An instrument is registered when it is recorded on the Federal Register of Legislative Instruments (*FRLI*) in electronic form: see *Legislative Instruments Act 2003*, s 4 (definition of *register*). The FRLI may be accessed at <http://www.frli.gov.au/>.

Exemptions for providers of calculators

4. A person who provides financial product advice through, or through making available, a financial calculator does not have to comply with:
 - (a) the requirement in subsection 911A(1) of the Act to hold an Australian financial services licence covering the provision of that advice; or
 - (b) where the person is a financial services licensee—Divisions 2, 3 and 4 of Part 7.7 of the Act in relation to that advice.

Conditions

5. A person who takes advantage of the exemption in paragraph 4 must take reasonable steps to ensure all of the following:
 - (a) the financial calculator does not advertise or promote a specific financial product;
 - (b) if the financial calculator is an electronic facility or device, the calculator:
 - (i) enables a person (the *user*) using it to change any of the factors (the *assumptions*) that are applied by the calculator in working out a numerical amount (the *estimate*) relating to a financial product

other than a factor (a *statutory assumption*) that reflects a rate or amount of fixed by legislation; and

Note: Statutory assumptions include a rate of taxation and the rate of compulsory superannuation contributions. The calculator does not have to involve the application of any statutory assumption; and if it does, it may permit the user to change them.

- (ii) works out or enables the user to work out an estimate on the basis of the changed assumptions;
- (c) the assumptions (the *default assumptions*), including any statutory assumption, applied by the calculator, unless changed by the user, are reasonable for the purposes of working out the estimate;
- (d) the financial calculator will display to the user in the ordinary course of its use or have printed on it all of the following:
 - (i) a clear and prominent statement about the purpose and limitations of the calculator;
 - (ii) a clear and prominent explanation of why the default assumptions, including any statutory assumption, are reasonable for the purposes of working out the estimate;
 - (iii) a clear and prominent explanation of the impact of any significant limitation of the calculator;
 - (iv) where the estimate is of an amount payable at a future time—a clear and prominent statement specifying whether or not the estimate takes into account an assumed change in the cost of living between the time of the preparation of the estimate and the future time;
 - (v) a clear and prominent statement to the effect that the calculator is not intended to be relied on for the purposes of making a decision in relation to a financial product and that the user should consider obtaining advice from a financial services licensee before making any financial decisions;
- (e) if the calculator is an electronic facility or device—the calculator does not prevent the user from readily printing or electronically storing the estimate;
- (f) the person keeps a copy of the calculator for 7 years from when it is first made available.

6. A statement or explanation required under paragraph 5(d) must contain as much detail as a person as a retail client using the financial calculator would reasonably expect to find having regard to the nature of the calculator.

Exclusion from reliance

7. The exemption in paragraph 4 does not apply to a person who has been notified in writing by ASIC that the person is excluded from relying on this instrument.

Interpretation

8. In this instrument:

financial calculator means a facility, device, table or other thing used to make a numerical calculation or find out the result of a numerical calculation relating to a financial product.

Note: The facility, device, table or other object will not be a financial calculator to the extent that its output goes beyond the numerical result of a calculation and a description of what that result is. For example, an electronic facility will not be a calculator to the extent that it makes a recommendation about a particular kind of financial product.

financial product advice has the meaning given by section 766B of the Act.

Revocation

9. ASIC Class Order [CO 05/611] is revoked.

Dated this 15th day of December 2005

Signed by Brendan Byrne
as a delegate of the Australian Securities and Investments Commission