

ASIC CLASS ORDER [CO 11/162]

EXPLANATORY STATEMENT

Prepared by the Australian Securities and Investments Commission
Corporations Act 2001

The Australian Securities and Investments Commission (**ASIC**) makes ASIC Class Order [CO 11/162] under subsections 741(1) and 1020F(1) of the *Corporations Act 2001* (the **Act**).

Subsection 341(1) provides that ASIC may make an order in respect of a specified class of companies, registered schemes or disclosing entities that relieves the entities in question, their directors and/or auditors from specified requirements of Parts 2M.2, 2M.3 or 2M.4 (other than Division 4) of the Act.

Subsection 741(1) provides that ASIC may declare that Chapter 6D applies to a person as if specified provisions (including definitions as they apply to references in that Chapter) were omitted, modified or varied as specified in the declaration.

Subsection 1020F(1) provides that ASIC may declare that Part 7.9 applies in relation to a person as if specified provisions (including definitions as they apply to references in that Part) were omitted, modified or varied as specified in the declaration.

1. Background

Parent entity financial reports

The *Corporations Amendment (Corporate Reporting Reform) Act 2010* (“CRRRA”) amended the Act so that those entities reporting under Chapter 2M that present consolidated financial statements are no longer required to present parent entity financial statements. This change applies for financial reports for the year ended 30 June 2010.

Including different registered scheme financial reports in a single document

Subsections 295(2) and 303(2) of the Act only allow financial reports to include those financial statements specified by the accounting standards. An entity’s financial report is not permitted to include the financial statements of another entity.

Nevertheless, it had been the current practice of some responsible entities to include the financial statements of different registered schemes for which they are the responsible entity in adjacent columns in a single financial report. This practice had also been adopted by different responsible entities with a common beneficial owner in relation to the schemes of which they are responsible entities.

Class Order [10/654]

Class Order [CO 10/654] “Inclusion of parent entity financial statements in financial reports” allows companies, registered schemes and disclosing entities that present consolidated financial statements to include their own parent entity financial statements as part of their full year financial report or concise report under Chapter 2M of the Act.

Class Order [CO 09/425]

The Act generally requires a person to prepare a disclosure document or PDS for an offer to issue securities or financial products.

Class Order [CO 09/425] provides conditional relief from certain provisions in:

- Ch 6D of the Act for shares offered by ASX-listed companies to existing members under a share purchase plan; and
- Part 7.9 of the Act for interests offered by ASX-listed managed investment schemes to existing members under an interest purchase plan.

Class Order [CO 06/441]

Class Order [CO 06/441] allows responsible entities to continue the current practice of including the financial statements of related registered schemes that have a common responsible entity (or related responsible entities) in adjacent columns in a single financial report. The relief applies to full year financial reports, concise financial reports and half-year financial reports. The relief is subject to conditions.

Class Order [CO 05/644]

Class Order [CO 05/644] allows the presentation of a pro forma statement of financial position in the notes to the financial statements to explain the financial effect of material acquisitions and disposals of entities and businesses after balance date.

2. Purpose of the Class Order

The purpose of Class Order [CO 11/162] is to allow entities that take advantage of [CO 05/644], [CO 06/441] and [CO 10/654] to be provided with conditional relief from certain provisions in Ch 6D and Part 7.9 of the Act in relation to the offering of share and interest purchase plans.

3. Operation of the Class Order

Class Order [CO 11/162] “Variation to Class Order [CO 09/425]” varies [CO 09/425] to allow entities that take advantage of [CO 05/644], [CO 06/441] and [CO 10/654] to be provided with conditional relief from certain provisions in:

- Ch 6D of the Act for shares offered by ASX-listed companies to existing members under a share purchase plan; and
- Part 7.9 of the Act for interests offered by ASX-listed managed investment schemes to existing members under an interest purchase plan.

4. Consultation

Consultation was not made as [CO 11/162] is only minor or machinery in nature and does not substantially alter existing arrangements. ASIC did not undertake any consultation with stakeholders before that class order was made.