

Australian Securities and Investments Commission
Corporations Act 2001 — Paragraphs 601QA(1)(a), 741(1)(a) and 911A(2)(l) — Exemption

1. Under paragraph 911A(2)(l) of the *Corporations Act 2001* (“the Act”), the Australian Securities and Investments Commission (“ASIC”) exempts the persons referred to in Schedule A from the requirement to hold an Australian financial services licence for the provision of financial services in relation to a managed investment scheme of the kind referred to in Schedule C on the conditions set out in Schedule D and for so long as those conditions are met.
2. Under paragraph 601QA(1)(a), ASIC exempts the persons referred to in Schedule A from compliance with subsection 601ED(5) in the case referred to in Schedule C on the conditions set out in Schedule D and for so long as those conditions are met.
3. Under paragraph 741(1)(a), ASIC exempts the persons referred to in Schedule B from compliance with Parts 6D.2 and 6D.3 (except section 736) in the case referred to in Schedule C on the conditions set out in Schedule D and for so long as those conditions are met.

Schedule A

The Cruising Club (Australasia) Pty Ltd ACN 084 335 222 (“Promoter”) and any of its related bodies corporate (“Promoter”) and any other person (“Franchisee Promoter”) who exploits a right, conferred by the Promoter, to use a trade mark or design or other intellectual property or the goodwill attached to it in connection with the promotion or operation of a syndicate as described in Schedule C, under an arrangement between the Promoter and the Franchisee Promoter.

Schedule B

A company (“Developer”) which agrees to transfer ownership of a boat, or agrees to provide funds to purchase a boat, to another company (“Boat Owning Company”) in consideration for the issue of shares in the Boat Owning Company to the Developer, in connection with a syndicate as described in Schedule C.

Schedule C

A managed investment scheme (“syndicate”) each interest (“syndicate interest”) in which arises out of an agreement (“Equity Owners’ Agreement”) which confers rights and entitlements on a holder of shares in the Boat Owning Company to use, occupy or possess (for personal and recreational purposes only) for 2 or more periods for which the syndicate is to operate, a boat, where:

- (a) the boat is, or moneys to purchase the boat are, provided by the Developer to the Boat Owing Company as consideration for the issue of shares in the Boat Owing Company to the Developer, with a view to those shares being transferred to persons wishing to use, occupy or possess the boat for personal and recreational purposes from time to time;
- (b) the sale of the shares in the Boat Owing Company by the Developer is carried out by the Promoter or the Franchisee Promoter (as applicable) as agent for the Developer in accordance with a Developer Agreement;
- (c) the number of members of the syndicate does not exceed 16 persons; and
- (d) the Promoter or Franchisee Promoter (as applicable) is responsible for the management of the boat, including as to maintenance, repairs, bookings and berthing, in accordance with a Management Agreement.

Schedule D

1. The Promoter, Developer and Boat Owing Company in relation to a syndicate must take reasonable steps to ensure that:
 - (a) the Product Disclosure Statement (PDS) for offers of syndicate interests for issue or sale prominently discloses the following in a clear, concise and effective manner:
 - (i) a syndicate interest is not an investment product and is not intended to provide the holder of the interest with a financial return;
 - (ii) a syndicate interest is likely to be illiquid because of the absence of a secondary market for the trading of syndicate interests;
 - (iii) a person who applies for a syndicate interest may, by written notice (“cooling-off notice”) to the Promoter or Franchisee Promoter (as applicable) received at an address of the Promoter or Franchisee Promoter in this jurisdiction specified in the PDS not later than 14 days after the date the application form is signed by the person (“cooling-off period”), withdraw the application and to be immediately repaid any application moneys without penalty;
 - (iv) the Promoter or Franchisee Promoter (as applicable), Developer or Boat Owing Company is under no obligation to purchase or redeem syndicate interests after the expiration of the cooling-off period;
 - (v) the Promoter or Franchisee Promoter (as applicable) will manage the boat in accordance with the Management Agreement and syndicate members have no right to replace the Promoter or Franchisee Promoter by voting their shares in the Boat Owing Company;
 - (vi) neither the Promoter nor the Franchisee Promoter holds an Australian financial services licence under the Act with respect to the provision of financial services relating to the promotion and operation of the syndicate

and are not regulated by ASIC as financial services licensees; and

- (vii) the syndicate is not registered as a managed investment scheme under the Act and is not subject to the regulatory protections of that Act; and
 - (b) the cooling-off notice:
 - (i) is in a form that may be completed by a person who applies for a syndicate interest and included in the PDS; and
 - (ii) is referred to on the front cover of the PDS; and
 - (c) the Syndicate Agreement which governs the operation of the syndicate is substantially the same as the draft Syndicate Agreements given to ASIC on 2 August 2005; and
 - (d) all application monies for the acquisition of syndicate interests are held in a trust account with an Australian ADI until the interests are issued or transferred to the applicant or the application moneys are returned to the applicant; and
 - (e) syndicate interests are not issued or transferred before the expiration of the cooling-off period.
3. The Cruising Club (Australasia) Pty Ltd as Promoter must become and remain a member of an external dispute resolution scheme.

Interpretation

For the purposes of this instrument:

References to provisions are to provisions of the Act.

“Developer Agreement” means an agreement between the Developer, Boat Owning Company and the Promoter or Franchisee Promoter (as applicable), which provides for the transfer of ownership of a boat or the provision of funds to purchase a boat by the Developer, and for the appointment of the Promoter or Franchisee Promoter as the agent of the Developer for the purposes of promoting and selling shares in the Boat Owning Company.

“external dispute resolution scheme” means an external dispute resolution scheme approved by ASIC under subparagraph 912A(2)(b)(i).

“Management Agreement” means an agreement between the Boat Owning Company and the Promoter or Franchisee Promoter (as applicable) under which the Boat Owning Company appoints the Promoter or Franchisee Promoter to manage the day to day use, operation and maintenance of the boat.

“Syndicate Agreements” means the Developer Agreement, Equity Owners’ Agreement and Management Agreement.

Commencement

This instrument takes effect on the later of:

- (a) the date it is registered under the *Legislative Instruments Act 2003*; and
- (b) the date of its gazettal.

Note: An instrument is registered when it is recorded on the Federal Register of Legislative Instruments (*FRLI*) in electronic form: see *Legislative Instruments Act 2003*, s 4 (definition of *register*). The FRLI may be accessed at <http://www.frli.gov.au/>.

Dated this 12th day of September 2006

Signed by Grant Moodie
as a delegate of the Australian Securities and Investments Commission