

ASIC Class Order [CO 13/1200]

About this compilation

Compilation No. 3

This is a compilation of ASIC Class Order [CO 13/1200] as in force on 15 November 2022. It includes any commenced amendment affecting the legislative instrument to that date.

This compilation was prepared by the Australian Securities and Investments Commission.

The notes at the end of this compilation (the *endnotes*) include information about amending instruments and the amendment history of each amended provision.

Australian Securities and Investments Commission Corporations Act 2001—Paragraph 1020F(1)(c)—Declaration

Enabling legislation

1. The Australian Securities and Investments Commission makes this instrument under paragraph 1020F(1)(c) of the *Corporations Act 2001* (the *Act*).

Title

2. This instrument is ASIC Class Order [CO 13/1200].

Declaration

8. Part 7.9 of the Act applies in relation to an interest in a registered scheme or sub-fund of a CCIV that is:
 - (a) a quoted ED security; or
 - (b) an interest in an exchange traded fund or a managed fund whose interests are in a class of interests that are able to be traded on a financial market operated by ASX or Cboe;

Note: Part 7.9 of the Act applies to a CCIV subject to the modifications set out in Division 4 of Part 8B.7.

as if section 1017D were modified or varied as follows:

- (c) after paragraph (5)(f), insert:

“(fa) if the financial product is an interest in a registered scheme or sub-fund whose first financial year ended on or before the end of the reporting period, information about the performance of the scheme or sub-fund relative to the investment objectives of the scheme or sub-fund that the

issuer reasonably believes is sufficient for the holder to make an informed assessment of the performance of the scheme or sub-fund for the following periods:

- (i) the period of 1 year ending at the end of the most recent financial year of the scheme or sub-fund;
 - (ii) if the scheme or sub-fund has been registered for less than 5 years at the end of the most recent financial year of the scheme or sub-fund, the period starting on the date of registration of the scheme or sub-fund and ending at the end of that financial year;
 - (iii) if the scheme or sub-fund has been registered for at least 5 years at the end of the most recent financial year of the scheme or sub-fund, the period of 5 years ending at the end of that financial year;”;
- (d) after subsection (8) (as notionally inserted by regulation 7.9.16O of the *Corporations Regulations 2001*), insert:
- “(8A) If the financial product is an interest in a registered scheme or sub-fund that forms part of a stapled security, the periodic statement:
- (a) despite section 1010A, must include the information required by subsections (4), (5) and (5A) as affected by regulations 7.9.16O, 7.9.60B, 7.9.74A and 7.9.75 of the *Corporations Regulations 2001* (the *Regulations*)) and set out such information in the manner and using the terminology and descriptions required by subregulations 7.9.16O(2) and 7.9.60B(7) of the Regulations as if:
 - (i) costs, fees, amounts and other information required in relation to the product were required, and determined, in relation to the stapled security; and
 - (ii) costs, fees, amounts and other information required in relation to the scheme or sub-fund were required, and determined, in relation to the stapled security entities in aggregate; and
 - (iii) costs, fees and amounts paid or payable from a stapled security entity to another stapled security entity were ignored; and
 - (iv) the assets of each stapled security entity that is a body were held in a common fund for the holders of the stapled securities; and
 - (v) the statement required by paragraph 7.9.75(1)(c) of the Regulations need only be made in relation to those components of the stapled security for which there is a dispute resolution mechanism; and
 - (b) other than to the extent necessary to comply with paragraph (a), does not need to:
 - (i) include such information; or

- (ii) set out such information in a particular manner; or
- (iii) use the terminology or descriptions required by subregulations 7.9.16O(2) and 7.9.60B(7) of the Regulations;

in relation to the product.

- (8B) This subsection applies in relation to a transfer of a financial product if:
 - (a) the product is an interest in a registered scheme or sub-fund; and
 - (b) the holder acquired or disposed of interests in the scheme or sub-fund under the transfer during the reporting period; and
 - (c) the issuer is not aware of the price at which the interests were transferred or, if the product forms part of a stapled security, the price at which the stapled securities were transferred.
- (8C) Despite subsections (4), (5), (5A) and (8A) and regulation 7.9.74A of the Regulations, if subsection (8B) applies in relation to a transfer of a financial product:
 - (a) the periodic statement does not need to include:
 - (i) the amount per interest or, if applicable, stapled security paid under the transfer, the total amount paid under the transfer or any other amounts in dollars in relation to the transfer; or
 - (ii) the information required by paragraph (5)(e) or by paragraph (8A)(a) as it applies to information required by paragraph (5)(e), provided that:
 - (A) the issuer is not able to calculate the return on investment during the reporting period; and
 - (B) the periodic statement explains why this information is not included and describes how it can be obtained or calculated; and
 - (b) the part of the periodic statement that itemises transactions must include:
 - (i) the date of the transfer and whether the holder acquired or disposed of interests or, if applicable, stapled securities under the transfer; and
 - (ii) the number of interests or stapled securities transferred; and
 - (iii) an explanation of why the price per interest or stapled security for the transfer and the total dollar value of the transfer have not been included.

(8D) In this section:

first financial year means:

- (a) in relation to a registered scheme – the financial year for the scheme referred to in subsection 323D(1);
- (b) in relation to a sub-fund of a CCIV – the period that starts on the day on which the sub-fund is registered and lasts for 12 months or the period (not longer than 18 months) determined by the corporate director of the CCIV.

financial year means, in relation to a sub-fund of a CCIV:

- (a) the first financial year; or
- (b) for subsequent financial years – the period which starts at the end of the previous financial year, and lasts for 12 months.

interest in a sub-fund of a CCIV (including a sub-fund that is an ETF), means a share in the CCIV that is referable to the sub-fund.

most recent financial year means, in relation to a registered scheme or sub-fund of a CCIV an interest in which is the subject of a periodic statement, the most recent financial year of the scheme or sub-fund that ended on or before the end of the reporting period covered by the periodic statement.

stapled security means two or more financial products (which may include securities), including at least one interest in a registered scheme or sub-fund of a CCIV:

- (a) that under the constitution of the registered scheme or CCIV must be transferred together; and
- (b) where there are no financial products in the same class as those financial products which may be transferred separately; and
- (c) where one or more of the financial products is a share of a body corporate, the body corporate has not issued any share that may be transferred separately; and
- (d) where one or more of the financial products is an interest in a managed investment scheme or sub-fund, no interests in that scheme or sub-fund may be transferred separately.

stapled security entity means, in relation to a stapled security, the registered scheme or sub-fund and each other scheme or sub-fund or body, an interest in which, or a security of which, is a component of the stapled security.

(8E) In this section, the investment objectives of:

- (a) a registered scheme or sub-fund for a period are the investment objectives for the scheme or sub-fund that were disclosed most recently before the beginning of the period in any of the following:
 - (i) a Product Disclosure Statement for an interest in the scheme or sub-fund that was lodged with ASIC;
 - (ii) a continuous disclosure notice provided by the responsible entity of the scheme or the CCIV (in respect of the sub-fund); and
- (b) stapled security entities for a period are the investment objectives for the stapled security entities that were disclosed most recently before the beginning of the period in any of the following:
 - (i) a Product Disclosure Statement or disclosure document in relation to a stapled security that was lodged with ASIC;
 - (ii) a continuous disclosure notice provided by the responsible entity of a scheme or the CCIV (in respect of the sub-fund) that is a stapled security entity or by a body that is a stapled security entity.”.

9. Interpretation

In this instrument:

ASX means ASX Limited.

Cboe means Cboe Australia Pty Ltd.

exchange traded fund (or **ETF**) means a registered scheme or sub-fund of a CCIV in relation to which all of the following are satisfied:

- (a) interests in the scheme or sub-fund are in a class that are able to be traded on a financial market operated by ASX or Cboe but the scheme or sub-fund is not listed on either of those markets;
- (b) the responsible entity or CCIV has the power and approval to issue interests in that class on any day that those interests are able to be traded on the relevant financial market;
- (c) the responsible entity or CCIV allows applications for and redemptions of interests in that class on any day that those interests are able to be traded on the relevant financial market;

- (d) the price or value of the financial product, index, currency, commodity or other thing that the scheme or sub-fund invests in or tracks is continuously disclosed or can be immediately ascertained;
- (e) the name of the scheme or sub-fund does not contain the expression “managed fund” or “hedge fund”.

interest in a sub-fund of a CCIV (including a sub-fund that is an ETF), means a share in the CCIV that is referable to the sub-fund.

managed fund means a registered scheme or sub-fund of a CCIV:

- (a) that satisfies paragraphs (a) to (d) of the definition of ***exchange traded fund***; and
- (b) whose name contains the expression “managed fund” or “hedge fund”.

Notes to ASIC Class Order [CO 13/1200]

Note 1

ASIC Class Order [CO 13/1200] (in force under s1020F(1)(c) 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 FRL registration	Date of commencement	Application, saving or transitional provisions
[CO 13/1200]	15/10/2013 (<i>see</i> F2013L01794)	15/10/2013	
2018/3	30/5/2018 (<i>see</i> F2018L00671)	31/5/2018	-
2019/784	17/9/2019 (<i>see</i> F2019L01206)	18/9/2019	-
2022/0940	14/11/2022 (<i>see</i> F2022L01459)	15/11/2022	-

Table of Amendments

ad. = added or inserted am. = amended LA = *Legislation Act 2003* rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Recitals	am. 2018/3
Section 1	am. 2018/3
Section 3	rep. s48D LA
Section 4	rep. 2018/3
Section 5	rep. 2018/3
Section 6	rep. 2018/3
Section 7	rep. 2018/3
Section 8	am. 2022/0940
Paragraph 8(a)	rs. 2018/3
Paragraph 8(b)	rs. 2018/3 and 2019/784
Paragraph 8(b) (note)	ad. 2022/0940
Paragraph 8(c)	rs. 2022/0940
Paragraph 8(d)	am. 2022/0940
Section 9 (definition of <i>Chi-X</i>)	am. 2022/0940
Section 9 (definition of <i>exchange traded fund</i> (or <i>ETF</i>))	am. 2018/3 rs. 2022/0940
Section 9 (definition of	ad. 2022/0940

<i>interest</i>	
Section 9 (definition of <i>managed fund</i>)	am. 2022/0940