

**Australian Securities and Investments Commission
Corporations Act 2001 — Paragraph 601QA(1)(b) — Declaration**

Enabling Legislation

1. The Australian Securities and Investments Commission makes this instrument under paragraph 601QA(1)(b) of the *Corporations Act 2001* (the *Act*).

Title

2. This instrument is ASIC Class Order [CO 09/552].

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*, section 4 (definition of *register*). The FRLI may be accessed at <http://www.frli.gov.au/>.

Declaration

4. Chapter 5C of the Act applies to all persons in relation to a registered scheme as if section 601GC of the Act were modified or varied as follows:
 - (a) in subsection (1) omit “The”, substitute “Subject to this section, the”; and
 - (b) after subsection (1) insert:

“(1AAA) The constitution of the scheme may be modified, or repealed and replaced with a new constitution, by the responsible entity if at least one of the following is satisfied at the time of the modification, or repeal and replacement:

 - (a) a meeting of members is unable to be held because the quorum requirement in either subsection 252R(2) or the scheme’s constitution is not capable of being satisfied because the scheme has an insufficient number of members;
 - (b) every member of the scheme is not entitled to vote at a meeting of members because of section 253E;
 - (c) all interests in the scheme were issued:
 - (i) in situations that did not require the responsible entity to give a Product Disclosure Statement; and
 - (ii) without disclosure to investors under Part 6D.2; and
 - (iii) without a prospectus under Division 2 of Part 7.12 of the old Corporations Law.

(1AAB) The responsible entity may only make the modification, or repeal and replacement, under subsection (1AAA) if, before the modification, or repeal and replacement, both of the following are satisfied:

- (a) the responsible entity has provided to each member of the scheme, the auditor of the scheme and the auditor of the scheme's compliance plan, all the information that the responsible entity reasonably expects to be material to the decision of a member whether to consent to the modification, or repeal and replacement;
- (b) after the information in paragraph (a) has been provided, every member of the scheme has given their written consent, to the modification, or repeal and replacement.

(1AAC) In this section:

old Corporations Law means the Corporations Law of each State and Territory as in force from time to time before 13 March 2000.”.

Dated this 9th day of September 2009

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