

ASIC CLASS ORDER [CO 07/480]

EXPLANATORY STATEMENT

Prepared by the Australian Securities and Investments Commission

Corporations Act 2001

The Australian Securities and Investments Commission (ASIC) makes Class Order [CO 07/480] *Investor directed portfolio services, investor-directed portfolio-like services and managed discretionary accounts – amendments* under s601QA(1)(a), s741(1)(a), s992B(1)(a) and s1020F(1)(a) of the *Corporations Act 2001* (the Act).

Section 601QA(1)(a) provides that ASIC may exempt a person from a provision of Ch 5C.

Section 741(1)(a) provides that ASIC may exempt a person from a provision of Ch 6D.

Section 992B(1)(a) provides that ASIC may exempt a person from a provision of Pt 7.8.

Section 1020F(1)(a) provides that ASIC may exempt a person from a provision of Pt 7.9.

1. Background

Class Order [CO 02/294] *Investor directed portfolio services* provides conditional relief from the fundraising, product disclosure and managed investment provisions of the Act for persons operating (or involved in the operation of) an investor directed portfolio service (IDPS).

Class Order [CO 02/296] *Investor directed portfolio-like services provided through a registered managed investment scheme* provides conditional relief from the fundraising, product disclosure and managed investment provisions of the Act for a responsible entity and a person who causes or authorises the issue of a prospectus or Product Disclosure Statement for an interest in a registered managed investment scheme through which IDPS-like services are provided (IDPS-like scheme).

Class Order [CO 04/194] *Managed discretionary accounts* provides conditional relief from the managed investment and disclosure provisions of the Act for certain managed discretionary accounts (MDAs).

The relief in [CO 02/294], [CO 02/296] and [CO 04/194] requires clients to be given quarterly reports containing information about:

- (a) transactions by or on behalf of the client through the IDPS, IDPS-like scheme or MDA (the service);
- (b) quantity and value of assets held through the service by the client and corresponding liabilities as at the end of the quarter; and
- (c) revenue and expenses of the client in relation to the service and assets held through the service by the client during the quarter.

Alternatively, if a client agrees, this information can be provided electronically on a substantially continuous basis.

Clients must also receive an annual report containing information about transactions, assets and values together with a report of the annual audit of this information. If detailed transactional information is given by continuous electronic access or quarterly reports and subject to an appropriate audit report, it does not have to be included in the annual statement.

Where an operator or responsible entity provides electronic access to information that would be contained in the quarterly report, the report by the auditor that accompanies the annual report must include a statement as to whether or not the auditor has any reason to believe the electronically accessible information was materially misstated.

Some auditors have expressed concerns that the level of testing required to meet the audit requirements where continuous electronic access to account information is provided is unclear and possibly unreasonably onerous.

2. Purpose of the class order

The purpose of [CO 07/480] is to address the concerns of auditors referred to above.

[CO 07/480] clarifies what the report of an auditor must contain. It does this by identifying four points during a financial year upon which an auditor can base opinions and statements about electronically accessible information.

3. Operation of the class order

[CO 07/480] varies [CO 02/294], [CO 02/296] and [CO 04/194] so that, if the IDPS or MDA operator or responsible entity of an IDPS-like scheme gives electronic access to a client, the auditor need only perform a review of the information that is displayed at the end of each quarter provided that:

- (a) the information displayed at the end of each quarter remains accessible to clients through the same electronic facility until the end of the following financial year; and

- (b) the electronic facility through which the information is accessible includes a statement to the effect that only information displayed at the end of the quarter will be audited.

[CO 07/480] also applies a materiality test to the auditor's opinion about whether aggregates of assets, liabilities, revenues and expenses in annual client statements reconcile with corresponding amounts in the operator's or responsible entity's records.

4. Consultation

ASIC consulted with representatives of the accounting profession and the Investment and Financial Services Association about the amendment in [CO 07/480]. They supported the amendment.