

ASIC CLASS ORDER [CO 07/151]

EXPLANATORY STATEMENT

Prepared by the Australian Securities and Investments Commission

Corporations Act 2001

The Australian Securities and Investments Commission (ASIC) makes Class Order [CO 07/151] *Variations to Class Order [CO 02/260], [CO 02/262], [03/237], [03/957] and [03/1092]* 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

The *Corporations Amendment Regulations 2005 (No. 5)* (Refinements Regulations), made on 15 December 2005, introduced a number of changes to the regulation of financial products and financial services under Ch 7 of the Act and the *Corporations Regulations 2001* (Corporations Regulations).

One significant change made by the Refinements Regulations to the product disclosure framework in Pt 7.9 of the Act, is the introduction of the Short-Form Product Disclosure Statement (Short-Form PDS) (reg 7.9.61AA). Under this change, product issuers (except for issuers of general insurance products) can give to their retail clients a Short-Form PDS instead of a PDS.

A Short-Form PDS is a document that summarises key information that is contained in a PDS for the same financial product (eg information about the issuer, benefits, risks, costs, return, dispute resolution and cooling off). The Short-Form PDS requirements are contained in Div 3A of Pt 7.9, inserted into the Act by reg 7.9.61AA. The application form requirements in s1016A and 1061E of the Act apply to Short-Form PDSs

ASIC has considered whether or not to extend existing class order relief applicable to PDSs to Short-Form PDSs.

2. Purpose of the class order

[CO 07/151] is intended to maximise the regulatory value of the Refinements Regulations, by ensuring that existing ASIC class order relief for PDSs applies to Short-Form PDS as far as possible.

Class Order [CO 02/260] *Product Disclosure Statements — application forms created by a licensee*

Class Order [CO 02/260] *Product Disclosure Statements — application forms created by a licensee* facilitates the issue by a financial services licensee of

application forms which are not copied or directly derived from the application form which was prepared by the issuer or seller and were not otherwise included in or with the Product Disclosure Statement.

ASIC has decided to extend this relief to Short-Form PDSs. Class Order [CO 06/803] varies the existing relief instrument to achieve this result.

Class Order [CO 02/262] *Applications to switch managed investment products*

In its present form, Class Order [CO 02/262] *Applications to switch managed investment products* provides relief from s1016A and 1016E to regulated persons to allow switching between managed investment products without receiving an application form that was included in or accompanied by a current PDS.

ASIC has decided to extend this relief to Short-Form PDSs. Class Order [CO 07/151] varies [CO 02/262] to achieve this result.

Class Order [CO 03/237] *Updated information in product disclosure statements*

Class Order [CO 03/237] *Updated information in product disclosure statements* provides an exemption from the requirement to include updated information in the PDS, where certain requirements are met.

ASIC has decided to extend this relief to Short-Form PDSs. Class Order [CO 07/151] varies [CO 03/237] to achieve this result.

Class Order [CO 03/957] *ASX managed investment warrants — disclosure and reporting exemptions*

Class Order [CO 03/957] *ASX managed investment warrants — disclosure and reporting exemptions* exempts all issuers of Australian Stock Exchange traded instalment warrants over managed investment products from certain PDS content and procedural requirements under Pt 7.9 of the Act that would otherwise apply because of the characterisation of the warrants as “managed investment products”.

The class order also clarifies that where the managed investment warrant might be characterised as an “enhanced disclosure” security, warrant issuers are exempt from the Ch 2M reporting and Ch 6CA continuous disclosure requirements but are subject to the continuous disclosure requirements under Pt 7.9.

ASIC has decided to extend this relief, where relevant, to Short-Form PDSs. Class Order [07/151] varies the existing relief instrument to achieve this result.

Class Order [CO 03/1092] *Further relief for joint product disclosure statements*

Class Order [CO 03/1092] *Further relief for joint product disclosure statements* permits two or more product issuers to prepare joint PDSs where certain conditions are met.

ASIC has decided to extend this relief to Short-Form PDSs. Class Order [CO 07/151] varies the existing relief instrument to achieve this result.

3. Operation of the class order

Paragraph 4 of [CO 07/151] varies [CO 02/260] so that the relief in that class order also applies to Short-Form PDSs.

Paragraph 5 of [CO 07/151] varies [CO 02/262], so that the relief in that class order also applies to Short-Form PDSs.

Paragraph 6 of [CO 07/151] varies [CO 03/237], so that the relief in that class order also applies to Short-Form PDSs.

Paragraph 7 of [CO 07/151] varies [CO 03/957], so that the relief in that class order also applies to Short-Form PDSs.

Paragraph 8 of [CO 07/151] varies [CO 03/1092], so that the relief in that class order also applies to Short-Form PDSs.

4. Consultation

ASIC did not undertake any specific consultation with other stakeholders before [CO 07/151] was made because it is of a minor and machinery nature.