

**AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION
SUBSECTION 341(1) CORPORATIONS LAW
CLASS ORDERS AND REVOCATIONS**

PURSUANT to subsection 341(1) of the Corporations Law ("the Law"), the AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION ("ASIC") HEREBY MAKES AN ORDER relieving a company ("the Entity") from the requirement to comply with the following provisions of the Law in relation to a financial year ending on or after 1 July 1998 ("the Relevant Financial Year"):

- Paragraphs 292(1)(b) and (c) (the requirements to prepare a financial report and directors' report);
- Subsection 301(1) (the requirement to have the financial report audited);
- Subsections 314(1), 315(1) and 315(4) and section 316 (the requirements concerning distribution of the financial report, directors' report and auditors' report and any concise financial report ("the reports") to members);
- Section 317 (the requirement for a public company to lay reports before an annual general meeting); and
- Subsection 319(1) (the requirement to lodge reports with ASIC),

ON CONDITION THAT:

Relevant Financial Year

- (a) The financial year of the Holding Entity ends on the same date as the end of the Relevant Financial Year;

Restrictions on the Entity and Holding Entity

- (b) The Entity is one of the Wholly-owned Entities of the Holding Entity at the end of the Relevant Financial Year and is:
 - (i) a public company;
 - (ii) a large proprietary company; or
 - (iii) a small proprietary company to which paragraph 292(2)(b) applies;
- (c) The Entity is not a borrowing corporation, a disclosing entity, a licensed securities dealer or a futures broker;
- (d) The Holding Entity is not a small proprietary company;

Consolidated financial statements

- (e) The Holding Entity has prepared consolidated financial statements which include a consolidated statement of cash flows together with notes thereto for the Relevant Financial Year ("the Consolidated Financial Statements");
- (f) If the Holding Entity is not a registered foreign company:
 - (i) where the economic entity comprising the Holding Entity and its controlled entities was not a reporting entity (as defined in accounting standards):
 - (A) the Consolidated Financial Statements covered at least those controlled entities which were part of the Extended Closed Group and included no entities which were not controlled entities;
 - (B) where the Consolidated Financial Statements did not cover the entire economic entity, the notes thereto made it clear which entities were covered by those Consolidated Financial Statements;
 - (C) accounting standard AASB 1024 "Consolidated Accounts" (except paragraph 39) was applied as if the entities to which the Consolidated Financial Statements relate were a reporting entity; and
 - (D) the Holding Entity complied with all of the other requirements of Chapter 2M as if the Consolidated Financial Statements were part of its financial report;
 - (ii) where s.319(4) applies to the Holding Entity, the Consolidated Financial Statements are lodged with ASIC within 4 months after the end of the Relevant Financial Year unless all entities in the Closed Group are Exempt Entities; and
 - (iii) where all entities which are parties to the Deed of Cross Guarantee are Exempt Entities, the Holding Entity lodged with ASIC within 4 months after the end of the Relevant Financial Year a document signed by one director or the company secretary (in accordance with a resolution of the directors) containing:
 - (A) the information required by subparagraphs (i)(i) to (iv);
 - (B) a statement that all entities in the Closed Group are Exempt Entities; and
 - (C) the statement required to be included in the directors' declaration under paragraph (j);

- (g) If the Holding Entity is a registered foreign company:
- (i) the Holding Entity prepared Consolidated Financial Statements in accordance with:
 - (A) where the Holding Entity is controlled by a disclosing entity formed or incorporated in Australia, a company or a registered scheme - the requirements of Chapter 2M (including s.295(4)) as if the Holding Entity were a public company (and paragraph (f)(i) may be applied as if the Holding Entity was not a registered foreign company);
 - (B) where (A) does not apply - a requirement of the law in its place of origin, and those Consolidated Financial Statements covered the Holding Entity and at least those controlled entities which are part of the Extended Closed Group (and included a note making it clear which entities were covered by those Consolidated Financial Statements); or
 - (C) where neither (A) nor (B) applies - the requirements of Chapter 2M as to the form and content of Consolidated Financial Statements, as if the Holding Entity were a public company and covering at least those entities in the Extended Closed Group; and
 - (ii) the Holding Entity lodged the Consolidated Financial Statements with ASIC no later than 4 months after the end of the Relevant Financial Year;
- (h) The Consolidated Financial Statements:
- (i) include the assets of the Holding Entity and the assets of its controlled entities at values no greater than the values which would have appeared in the financial report of each entity had all entities been subject to section 305 of the Law and applied accounting standards as if they were reporting entities; and
 - (ii) include adequate provision in relation to the liabilities of any parties to the Deed of Cross Guarantee which are not consolidated where it is probable that those liabilities will not be fully met by those parties;
- (i) The notes to the Consolidated Financial Statements:
- (i) include a short statement of the nature of the Deed of Cross Guarantee;
 - (ii) list the parties to the Deed of Cross Guarantee, separately identifying:
 - (A) the members of the Closed Group; and
 - (B) the other members of the Extended Closed Group;

- (iii) give details (including dates) of parties which, during or since the Relevant Financial Year, have been:
 - (A) added by an Assumption Deed contemplated by the Deed of Cross Guarantee;
 - (B) removed by a Revocation Deed contemplated by the Deed of Cross Guarantee; or
 - (C) the subject of a Notice of Disposal contemplated by the Deed of Cross Guarantee;
 - (iv) give details (including dates and reasons) of any entities which obtained relief under this order or a previous order at the end of the immediately preceding financial year but which were ineligible for relief in respect of the Relevant Financial Year;
 - (v) if the Consolidated Financial Statements cover entities which are not members of the Closed Group, set out the information specified in the Schedule in respect of the consolidation of the entities which are members of the Closed Group (after eliminating all transactions between members of the Closed Group);
 - (vi) if the Consolidated Financial Statements cover entities which are not parties to the Deed of Cross Guarantee, set out the information specified in the Schedule in respect of the consolidation of the entities which are parties to the Deed of Cross Guarantee and controlled by the Holding Entity (after eliminating all transactions between parties to the Deed of Cross Guarantee); and
 - (vii) if there are any parties to the Deed of Cross Guarantee which are not controlled by the Holding Entity, set out the information specified in the Schedule in respect of those parties (either individually or in aggregate);
- (j) A statement as to whether, as at the date of the relevant document, there are reasonable grounds to believe that the members of the Extended Closed Group (identified in the note required by paragraph (i)(ii)) will be able to meet any obligations or liabilities to which they are, or may become, subject by virtue of the Deed of Cross Guarantee is included in all of the following documents (as applicable):
- (i) the directors' declaration of the Holding Entity for the Relevant Financial Year (including a directors' declaration prepared pursuant to subparagraph (g)(i)(A));
 - (ii) the document required by paragraph (f)(iii); and
 - (iii) where subparagraphs (g)(i)(B) or (C) apply, a document signed by a director in accordance with a resolution of directors and lodged with ASIC with the Consolidated Financial Statements within 4 months after the end of the Relevant Financial Year;

Annual notice by the Entity

- (k) A notice signed by a director or the company secretary is lodged with ASIC within 4 months after the end of the Relevant Financial Year containing:
- (i) a statement that the Entity has taken advantage of relief under this class order;
 - (ii) the same particulars, and statements on the same matters, as mentioned in subparagraphs (i)(i), (ii) and (iii), together with the identity of the Holding Entity; and
 - (iii) a statement to the effect that at or about the time of the Entity's balance date the directors reassessed the advantages and disadvantages associated with the Entity remaining a party to the Deed of Cross Guarantee and taking advantage of the relief afforded by this order or a previous order and the directors resolved either that the Entity should continue to remain a party to this Deed of Cross Guarantee, or to seek to revoke the Deed of Cross Guarantee, as the case may be;

Timing requirements in relation to membership of Closed Group and being party to the Deed of Cross Guarantee

- (l) Before the end of the Relevant Financial Year:
- (i) the Entity and every other entity in the Closed Group became parties to the Deed of Cross Guarantee; and
 - (ii) an original of that Deed of Cross Guarantee (or the relevant Assumption Deed) has been lodged with ASIC;
- (m) The Deed of Cross Guarantee has been approved by ASIC at least 60 days before the signing of the Holding Entity's directors' declaration for the Relevant Financial Year or the document referred to in subparagraph (j)(iii);
- (n) The Entity and the Holding Entity were members of the Closed Group and parties to the Deed of Cross Guarantee at the end of the Relevant Financial Year and:
- (i) remain members of the Closed Group and parties to that Deed at all times up to, and including, the date on which the Consolidated Financial Statements (or the document required by paragraph (f)(iii)) is lodged with ASIC; or
 - (ii) if the Entity ceased to be a member of the Closed Group or a party to the Deed prior to the date on which the directors of the Holding Entity lodged the Consolidated Financial Statements, within one month of that cessation the Entity became party to another Deed of Cross Guarantee with another holding entity, an original of which has been lodged with ASIC, and (after making reasonable and diligent enquiries) the Entity's directors have no reason to believe that the Entity may not be able to obtain relief under this order in respect of its next financial year;

Initial procedures in applying for relief

- (o) Before the end of the first financial year in respect of which the Entity took advantage of relief under this order or a previous order (being a financial year at the end of which the Entity was one of the Wholly-owned Entities of the Holding Entity):
- (i) The Entity has provided ASIC with a statement of the directors of the Entity signed by at least 2 directors (one director if the Entity had only one director) stating that in the directors' opinion immediately prior to the execution of the Deed of Cross Guarantee or Assumption Deed by the Entity there were reasonable grounds to believe that the Entity would be able to pay its debts as and when they become due and payable;
 - (ii) The directors of the Entity have resolved that the Entity should obtain the benefit of this order or a previous order and the directors have not revoked that resolution or resolved to the contrary;
 - (iii) The Entity has provided ASIC with evidence that the Entity is entitled to the benefit of this order or a previous order;
 - (iv) The Entity paid to ASIC any fee due by the Entity in respect of the perusal of that evidence and the perusal of the Deed of Cross Guarantee or, if applicable, an Assumption Deed; and
 - (v) Every other entity (the "Other Entity") which has become a party to the Deed of Cross Guarantee after the date of this order (irrespective of whether the Other Entity has taken advantage of relief under this order) has provided ASIC (before the end of the financial year in which it became a party to that Deed of Cross Guarantee) a statement of the directors of that Other Entity signed by at least 2 directors (one director if the Other Entity had only one director) stating that in the directors' opinion immediately prior to the execution of the Deed of Cross Guarantee or Assumption Deed by the Other Entity there were reasonable grounds to believe that the Other Entity would be able to pay its debts as and when they become due and payable,

except that subparagraph (o)(i) does not apply where the Entity became a party to the Deed of Cross Guarantee prior to 1 July 1997 and has lodged with ASIC a financial report or financial statements containing an unqualified directors' declaration (required by section 295(4) of the Law) or directors' statement (required by section 301 or section 302 of the Law as it stood prior to the Company Law Review Act 1998) in respect of a financial year which ended after becoming a party to the Deed of Cross Guarantee and before the Relevant Financial Year);

Compliance with Law by the Entity and the Holding Entity

- (p) In relation to the last 3 financial years prior to the first financial year in which the Entity took advantage of relief under this order or a previous order (that first financial year being a financial year at the end of which the Entity was one of the Wholly-owned Entities of the Holding Entity) and since the end of the last of those 3 financial years:
- (i) the Entity and the auditor of the Entity have substantially satisfied all of their obligations under Chapters 2M and 2N of the Law (or Parts 3.6 and 3.7 in relation to any financial year ending before 1 July 1998 (8 July 1998 where Class Order 98/0095 was applied));
 - (ii) if the Holding Entity is not a registered foreign company, the Holding Entity and the auditor of the Holding Entity have substantially satisfied all of their obligations under Chapters 2M and 2N of the Law (or Parts 3.6 and 3.7 in relation to any financial year ending before 1 July 1998 (8 July 1998 where Class Order 98/0095 was applied));
 - (iii) if the Holding Entity is a registered foreign company, the Holding Entity and its auditor (if applicable) have substantially satisfied all of their obligations under Part 5B.2 of the Law (or Division 2 of Part 4.1 in relation to any period prior to 1 July 1998);

Foreign entities

- (q) No entity was a member of the Closed Group unless it:
- (i) was a company;
 - (ii) was a body corporate incorporated or formed in Australia, the United Kingdom, New Zealand or Hong Kong; or
 - (iii) was the Holding Entity;
- (r) So long as any entity (including the Holding Entity, where applicable) which is not a body corporate incorporated or formed in Australia or a company ("the foreign entity") is a party to the Deed of Cross Guarantee the directors of the Entity and the Holding Entity are satisfied (as evidenced by resolutions of the directors of those two entities), before the Holding Entity lodges the Consolidated Financial Statements, that, on the basis of appropriate recent advice, the Deed of Cross Guarantee is in a class of documents generally enforceable in the foreign entity's place of incorporation or formation as against the foreign entity;

Variations to Deed of Cross Guarantee

- (s) Neither the Entity nor the Holding Entity have terminated, repudiated or attempted to repudiate or terminate or agreed to any variation of the terms of the Deed of Cross Guarantee except by:
- (i) an Assumption Deed contemplated by the Deed of Cross Guarantee and approved by ASIC;

- (ii) a Revocation Deed contemplated by the Deed of Cross Guarantee pursuant to which the Deed of Cross Guarantee ceases to apply to one or more entities other than the Entity;
 - (iii) the addition of an additional trustee contemplated by the Deed of Cross Guarantee and approved by ASIC; or
 - (iv) any variation to reflect any amendment of the ASIC Pro Forma Deed of Cross Guarantee (ASIC Pro Forma 24) that may be made by ASIC from time to time;
- (t) Any variation of the type permitted by paragraph (s) made after the date of this order is executed in the same State or Territory as the Deed of Cross Guarantee;

Companies which cease to be members of the Closed Group

- (u) Within 2 months of ceasing to be a Wholly-owned Entity, the Entity prepares a financial report and directors' report for the Relevant Financial Year and lodges those documents with ASIC, except where:
- (i) within one month, the Entity becomes a party to another Deed of Cross Guarantee and (after making reasonable and diligent enquiries) the directors of the Entity have no reason to believe that it will not be relieved from preparing a financial report under this order in respect of its next financial year;
 - (ii) the Entity was also subject to relief from the requirement to prepare a financial report pursuant to a provision of the Law or another ASIC order in respect of the Relevant Financial Year;
 - (iii) at the time the Entity ceases to be a member of the Closed Group it is less than 1 month until, or is after, the end of the first financial year immediately after the Relevant Financial Year; or
 - (iv) the Entity was a small proprietary company for the Relevant Financial Year;

Auditor of the Holding Entity

- (v) If the Holding Entity's financial report is required to be audited, the auditor of the Holding Entity is satisfied that paragraphs (e), (f)(i), (g)(i), (h), (i) and (j) (as applicable) have been complied with; and

ASIC request that the Entity prepare financial reports

- (w) ASIC has not requested the Entity to prepare a financial report.

SCHEDULE

The following information for the current year with comparative information for the preceding year (comparatives only required in relation to the financial years ending on or after 1 July 1999):

- (i) A profit and loss statement setting out the information specified by paragraphs 12, 13, 14 and the first sentences of paragraphs 16 and 19 of accounting standard AASB 1018 "Profit and Loss Accounts", dividends provided for or paid, opening and closing retained profits/accumulated losses and, in the case of consolidated financial statements, the information specified in paragraph 34 of AASB 1024 "Consolidated Accounts"; and
- (ii) A balance sheet setting out the information specified by paragraphs 5.1, 5.2 and 5.3 of accounting standard AASB 1034 "Information to be Disclosed in Financial Reports" ("AASB 1034"), except that if the entities concerned are, or comprise, a "financial institution" as defined by paragraph 10.1 of accounting standard AASB 1032 "Specific Disclosures by Financial Institutions" ("AASB 1032"), the information specified by paragraphs 5.1 and 5.2 of AASB 1032 may be provided instead of that specified by AASB 1034.

INTERPRETATION

In this order:

"borrowing corporation" does not include such a borrowing corporation if the only debentures of the borrowing corporation were issued or allotted by excluded issues to which paragraph 66(2)(d) of the Law applies;

"Closed Group" means the Holding Entity and the Wholly-owned Entities;

"Control" has the same meaning as that term has in accounting standard AASB 1024 "Consolidated Accounts";

"Deed of Cross Guarantee" means the deed to which the Entity is a party which:

- (i) is substantially in the form set out in ASIC Pro Forma 24 and which has been approved by ASIC under this order; or
- (ii) has been approved for the purposes of a previous order; or
- (iii) is in the form required for the purposes of Class Order 95/1530, has been lodged with ASIC between 1 July 1998 and the date of this order, and has been approved by ASIC for the purposes of this order or Class Order 95/1530 (even if the Entity never obtains relief under Class Order 95/1530),

and includes such a deed as varied by an Assumption Deed contemplated by the Deed of Cross Guarantee and approved by ASIC or a Revocation Deed contemplated by the Deed of Cross Guarantee;

"Exempt Entity" means a company which is not controlled by a foreign company and which is:

- (a) a small proprietary company; or
- (b) a large proprietary company which:
 - (i) satisfied all of the requirements of s.319(4), or would have satisfied all of the requirements of s.319(4) of the Law except that its financial statements or financial reports during 1993 or a later financial year were not audited before the deadline for reporting to members for that year pursuant to relief obtained under this Class Order, Class Order 95/1530 or Class Order 96/1579; and
 - (ii) has not at any time during 1993 or a later financial year been a member of a Closed Group for the purposes of this Class Order or Class Order 95/1530 where that Closed Group included a company which was not an Exempt Entity;

"Extended Closed Group" means the Closed Group and any other entities which are parties to the Deed of Cross Guarantee and which are controlled by the Holding Entity;

"Holding Entity" is a company, a disclosing entity which is a body corporate incorporated or formed in Australia, or a registered foreign company:

- (i) of which the Entity is one of the Wholly-owned Entities;
- (ii) which is not controlled by another member of the Closed Group; and
- (iii) which is a party to the Deed of Cross Guarantee;

"previous order" means any one of ASIC Class Orders 91/996 dated 19 December 1991, 92/770 dated 20 July 1992, 93/1370 dated 4 November, 94/1862 dated 13 December 1994, 95/1530 dated 10 November 1995 or 96/153 dated 12 March 1996;

"substantially satisfied" means satisfied apart from formal defects or irregularities or matters essentially of a procedural nature or clerical mistakes or errors arising from an accidental slip or omission; and

"Wholly-owned Entities" collectively mean companies and foreign companies:

- (i) all of which are controlled by the Holding Entity;
- (ii) no member of any of which is a person other than the Holding Entity, another one of the Wholly-owned Entities, a nominee for the Holding Entity or a nominee for another one of the Wholly-owned Entities; and
- (iii) all of which are parties to the Deed of Cross Guarantee.

PURSUANT to subsection 341(1) of the Corporations Law ("the Law"), the AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION HEREBY REVOKES Class Orders 95/1530 dated 10 November 1995, 96/153 dated 12 March 1996, 96/805 dated 28 May 1996 and 97/1018 dated 9 July 1997, with effect for financial years ending on or after 1 July 1998 (8 July 1998 where the Holding Entity adopts Class Order 98/0095).

Dated the 13th day of August 1998

Signed by Brendan Byrne
as a delegate of the Australian Securities and Investments Commission