

ASIC CLASS ORDER [05/681]

EXPLANATORY STATEMENT

Prepared by the Australian Securities and Investments Commission

Corporations Act 2001

Subparagraph 1020F(1)(a) – Exemption

The Australian Securities and Investments Commission (ASIC) makes Class Order [C0 05/681] *Dollar disclosure: Transitional relief for issuers of deposit products for disclosure of termination values and interest rates* under s1020F(1)(a) of the *Corporations Act 2001* (the Act). Section 1020F(1)(a) provides that ASIC may exempt a person or class of persons from all or specified provisions of Pt 7.9 of the Act.

1. Background

Interest rates in Product Disclosure Statement

Section 1013D sets out the main content requirements for a Product Disclosure Statement (PDS). It requires that a PDS set out information about any significant benefits to which a holder of the product will or may become entitled, to the extent a person would reasonably require that information for the purpose of making a decision, as a retail client, whether to acquire the financial product: s1013D(1)(b).

This means that PDSs for deposit products must include information about the interest rate applicable to the deposit product. The interest rate is information a person would reasonably require for the purpose of making a decision, as a retail client, whether to acquire the deposit product.

Termination values in Periodic Statements

The Act requires issuers of certain financial products, including deposit products, to give the holder of those financial products a periodic statement for each reporting period during which the holder holds the financial product: s1017D(1). Where it is relevant to the financial product, the periodic statement must disclose a termination value of the investment (to the extent to which it is reasonably practicable to calculate for the investment or a component of the investment): s1017D(5)(b). The termination value must be disclosed as an amount in dollars: s1017D(5A)(a), as modified by reg 7.9.74A(1) of the Corporations Regulations 2001.

There is some uncertainty surrounding whether termination values for deposit products (including at call accounts and term deposits) need to be disclosed in periodic statements. This uncertainty has led to varied current industry practice.

2. Purpose of the class order

The purpose of [CO 05/681] is to provide transitional relief until 30 June 2006 from the requirement to:

- (a) disclose a termination value in a periodic statement for a deposit product; and
- (b) disclose interest rates in a PDS for a deposit product.

Termination values in Periodic Statements

ASIC has provided transitional relief in relation to the requirement to disclose termination values in a periodic statement to enable it, in consultation with industry and consumer groups, to determine whether there should be any ongoing relief.

Interest rates in Product Disclosure Statement

After 30 June 2006, ASIC proposes to give relief from the requirement to disclose interest rates in a PDS for a deposit product, subject to conditions similar to those imposed on continuous debenture issuers under Class Order [CO 00/174] *Debenture prospectuses: updating of interest rate and term information*. The transition period provided by [CO 05/681] will give industry the time needed to comply with those conditions. We also note that the Australian Government's proposals paper *Refinements to Financial Services Regulation* (May 2005) proposes amendments to the PDS requirements for basic deposit products.

3. The class order

[CO 05/681] provides a transitional period to 30 June 2006 in which issuers of deposit products are exempt from the obligation to:

- (a) disclose a termination value in periodic statements for those deposit products, provided:
 - (i) the deposit holder is able to obtain the termination value of the deposit product on request; and
 - (ii) the deposit holder is made aware of their ability to obtain the termination value of the deposit product on request (e.g. by means of disclosure in the periodic statement, including by way of insertion or sticker); and
- (b) disclose interest rates in a PDS for those deposit products referred to in the PDS, provided:
 - (i) the PDS clearly and prominently states how any person, including prospective applicants, may ascertain the interest rate of each deposit product offered at any time; and
 - (ii) the means by which any person, including prospective applicants, may ascertain the interest rate are simple and free of charge.

4. Consultation

In preparing [CO 05/681], ASIC has taken into account industry views expressed at regular industry liaison meetings. Additionally, ASIC received applications for relief from industry associations in the deposit-taking institution sector. ASIC did not undertake further consultation because [CO 05/681] is of a minor and machinery nature.