

ASIC CLASS ORDER [05/957]

EXPLANATORY STATEMENT

Prepared by the Australian Securities and Investments Commission

Corporations Act 2001

Paragraph 911A(2)(l) – Variation

The Australian Securities and Investments Commission (“ASIC”) makes Class Order [CO 05/957] *Singapore MAS-regulated financial services providers – amendment* under s911A(2)(l) of the *Corporations Act 2001*. Section 911A(2)(l) provides that a person is exempt from the requirement to hold an Australian financial services licence for a financial service they provide if the provision of the service is covered by an exemption specified by ASIC in writing and published in the *Gazette*.

1. Background

ASIC has adopted Policy Statement 176 *Licensing: Discretionary powers - wholesale foreign financial services providers* [PS 176] which outlines when ASIC will grant exemptions from the requirement to hold an Australian financial services (AFS) licence to financial services providers who:

- provide services in Australia only to wholesale clients; and
- are regulated by an overseas regulatory authority.

ASIC has granted class order relief under [PS 176] to Singaporean bodies regulated by the Monetary Authority of Singapore (“MAS”) who hold a current capital markets services licence under the *Securities and Futures Act 2001* of Singapore. The relief is found in Class Order [CO 03/1102] *Singapore MAS-regulated financial services providers*.

2. Purpose of the class order

The purpose of [CO 05/957] is to permit Singaporean banks and merchant banks to rely on [CO 03/1102].

3. The class order

[CO 05/957] amends [CO 03/1102] by extending the class of bodies who may rely on the class order relief to certain classes of bodies that do not hold capital markets services licence because of specific exemptions under Singaporean law.

Singaporean banks which hold a banking licence under the *Banking Act 1970* of Singapore are exempted from the requirement to hold a capital markets services licence as are Singaporean merchant banks which have been approved as a financial institution by MAS under the *Monetary Authority of Singapore Act 1970* of Singapore. Singaporean banks and merchant banks are subject to alternative regulation in Singapore.

4. Consultation

In preparing [CO 05/957], ASIC consulted with certain Singaporean banks and merchant banks. ASIC did not undertake further consultation because [CO 05/957] is of a minor and machinery nature and does not substantially alter ASIC's existing policy in [PS 176].