

**Australian Securities and Investments Commission
Corporations Act 2001 — Paragraph 1020F(1)(a) — Exemption**

Enabling legislation

1. The Australian Securities and Investments Commission makes this instrument under paragraph 1020F(1)(a) of the *Corporations Act 2001* (the *Act*).

Title

2. This instrument is ASIC Class Order [CO 08/764].

Commencement

3. The provisions of this instrument commence as follows:
 - (a) paragraphs 1 to 4 commence on the date the instrument is registered under the *Legislative Instruments Act 2003*;
 - (b) paragraphs 5 to 7 commence on the day after the instrument is registered.

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/>.

Exemption

4. A person does not have to comply with subsection 1020B(2) of the Act in relation to the sale of a security or managed investment product where the transaction effecting the sale of the security or product is the result of the exercise of an option (*ETO*) registered with Australian Clearing House Pty Limited.

Conditions

Brokers

5. A financial services licensee who makes a sale of a security or product on behalf of another person as the result of the exercise of an ETO must ask the other person whether the sale would breach subsection 1020B(2) of the Act but for paragraph 4. The licensee must record the answer in written or electronic form before selling the product.
6. A financial services licensee who is a participant on the market must by no later than 9.00am on each trading day inform the market operator of their net ETO securities short position in relation to each relevant security or product as at 7:00pm on the previous trading day.

Exercise of put option

7. A person who requests a financial services licensee to make a sale of a security or product by way of exercising an ETO must, when making the request, inform the licensee whether the sale would breach subsection 1020B(2) of the Act but for paragraph 4.

Assignment of call option

8. A person who is required to make a sale of a security or product as the result of the exercise of an ETO must, at the time of being so required, inform the financial services licensee who acted on the person's behalf in relation to the ETO whether the sale would breach subsection 1020B(2) of the Act but for paragraph 4.

Interpretation

9. In this instrument:

net ETO securities short position means, in relation to a financial product sold by a financial services licensee, the amount worked out according to the following formula:

borrowed products sold — borrowed products settled

where:

borrowed products sold means the total number of products in the class the sale of which is covered by paragraph 4 that have been sold by the licensee since the commencement of paragraph 6 this instrument; and

borrowed products settled means the total number of borrowed products sold in the class in respect of which products have been vested in the buyer since the commencement of paragraph 6 this instrument.

Dated this 23rd day of September 2008

Signed by Stephen Yen, PSM
as a delegate of the Australian Securities and Investments Commission