

ASIC CLASS ORDER [CO 05/1270]

EXPLANATORY STATEMENT

Prepared by the Australian Securities and Investments Commission

Corporations Act 2001

Subsection 341(1) and Paragraphs 601QA(1)(b), 911A(2)(l), 926A(2)(a), 951B(1)(a) and 1020F(1)(c) — Exemptions, Declarations, Variations and Revocations

The Australian Securities and Investments Commission (**ASIC**) makes ASIC Class Order [CO 05/1270] under subsection 341(1) and paragraphs 601QA(1)(b), 911A(2)(l), 926A(2)(a), 951B(1)(a) and 1020F(1)(c) of the *Corporations Act 2001* (the **Act**).

Subsection 341(1) provides that ASIC may make an order providing relief from certain provisions of Chapter 2M of the Act which deals with financial reporting.

By paragraphs 601QA(1)(b) and 1020F(1)(c) ASIC may declare that Chapter 5C and Part 7.9 of the Act dealing with managed investment schemes and fundraising respectively have effect as if provisions of them were omitted, modified or varied.

Paragraphs 926A(2)(a) and 951B(1)(a) enable ASIC to exempt persons from a provision of Parts 7.6 and 7.7 of the Act dealing with the licensing of financial services providers and financial services disclosure respectively.

Paragraph 911A(2)(l) enables ASIC to exempt a person from the requirement to hold an Australian financial services licence.

1. Background

In December 2004 ASIC made ASIC Class Orders [CO 04/1526], [CO 04/1570], [CO 04/1571], [CO 04/1572], [CO 04/1573], [CO 04/1574], [CO 04/1575], [CO 04/1622] and [CO 04/1624] (the **relevant instruments**) in reliance on the above powers. The relevant instruments granted a variety of relief from the Act, amended the terms of existing relief or revoked relief that had been superseded. Except where the relief was only of a minor or technical nature, making of the relevant instruments was preceded by ASIC's normal consultation with interested parties.

Most of the relevant instruments commenced when they were executed. They were all gazetted on 11 January 2005.

It is arguable that because these instruments were not gazetted before 1 January 2005 the *Legislative Instruments Act 2003* in effect has rendered them inoperative from that date, even though most of them had commenced before that date.

2. Purpose of the class order

ASIC Class Order [CO 05/1270] has been made to remove doubt about the operation of the relevant instruments.

3. Operation of Class Order

ASIC Class Order [CO 05/1270] in effect produces the intended effect of the relevant instruments to the extent (if any) that those instruments do not have effect in accordance with their terms. In accordance with section 12 of the Legislative Instruments Act, this class order has effect from 1 January 2005.

4. Incorporation by reference

ASIC Class Order [CO 05/1270] incorporates by reference each of the relevant instruments. A copy of those instruments may be obtained from ASIC's website: <http://www.asic.gov.au/co>.

5. Consultation

Given the technical nature of ASIC Class Order [CO 05/1270], no consultation was undertaken before it was made.