

ASIC CLASS ORDER [05/1122]

EXPLANATORY STATEMENT

Prepared by the Australian Securities and Investments Commission

Corporations Act 2001

Paragraphs 926A(2)(a) and 951B(1)(a) – Exemption and Revocation

The Australian Securities and Investments Commission (ASIC) makes Class Order [CO 05/1122] *Relief for providers of generic calculators* under s926A(2)(a) and 951B(1)(a) of the *Corporations Act 2001* (the Act). Section 926A(2)(a) provides that ASIC may exempt a class of persons from all or specified provisions of Part 7.6 of the Act. Section 951B(1)(a) provides that ASIC may exempt a class of persons from all or specified provisions of Part 7.7 of the Act.

1. Background

[CO 05/1122] gives providers of generic financial calculators relief from the requirement to hold an Australian financial services licence with an advice authorisation or (where they currently hold a licence) relief from the conduct and disclosure requirements of Part 7.7 of the Act.

A generic financial calculator is a facility, device, table or other thing that:

- (a) is used to make a numerical calculation or find out the result of a numerical calculation relating to a financial product; and
- (b) does not advertise or promote one or more specific financial products.

Typically, generic financial calculators help the user calculate:

- (a) the estimated value of total superannuation, savings or investments at a future point in time; and/or
- (b) the estimated level of superannuation contributions, saving, investment or life insurance cover required to achieve a particular financial goal.

Some generic financial calculators will produce financial product advice. This means that, unless an exemption or relief applies, the providers of such calculators are required to be licensed and comply with the conduct and disclosure provisions of the financial services licensing regime.

Generic financial calculators can be useful educational tools for consumers, providing useful information at no cost to the consumer. However, they also have the potential to mislead consumers, if they are not designed responsibly.

[CO 05/1122] has been issued as part of a project ASIC is undertaking under the Federal Government's *Refinements to Financial Services Regulation* (2 May 2005). Refinement Proposal 10.3 stated that ASIC would provide further guidance and/or relief on the provision of basic online calculators to promote their use. According to the proposals paper, the intended outcome of Refinements Proposal 10.3 is to "promote the provision of basic online calculators to enable consumers to understand

and compare financial products and services without that being classed as personal advice".

2. Purpose of the class order

The purpose of [CO 05/1122] is to facilitate the cost-effective provision of useful and accurate information about financial products and services to consumers through generic financial calculators.

3. The class order

[CO 05/1122] provides licensing or disclosure and conduct relief for providers of generic financial calculators that meet certain minimum conditions. The relief only applies where:

- (a) if the calculator is an electronic facility or device, the user must be able to alter all default assumptions (except for certain statutorily fixed factors, such as taxation rates, which can either be fixed or able to be altered by the user) and perform a calculation using the changed assumptions;
- (b) the default assumptions must be reasonable;
- (c) the calculator must include clear and prominent statements about:
 - (i) the purpose and limitations of the calculator;
 - (ii) why the default assumptions are reasonable;
 - (iii) the impact of any significant limitation of the calculator;
 - (iv) where the calculator provides an estimate of an amount or value payable at a future time, 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; and
 - (v) the fact that the calculators is not intended to be relied on for the purposes of making a decision about a particular 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 result of its calculation; and
- (d) the provider keeps a copy of the calculator for 7 years from when it is first made available.

[CO 05/1122] also revokes Class Order [CO 05/611] *Relief for providers of superannuation calculators*. [CO 05/611] provided licensing or conduct and disclosure relief to providers of generic superannuation calculators. Providers of generic superannuation calculators can now rely [CO 05/1122].

4. Consultation

In preparing [CO 05/1122], ASIC has taken into account industry views expressed at regular industry liaison meetings. In addition, ASIC has taken into account submissions made in response to its consultation paper *Online calculators* (August 2005). ASIC received 17 submissions in response to this consultation paper.

A Regulatory Impact Statement (RIS) was prepared for [CO 05/1122]. A copy of the RIS is attached.