

Australian Securities and Investments Commission
Corporations Act 2001 — Paragraphs 601QA(1)(a), 741(1)(a), 992B(1)(a) and
1020F(1)(a) — Variations

Enabling legislation

1. The Australian Securities and Investments Commission makes this instrument under paragraphs 601QA(1)(a), 741(1)(a), 992B(1)(a) and 1020F(1)(a) of the *Corporations Act 2001*.

Title

2. This instrument is ASIC Class Order [CO 07/480].

Commencement

3. This instrument commences on the date it is registered under the *Legislative Instruments Act 2003*.

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/>.

Variations

4. ASIC Class Order [CO 02/294] is varied as follows:
 - (a) in paragraph 1, after the definition of “operator”, insert:

““quarter’s end” means, in relation to electronic access to information under subparagraph 2(e)(xii)(B):

 - (a) the end of the day that is a quarter day; or
 - (b) where such access is not given at the time mentioned in paragraph (a)—the time at which access is first given after that time.”;
 - (b) omit subparagraph 2(e)(xii)(A), substitute:

“(A) give to each client of the IDPS a quarterly report within one month after each quarter day; or”;
 - (c) insert after subparagraph 2(e)(xii)(B)(II):

“If the operator provides electronic access to information to clients during a quarter instead of a quarterly report:

 - (BA) the information that was displayed at the quarter’s end for the quarter that purports to be the information required under subparagraphs 2(e)(xii)(F) to (I) must remain readily accessible to the clients through the same facility by which electronic access was given to the clients during the quarter until the end of the IDPS financial year after the IDPS financial year in which the quarter day falls; and

- (BB) the facility on which the information remains accessible must display to clients a statement to the effect that only information displayed at the quarter's end will be considered by the auditor in preparing its annual report relating to the information provided electronically.”;
- (d) in column 3 of the table in paragraph 2(j):
- (i) in subparagraph 1(b)(ii) of items 1 and 2 omit “misstated.”, substitute “misstated at each quarter’s end in the IDPS financial year.”;
 - (ii) in subparagraph 2 of items 1 and 2 after “reconciled”, insert “in all material respects”;
 - (iii) in subparagraph 3(b)(ii) of items 1 and 2 omit “misstated.”, substitute “misstated at each quarter’s end in the IDPS financial year.”;
 - (iv) in paragraph 2(b)(ii) of item 3 omit “alteration.”, substitute “alteration at each quarter’s end in the IDPS financial year.”.
5. ASIC Class Order [CO 02/296] is varied as follows:
- (a) in paragraph 1, after the definition of “NCS”, insert:

““quarter’s end” means, in relation to electronic access to information under subparagraph 2(j)(ii):

 - (a) the end of the day that is a quarter day; or
 - (b) where such access is not given at the time mentioned in paragraph (a)—the time at which access is first given after that time.”;
 - (b) omit subparagraph 2(j)(i), substitute:

“(A) give to each member a quarterly report within one month after each quarter day; or”;
 - (c) insert after subparagraph 2(j):

“(ja) If the responsible entity provides electronic access to information to members during a quarter instead of a quarterly report:

 - (i) the information that was displayed at the quarter’s end for the quarter that purports to be the information required under subparagraph 2(l) must remain readily accessible to members through the same facility by which electronic access was given to the members during the quarter until the end of the financial year of the IDPS-like scheme after the financial year of the IDPS-like scheme in which the quarter day falls; and

- (ii) the facility on which the information remains accessible must display to members a statement to the effect that only information displayed at the quarter's end will be considered by the auditor in preparing its annual report relating to the information provided electronically.”;
 - (d) in subparagraph 2(n)(i)(B)(II) omit “misstated.”, substitute “misstated at each quarter's end in the financial year;”;
 - (e) in subparagraph 2(n)(ii) after “reconciled”, insert “in all material respects”;
 - (f) in subparagraph 2(n)(iii)(B)(II) omit “misstated:”, substitute “misstated at each quarter's end during the financial year:”.
6. ASIC Class Order [CO 04/194] is varied as follows:
- (a) omit subparagraph 1.29(a), substitute:
 - “(a) particulars of all transactions effected as part of the MDA services provided to the client during each three month period (the *reporting period*) ending on each quarter day;”;
 - (b) insert after paragraph 1.30:
 - “1.30A If, for the purposes of paragraphs 1.29 and 1.30, the MDA operator gives electronic access to information during a reporting period instead of giving a quarterly report:
 - (a) the information that was displayed at the quarter's end for the reporting period that purports to be the information required under paragraph 1.29 must remain readily accessible to the client through the same facility by which electronic access was given during the reporting period until 1 July second occurring after the start of the reporting period; and
 - (b) the facility on which the information remains accessible must display to clients a statement to the effect that only information displayed at the quarter's end will be considered by the auditor in providing its annual report to clients relating to the information provided electronically.”;
 - (c) in subparagraph 1.31(b)(i)(B) omit “year;”, substitute “year at each quarter's end in the year;”;
 - (d) in subparagraph 1.31(b)(ii) after “reconciled”, insert “in all material respects”;
 - (e) in subparagraph 1.31(b)(iii)(A) omit “quarter of the year; or”, substitute “reporting period in the year; or”;

- (f) in subparagraph 1.31(b)(iii)(B) omit “year,” substitute “year at each quarter’s end in the year,”;
- (g) in subparagraph 1.31(c)(ii) omit “year,” substitute “year at each quarter’s end in the year,”;
- (h) in paragraph 7.6 insert after subparagraph (o):
 - “(oa) ***quarter’s end*** means, in relation to electronic access to information under subparagraph 1.30(b):
 - (i) the end of the day that is a quarter day; or
 - (ii) where such access is not given at the time mentioned in paragraph (a)—the time at which access is first given after that time.”.

Dated this 27th day of June 2007

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