

ASIC Class Order [CO 04/523]

Investor directed portfolio services takeovers relief

This instrument has effect under s655A(1) and 673(1) of the *Corporations Act 2001*.

This compilation was prepared on 4 October 2013 taking into account amendments up to [CO 13/854]. See the table at the end of this class order.

Prepared by the Australian Securities and Investments Commission.

Australian Securities and Investments Commission Corporations Act 2001 — Subsections 655A(1) and 673(1) — Declaration

Under subsections 655A(1) and 673(1) of the *Corporations Act 2001* (the “Act”) the Australian Securities and Investments Commission declares that Chapters 6 and 6C of the Act apply to the class of persons described in Schedule A, in the case referred to in Schedule B, as if section 609 of the Act were modified or varied by inserting after subsection 609(16) (as notionally inserted by ASIC Class Order [CO 12/1209]) the following subsections:

“IDPS operators

(17A) A person does not have a relevant interest in securities merely because the person:

- (a) is the operator of an IDPS; or
- (b) is involved in the operation of an IDPS and is a financial services licensee or a representative of a financial services licensee;

and under the terms of the IDPS:

- (c) holds the securities; or
- (d) has a discretion in relation to the disposal of the securities.

(17B) If ASIC Class Order [CO 02/294] (*old IDPS Class Order*) applies to the operator of an IDPS due to the operation of ASIC Class Order [CO 13/763], subsection (17A) does not apply to:

- (a) the operator where it is unable to rely on an exemption granted under the old IDPS Class Order because it has failed to comply with, failed to take reasonable steps to comply with, or has reasonable grounds to believe that it has not complied with, a condition of that Class Order as the circumstances require; or
- (b) a person referred to in paragraph (17A)(b) if the person has knowingly caused or procured the operator or any person who holds property to which the IDPS relates to breach a condition of the old IDPS Class Order.

(17C) Subsection (17A) does not apply to a person if ASIC has given a notice in writing to the person stating that subsection (17A) does not apply to the person and has not withdrawn that notice.

(17D) In subsections (17A) to (17C), **IDPS** and **operator** have the same meaning as in subsection 912AD(42).

Note: Notional subsection 912AD(42) is inserted by ASIC Class Order [CO 13/763].”; and

IDPS Class Order means ASIC Class Order [CO 13/763].

operator means a holder of a financial services licence that includes a condition requiring the holder to comply with the requirements of the IDPS Class Order who contracts with a client for the provision of the IDPS or a function that forms part of the IDPS.”.

SCHEDULE A

An operator, or a person involved in the operation, of an IDPS.

SCHEDULE B

The calculation of the relevant interests, voting power or substantial holdings of a person in the class of persons described in Schedule A.

Interpretation

In this instrument, **IDPS** and **operator** have the meanings given by notional subsection subsection 609(17D). set out above.

Notes to ASIC Class Order [CO 04/523]

Note 1

ASIC Class Order [CO 04/523] (in force under s655A(1) and 673(1) of the *Corporations Act 2001*) as shown in this compilation comprises that Class Order amended as indicated in the tables below.

Table of Instruments

Instrument number	Date of making or FRLI registration	Date of commencement	Application, saving or transitional provisions
[CO 04/523]	17/5/2004 (<i>see</i> F2006B01156)	17/5/2004	
[CO 04/613]	9/6/2004 (<i>see</i> F2006B01157)	9/6/2004	-
[CO 13/763]	29/6/2013 (<i>see</i> F2013L01273)	1/7/2013	-
[CO 13/854]	4/10/2013 (<i>see</i> F2013L01766)	4/10/2013	-

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Class Order	am. [CO 13/854]
Subsection 609 (11)(b) as notionally inserted ..	am. [CO 04/613]
Subsection 609 (11)(c) and (d) as notionally inserted.....	ad. [CO 04/613]
Subsection 609 (17A) (formerly (11)) as notionally inserted	am. [CO 13/854]
Subsection 609 (17B) (formerly (12)) as notionally inserted	am. [CO 13/854]
Subsection 609 (13) as notionally inserted	am. [CO 13/763] rs. [CO 13/854]
Subsection 609 (17C) (formerly (13)) as notionally inserted	rs. [CO 13/854]
Subsection 609 (17D) (formerly (13)) as notionally inserted	rs. [CO 13/854]
Interpretation	am. [CO 13/854]