

Australian Securities and Investments Commission
Corporations Act 2001 — Paragraphs 601QA(1)(a), 741(1)(a), 911A(2)(l),
992B(1)(a) and 1020F(1)(a) — Revocation and Exemption

1. Under paragraphs 601QA(1)(a) and 741(1)(a) of the *Corporations Act 2001* (the “Act”), the Australian Securities and Investments Commission (“ASIC”) hereby revokes Class Order [00/198].
2. Under paragraphs 601QA(1)(a), 911A(2)(l), 992B(1)(a) and 1020F(1)(a) of the Act, ASIC hereby exempts the class of persons mentioned in Schedule A from:
 - (a) section 601ED of the Act in relation to the operation of the managed investment scheme mentioned in Schedule B;
 - (b) sections 992A and 992AA and Part 7.9 of the Act in relation to:
 - (i) an offer mentioned in Schedule B;
 - (ii) an issue of an interest in a managed investment scheme resulting from an offer mentioned in Schedule B; and
 - (iii) a recommendation to acquire such an interest; and
 - (c) the requirement to hold an Australian financial services licence for the provision of financial services by the person in relation to interests in a managed investment scheme where offers and issues are made only as described in Schedule B.
3. Under paragraphs 911A(2)(l) and 1020F(1)(a) of the Act, ASIC hereby exempts each person (other than persons mentioned in Schedule A) from:
 - (a) the requirement to hold an Australian financial services licence for the provision of financial services by the person in relation to, and
 - (b) Part 7.9 of the Act in relation to a recommendation to acquire and an offer to arrange the issue of,

interests in a managed investment scheme in relation to which offers and issues appear to be made only as described in Schedule B, except where the person is aware, or ought reasonably to be aware, that those offers and issues are not made only as described in Schedule B.

SCHEDULE A

Persons operating any managed investment scheme mentioned in Schedule B or offering for issue or issuing interests in such a scheme.

SCHEDULE B

An offer made by a person (the “Offeror”) to another person (the “Offeree”) of an interest in a managed investment scheme arising out of a contract or proposed contract whereby an interest in the scheme is to be provided by the Offeror as consideration for or as part of the consideration for any of the following:

- (a) personal or professional services to be provided by the Offeree or, where the Offeree is not a natural person, by an officer or employee of the Offeree providing such services in the ordinary course of the Offeree’s business;
- (b) the sale or transfer of or grant of any right to use or exploit present or future intellectual property or know-how of the Offeree resulting from the labour or efforts of the Offeree or, where the Offeree is not a natural person, acquired in the ordinary course of its business;
- (c) the sale or transfer of goods (including agricultural produce) imported, manufactured or produced by the Offeree in the ordinary course of its business;
- (d) the sale or transfer of, or the entry into or grant of any lease, licence, tenancy, sharefarming agreement or profit a prendre in relation to, land (“interest in land”) where:
 - (i) the Offeree; or
 - (ii) a person (other than the Offeror or one of its associates) that held an interest in the scheme and from whom the Offeree has acquired the interest in land (the “former member”),

has owned or held the interest in land for at least six months prior to any offer of an interest in the scheme being made to the Offeree or, where sub-paragraph (ii) is relied upon, the former member;

- (e) the sale or transfer of any business owned by the Offeree for at least six months prior to negotiations commencing between the parties, or the grant of any proprietary interest with respect to such a business,

where:

- (f) no money is to be paid by the Offeree and no financial products are to be transferred by the Offeree in consideration of the interest or otherwise connected with or related to the grant of the interest, either to the Offeror or to any associate of the Offeror, unless the payment is a fee for services rendered or reimbursement of incidental expenses where the nature of the services or expenses and the applicable cost or means of calculating the applicable cost is separately disclosed to the Offeree prior to entering into the contract;
- (g) any right of the Offeree under the terms of the contract to terminate the contract or otherwise take action for default is not dependent upon the

approval or other action of persons who have entered into similar contracts with the Offeror; and

- (h) the interest does not relate to any other managed investment scheme; and
- (i) interests in the managed investment scheme have been and are only otherwise issued as follows:
 - (i) by an issue to which section 1477 of the Corporations Law applies (as continued in force by section 1408 of the Act); or
 - (ii) by an issue which results from an offer made before the Effective Date which, assuming the interests in the scheme were securities to which Part 6D.2 of the Act applied at the time the offer was made, would not have needed disclosure to investors because of section 708 of the Act; or
 - (iii) by an issue which results from an offer made on or after the Effective Date which, otherwise than as a result of this instrument, does not need a Product Disclosure Statement.

Interpretation

For the purposes of this instrument:

- (1) a transaction is in the ordinary course of the business of the Offeree only if that business does not regularly involve dealing in securities or other financial products and the transaction is merely incidental to the principal trade, business or calling in which the Offeree holds itself out to be engaged;
- (2) “Commencement Date” means the date of commencement of Schedule 1 to the *Financial Services Reform Act 2001*; and
- (3) “Effective Date” means:
 - (a) for interests in a managed investment scheme in a class which were first issued on or after the Commencement Date – the Commencement Date; and
 - (b) for any other interests in such a scheme - the date on which the new product disclosure provisions (as defined in section 1438 of the Act) first apply to the interests.

Commencement

This instrument takes effect on the Commencement Date.

Dated the 20th day of February 2002

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