

Australian Securities and Investments Commission
Corporations Act 2001 — Paragraphs 601QA(1)(b), 926A(2)(a), 992B(1)(a) and
1020F(1)(a) — Declaration and Exemptions

Enabling provision

1. The Australian Securities and Investments Commission (*ASIC*) makes this instrument under paragraphs 601QA(1)(b), 926A(2)(a), 992B(1)(a) and 1020F(1)(a) of the *Corporations Act 2001* (the *Act*).

Title

2. This instrument is ASIC Class Order [CO 10/333].

Commencement

3. This instrument commences on the day 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/>.

Declaration and exemptions

4. ASIC declares that Chapter 5C of the Act applies to all persons as if the definition of *managed investment scheme* in section 9 of the Act were modified or varied by, after paragraph (ma) inserting:

“(maa) a scheme for participating in, conducting and funding legal proceedings where the members of the scheme have or may have an entitlement to a remedy arising out of the same or similar circumstances;

(mab) a scheme for proving claims against a company under Division 6 of Part 5.6 (including funding of the preparation and lodgment of the proofs) where the members of the scheme have or may have claims against the company arising out of the same or similar circumstances;”.

5. A person does not have to comply with subsection 911A(1) or 911B(1) of the Act for the provision of a financial service in relation to:
 - (a) an interest in a managed investment scheme (a *litigation funding scheme*) that is a scheme for participating in, conducting and funding legal proceedings where the members of the scheme have or may have an entitlement to a remedy arising out of the same or similar circumstances; or
 - (b) an interest in a managed investment scheme (a *proof of debt funding scheme*) that is a scheme for proving claims against a company under Division 6 of Part 5.6 of the Act (including funding of the preparation and lodgment of the proofs) where the members of the scheme have or may have claims against the company arising out of the same or similar circumstances.
6. A person does not have to comply with subsection 992AA(1) of the Act in relation to:
 - (a) an interest in a litigation funding scheme; or
 - (b) an interest in a proof of debt funding scheme.
7. A person does not have to comply with Part 7.9 of the Act in relation to:
 - (a) an interest in a litigation funding scheme; or
 - (b) an interest in a proof of debt funding scheme.

Application

8. For the avoidance of doubt, the declaration in paragraph 4 does not have effect for the purposes of section 601MB of the Act in relation to a contract entered into before the commencement of this instrument by a person to subscribe for an interest in:
 - (a) a litigation funding scheme; or
 - (b) a proof of debt funding scheme.
9. Paragraphs 4, 5 and 7 do not apply in relation to a litigation funding scheme that is covered by an instrument made under paragraphs 601QA(1)(b), 926A(2)(a) and (c) and 1020F(1)(b) of the Act for so long as the instrument:
 - (a) affects the operation of, or exempts a person from, provisions of the Act in relation to the scheme; or
 - (b) exempts an interest in the scheme from provisions of the Act.
10. This instrument has effect until 30 September 2010.

Dated this 5th day of May 2010

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