

ASIC CLASS ORDER [CO 07/568]

EXPLANATORY STATEMENT

Prepared by the Australian Securities and Investments Commission

Corporations Act 2001

The Australian Securities and Investments Commission (ASIC) makes Class Order [CO 07/568] *Revocation of Class Orders [CO 00/345] and [CO 01/1545]* under paragraphs 669(1)(a) and 669(1)(b) of the *Corporations Act 2001* (the Act).

Paragraph 669(1)(a) provides that ASIC may exempt a person from a provision of Chapter 6A.

Paragraph 669(1)(b) provides that ASIC may declare that Chapter 6A applies to a person as if specified provisions were omitted, modified or varied as specified in the declaration.

1. Background

The *Corporations Legislation Amendment (Simpler Regulatory System) Act 2007* (SRS Act) introduced a number of amendments to the Act. In particular, the SRS Act repealed Division 3 of Part 6A.2 of the Act with effect from 28 June 2007.

Before its repeal by the SRS Act, Division 3 of Part 6A.2 required the holder of 85% or more of a class of securities in a company (85% holder) to notify the company. It also required the company to notify its members.

Class Order [CO 00/345] *Notice by 85% holder* exempted a person who was an 85% holder from the application of the former Division 3 of Part 6A.2 to the extent that it would otherwise have required the person to give a notice to a single member company or a company that was a wholly-owned subsidiary.

Class Order [CO 01/1545] *85% holder notices* modified the provisions of the former Division 3 of Part 6A.2 so that:

- a person who was an 85% holder did not have to notify the company that they had become an 85% holder if they had given a compulsory acquisition notice or a buy-out notice; and
- if the company received a notice from an 85% holder, the company was required to notify each member and each holder of its securities who was not a member, but only if the 85% holder had not given the member or holder a compulsory acquisition notice or a buy-out notice.

2. Purpose of the class order

Class Order [CO 07/568] will facilitate regulatory clarity by eliminating inconsistencies between Chapter 6A of the Act and ASIC class orders.

Class Orders [CO 00/345] and [CO 01/1545] can have no further operation, and so are no longer necessary, in light of the fact that the SRS Act has repealed Division 3 of Part 6A.2 of the Act.

3. Operation of the class order

Class Order [CO 07/568] revokes [CO 00/345] and [CO 01/1545].

4. Consultation

ASIC did not undertake any specific consultation with other stakeholders before [CO 07/568] was made because it is of a minor and machinery nature.