

ASIC CLASS ORDER [CO 14/757]

EXPLANATORY STATEMENT

Prepared by the Australian Securities and Investments Commission

Corporations Act 2001
National Consumer Credit Protection Act 2009

The Australian Securities and Investments Commission (*ASIC*) makes ASIC Class Order [CO 14/757] under subsections 283GA(1), 341(1), 601QA(1), 601YAA(1), 741(1), 926A(2), 951B(1), 992B(1) and 1020F(1) and paragraph 911A(2)(l) of the *Corporations Act 2001* (the *Act*) and under subsection 109(3) of the *National Consumer Credit Protection Act 2009* (the *NCCP Act*).

Subsection 283GA(1) of the Act provides that ASIC may exempt a person from a provision of Chapter 2L of the Act or declare that Chapter 2L applies to a person as if specified provisions were omitted, modified or varied as specified in the declaration.

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

Subsection 601QA(1) of the Act provides that ASIC may exempt a person from a provision of Chapter 5C of the Act or declare that the Chapter applies to a person as if specified provisions were omitted, modified or varied as specified in the declaration.

Paragraph 601YAA(1)(a) of the Act provides that ASIC may exempt a person or a class of persons from all or specified provisions of Chapter 5D of the Act.

Subsection 741(1) of the Act provides that ASIC may exempt a person from a provision of Chapter 6D of the Act or declare that the Chapter applies to a person as if specified provisions were omitted, modified or varied as specified in the declaration.

Paragraph 911A(2)(l) of the Act provides that a person does not need to hold an Australian financial services licence for the provision of a financial service that is covered by an exemption specified by ASIC in writing and published in the *Gazette*.

Subsection 926A(2) of the Act provides that ASIC may:

- (a) exempt a person or financial product or a class of persons or financial products from all or specified provisions of Part 7.6 (other than Divisions 4 and 8) of the Act; or

- (b) declare that Part 7.6 (other than Divisions 4 and 8) of the Act applies in relation to a person or financial product, or a class of persons or financial products, as if specified provisions were omitted, modified or varied as specified in the declaration.

Paragraph 951B(1)(a) of the Act provides that ASIC may exempt a person or a class of persons from all or specified provisions of Part 7.7 of the Act.

Subsection 992B(1) of the Act provides that ASIC may:

- (a) exempt a person or financial product or a class of persons or financial products from all or specified provisions of Part 7.8 of the Act; or
- (b) declare that Part 7.8 of the Act applies in relation to a person or financial product, or a class of persons or financial products, as if specified provisions were omitted, modified or varied as specified in the declaration.

Subsection 1020F(1) of the Act provides that ASIC may:

- (a) exempt a person or financial product or a class of persons or financial products from all or specified provisions of Part 7.9 of the Act; or
- (b) declare that Part 7.9 of the Act applies in relation to a person or financial product, or a class of persons or financial products, as if specified provisions were omitted, modified or varied as specified in the declaration.

Paragraphs 109(3)(a) and (d) of the NCCP Act provide that ASIC may, by legislative instrument, exempt a class of persons from all or specified provisions to which Part 2-6 of the NCCP Act applies or declare that such provisions apply in relation to a class of persons as if specified provisions were omitted, modified or varied as specified in the declaration.

Class Order [CO 14/757] amends a number of existing ASIC class orders. Under subsection 33(3) of the Acts Interpretation Act 1901 (as in force as at 1 January 2005 and as applicable to the relevant powers because of section 5C of the Act), where an Act confers a power to make, grant or issue any instrument (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

1. Background

Auditor registration

The Act requires certain entities to appoint registered company auditors, audit firms or authorised audit companies to conduct audits or perform other tasks. Audit firms and authorised audit companies must, among other things, include registered company auditors as members.

Part 9.2 of the Act provides for the registration of individuals as auditors. Under subsection 1280(2), ASIC must register a person as an auditor if, among other things, ASIC is satisfied that the person satisfies all the components of an auditing competency standard approved by ASIC or had such practical experience in auditing as is prescribed (currently 3,000 hours over 5 years including 750 hours as a supervisor).

Subsection 1280A(1) provides that ASIC may, on application, approve an auditing competency standard for this purpose. By subsection 1280A(3), ASIC must not approve a standard unless it is satisfied of certain things, including that the standard provides that a person's performance against each component of the standard is appropriately verified.

After consulting with industry, in July 2004 ASIC issued Policy Statement 180 *Auditor Registration* which dealt with, among other things, how ASIC would exercise its power to approve an auditing competency standard.

In November 2004, ASIC approved the auditing competency standard (the ***CPA/ICAA standard***) issued by CPA Australia and The Institute of Chartered Accountants in Australia (now operating as Chartered Accountants Australia and New Zealand) under section 1280A. The standard requires applicants for registration to demonstrate their capacity to perform particular tasks in specified contexts, including tasks relating to audit planning, testing of internal control procedures and forming opinions on the extent of misstatements in account balances.

The *Legislative Instruments Act 2003* (the ***LI Act***) commenced on 1 January 2005. Under that Act, legislative instruments made in 2004 were required to be lodged with the Attorney-General's Department by 1 October 2006 for registration on the Federal Register of Legislative Instruments. Failure to lodge such an instrument by that date has the effect that the instrument is taken to have been repealed.

ASIC has recently become aware that the instrument by which it approved the CPA/ICAA standard is likely to be a legislative instrument. It was never lodged for registration. It is likely that it was taken to have been repealed by the Legislative Instruments Act on 1 October 2006. ASIC has been registering auditors in reliance on the standard since that date. The legal efficacy of those registrations is uncertain.

Section 1299B of the Act specifies criteria that must be met in order for a company to be registered as an authorised audit company under section 1299C. These include requirements that particular persons associated with the company must be registered company auditors. Given the uncertainty surrounding the registration of persons as registered company auditors since 1 October 2006, there is also uncertainty about the legal efficacy of certain registrations of authorised audit companies since that date.

In light of this legal uncertainty, Class Order [CO 14/757] gives prospective relief to the extent possible, so that acts and things that must be done by registered company auditors and authorised audit companies may also be done by auditors whose registration may have been adversely affected.

At the same time as making Class Order [CO 14/757], ASIC has reapproved the CPA/ICAA standard under Class Order [CO 14/784]. The effect of the approval is to reinstate the standard so as to ensure that it may be applied prospectively by ASIC in deciding whether to register a person as an auditor.

The Government will be introducing remedial legislation to ensure the validity of the registration of auditors in reliance on the standard since 1 October 2006, with effect from their purported registration.

Class Order [CO 01/1455]

Sections 713 and 1013FA of the Act permit a disclosing entity to prepare a disclosure document or Product Disclosure Statement (PDS) with a specified limited content (“transaction-specific disclosure”) for continuously quoted securities. Transaction-specific disclosure is predicated on the fact that such entities are subject to the continuous disclosure requirements of the Act and that the market generally should have all information necessary to reach an informed view about those securities.

Section 9 of the Act defines “continuously quoted securities”. Securities and financial products will only satisfy the definition of “continuously quoted securities” where, among other things, no order covered the entity, its directors or auditor, during the shorter of the period during which the class of securities were quoted and the period of 12 months before the date of the prospectus or PDS.

Class Order [CO 01/1455] allows an entity to use transaction-specific disclosures even where the entity, its directors or auditor are covered by certain ASIC orders made under section 341 which give technical accounting and financial reporting relief and do not detract from the level of information available to the market.

Class Order [CO 04/672]

The Act requires a person to prepare a disclosure document or PDS for an offer to sell securities or financial products where:

- (a) the offer is made within 12 months of issue;
- (b) there was no disclosure at the time of issue; and
- (c) certain other criteria set out in sections 707 and 1012C are satisfied.

A prospectus or PDS is not required for securities or financial products that are quoted and for which a “cleansing notice” under sections 708A and 1012DA has been lodged with the relevant operator of the financial market. This “cleansing notice” exemption is only available where, among other thing, no order under section 341 covered the entity, its directors and auditor, at any time during the shorter of the period during which the class of securities or financial products were quoted and the period of 12 months before the day on which the relevant securities or products were issued.

Class Order [CO 04/672] allows an entity to rely on the “cleansing notice” exemption even where the entity, its directors or auditor are covered by certain ASIC orders made under section 341 which give technical accounting and financial reporting relief and do not detract from the level of information available to the market.

Class Order [CO 07/571]

Sections 708AA and 1012DAA of the Act permit an entity to make a rights issue of quoted securities and quoted financial products without a disclosure document or Product Disclosure Statement, provided certain requirements are satisfied.

One requirement is that no order under section 341 of the Act covered the entity, or any person as director or auditor of the entity, at any time during the shorter of the period during which the class of securities or financial products were quoted and the period of 12 months before the day on which offers under the rights issue are made.

Class Order [CO 07/571] ensures that orders made under section 341 of the Act which give technical accounting and financial reporting relief and do not detract from the level of information available to the market, are disregarded for the purposes of the disclosure exemption for rights issues.

Class Order [CO 09/425]

Class Order [CO 09/425] permits ASX-listed entities to make offers of shares and interests to existing members under a share or interest purchase plan.

One requirement is that no order under section 341 of the Act (other than an “excluded order”) covered the issuer, or any person as director or auditor of the issuer, at any time in the shorter of the period during which the class was quoted, and the period of 12 months before the day on which the offer is made.

The definition of “excluded order” ensures that orders made under section 341 of the Act which give technical accounting and financial reporting relief and do not detract from the level of information available to the market, are disregarded for the purposes of the disclosure exemption for share and interest purchase plans.

2. Purposes of the class order

The purposes of this class order are to:

- (a) give prospective relief to the extent possible, so that acts and things that must be done by registered company auditors and authorised audit companies may also be done by auditors whose registration may have been adversely affected; and
- (b) allow entities that rely on such relief to use transaction specific disclosures and rely on “cleansing notice” exemptions and exemptions applying to rights issues and share purchase plans.

3. Operation of the class order

Order under Chapter 2M of the Act

Paragraph 4 contains an order under section 341(1) of the Act that exempts an ***affected entity*** from requirements under or arising from Parts 2M.2, 2M.3 and 2M.4 (other than Division 4) of the Act. The exemption applies to the extent that the requirement would not otherwise be satisfied merely because:

- (a) a person is an ***affected auditor*** or an ***affected audit company*** rather than a registered company auditor or an authorised audit company; or
- (b) an act, matter or thing is done by such a person, rather than by a registered company auditor or an authorised audit company.

affected entity is defined in paragraph 36 to encompass, directors, companies, registered schemes, disclosing entities and their auditors (together with directors of audit companies and members of audit firms). The definition also includes individuals, companies (and their directors) and firms (and their members) who have consented or purported to consent to be appointed as auditor. As a result of this definition, the order under paragraph 4 will apply in relation to persons whose appointment as auditor may be uncertain because of uncertainty as to whether their registration as a registered company auditor or authorised audit company was effective.

affected auditor is defined in paragraph 37 to capture persons whose status as a registered company auditor is uncertain due to the likely repeal of ASIC's approval of the CPA/ICAA standard. The definition excludes persons whose purported registration is purportedly suspended or cancelled.

affected audit company is defined in paragraph 38 to capture persons whose status as an authorised audit company is uncertain due to the likely repeal of ASIC's approval of the CPA/ICAA standard. The definition excludes persons whose purported registration is purportedly suspended or cancelled.

The effect of the order in paragraph 4 is to allow the relevant requirements under Chapter 2M to be complied with from commencement of the class order as if affected auditors and affected audit companies had been validly registered.

Although it operates prospectively, the order applies regardless of whether the circumstances giving rise to the requirement arose before or after commencement of the class order.

Declaration under Chapter 5C of the Act

Section 601HG of the Act contains certain requirements in relation to the audit of a compliance plan for a registered scheme, including that the responsible entity must

ensure that at all times a registered company auditor, an audit firm or an authorised audit company is engaged to audit compliance with the scheme's compliance plan.

Paragraph 5 modifies section 601HG so that the relevant requirements apply as if an affected auditor were a registered company auditor and an affected audit company were an authorised audit company.

Exemption under Chapter 5C of the Act

Paragraph 6 exempts a responsible entity from requirements under Chapter 5C to the extent that the requirement would not otherwise be satisfied merely because:

- (a) a person is an affected auditor or an affected audit company rather than a registered company auditor or an authorised audit company; or
- (b) an act, matter or thing is done by such a person, rather than by a registered company auditor or an authorised audit company.

The effect of the exemption is to allow the relevant requirements to be complied with as if affected auditors and affected audit companies had been validly registered.

The exemption applies where the circumstances giving rise to the requirement arose before commencement of the class order. Although the declaration in paragraph 5 will address most requirements under Chapter 5C after commencement of the class order, the exemption has been included to address circumstances where the declaration may not apply (e.g. where the requirement is a continuing requirement that first arose before commencement of the class order).

Exemption under Chapter 5D of the Act

Regulation 5D.2.08 of the *Corporations Regulations 2001* requires a licensed trustee company to:

- (a) have the financial statements for each common fund established by the company that is not a registered scheme audited by a registered company auditor; and
- (b) obtain an auditor's report for the financial statements.

Paragraph 7 exempts a licensed trustee company from this requirement to the extent that the requirement would not otherwise be satisfied merely because:

- (a) a person is an affected auditor rather than a registered company auditor; or
- (b) an act, matter or thing is done by an affected auditor, rather than by a registered company auditor.

Declaration under Chapter 6D of the Act

Sections 708AA and 708A of the Act contain exemptions from the disclosure requirements that generally apply to offers of securities under Chapter 6D. These exemptions apply to certain rights issues and to certain sale offers of securities. In order for the exemption to apply, a notice must be given to the relevant market operator containing various statements, including that as the body issuing the securities has complied with the provisions of Chapter 2M of the Act as at the date of the notice.

Paragraph 8 modifies sections 708AA and 708A so that the notice stating that the body has complied with the provisions of Chapter 2M may be given where any non-compliance has resulted merely from:

- (a) a person being an affected auditor or an affected audit company rather than a registered company auditor or an authorised audit company; or
- (b) an act, matter or thing being done by such a person, rather than by a registered company auditor or an authorised audit company.

Exemption under Part 7.6 of the Act

Paragraph 912A(1)(b) of the Act requires a financial services licensee to comply with the conditions on its licence. Licence conditions commonly include requirements in relation to a registered company auditor.

Paragraph 9 exempts a financial services licensee from complying with paragraph 912A(1)(b) to the extent that the requirement would not otherwise be satisfied merely because:

- (a) a person is an affected auditor or an affected audit company rather than a registered company auditor or an authorised audit company; or
- (b) an act, matter or thing is done by such a person, rather than by a registered company auditor or an authorised audit company.

Declaration under Part 7.8 of the Act

Part 7.8 of the Act and regulations made under that Part contain various provisions in relation to the auditor of a financial services licensee and the requirement for the auditor to audit financial statements of the licensee.

Paragraph 10 inserts a new notional section 990M into the Act that provides that:

- (a) for the purposes of Part 7.8, an affected auditor is taken to be a registered company auditor and an affected audit company is taken to be an authorised audit company;

- (b) a person who is purporting to be appointed as auditor of a licensee will have their appointment confirmed to the extent that there may be uncertainty about the appointment merely because the person is an affected auditor or an affected audit company rather than a registered company auditor or an authorised audit company. The appointments of audit firms and their members will similarly be confirmed where there may be uncertainty about their appointment because members of the firm are affected auditors rather than registered company auditors; and
- (c) if a person is taken to be so appointed, the licensee does not need to lodge a notice under section 990B(6) of the Act in relation to the deemed appointment under notional section 990M. However, if it has not already done so, ASIC expects the licensee to lodge a notice under section 990B(6) in relation to the purported appointment as if the purported appointment were effective unless a relevant exception applies (e.g. because the notice is taken to have been lodged under regulation 7.8.15(1A) of the Corporations Regulations).

Exemption under Part 7.8 of the Act

Paragraph 11 exempts a financial services licensee from requirements under Part 7.8 to the extent that the requirement would not otherwise be satisfied merely because:

- (a) a person is an affected auditor or an affected audit company rather than a registered company auditor or an authorised audit company; or
- (b) an act, matter or thing is done by such a person, rather than by a registered company auditor or an authorised audit company.

The effect of the exemption is to allow the relevant requirements to be complied with as if affected auditors and affected audit companies had been validly registered.

The exemption applies where the circumstances giving rise to the requirement arose before commencement of the class order. Although the declaration in paragraph 10 will address most requirements under Part 7.8 (and relevant regulations) after commencement of the class order, the exemption has been included to address circumstances where the declaration may not apply (e.g. where the requirement is a continuing requirement that first arose before commencement of the class order).

Declaration under Part 7.9 of the Act

Sections 1012DAA and 1012DA of the Act contain disclosure exemptions for offers of financial products that are similar to those applying to offers of securities under sections 708AA and 708A.

Paragraph 12 makes modifications to sections 1012DAA and 1012DA that are equivalent to the modifications made by paragraph 8 to sections 708AA and 708A.

Declaration under Part 2-6 of the NCCP Act

Paragraph 13 modifies the NCCP Act and regulations by:

- (a) providing that an affected auditor is taken to be a registered company auditor for the purposes of section 105 of the NCCP Act; and
- (b) modifying regulations 18 and 19 of the *National Consumer Credit Protection Regulations 2010*:
 - (i) to allow affected auditors and affected audit companies to be appointed as auditor of a credit licensee; and
 - (ii) so that a person who is purporting to act as auditor of a credit licensee will have their appointment confirmed to the extent that there may be uncertainty about the appointment merely because the person is an affected auditor or an affected audit company rather than a registered company auditor or an authorised audit company.

Exemption under Part 2-6 of the NCCP Act

Paragraph 14 exempts a credit licensee from requirements under Part 2-6 of the NCCP Act to the extent that the requirement would not otherwise be satisfied merely because:

- (a) a person is an affected auditor or an affected audit company rather than a registered company auditor or an authorised audit company; or
- (b) an act, matter or thing is done by such a person, rather than by a registered company auditor or an authorised audit company.

The effect of the exemption is to allow the relevant requirements to be complied with as if affected auditors and affected audit companies had been validly registered.

The exemption applies where the circumstances giving rise to the requirement arose before commencement of the class order. Although the declaration in paragraph 13 will address most requirements under Part 2-5 of the NCCP Act (and relevant regulations) after commencement of the class order, the exemption has been included to address circumstances where the declaration may not apply (e.g. where the requirement is a continuing requirement that first arose before commencement of the class order).

Amendment of ASIC class orders

Amendment of class orders containing requirements relating to registered company auditors

A number of existing ASIC class orders have requirements relating to registered company auditors. The following class orders have been amended to provide that such requirements may be met by an affected auditor:

- (a) ASIC Class Order [CO 98/1417] – amended by paragraph 15.
- (b) ASIC Class Order [CO 02/184] – amended by paragraph 19.
- (c) ASIC Class Order [CO 02/237] – amended by paragraph 20.
- (d) ASIC Class Order [CO 02/303] – amended by paragraph 21.
- (e) ASIC Class Order [CO 02/304] – amended by paragraph 22.
- (f) ASIC Class Order [CO 02/305] – amended by paragraph 23.
- (g) ASIC Class Order [CO 04/194] – amended by paragraph 24.
- (h) ASIC Class Order [CO 12/752] – amended by paragraph 31.
- (i) ASIC Class Order [CO 13/760] – amended by paragraph 32.
- (j) ASIC Class Order [CO 13/761] – amended by paragraph 33.
- (k) ASIC Class Order [CO 13/762] – amended by paragraph 34.
- (l) ASIC Class Order [CO 13/763] – amended by paragraph 35.

Amendment of class orders requiring compliance with provisions of Chapter 2M

Other ASIC class orders contain relief based on (among other matters) compliance with the requirements of Chapter 2M of the Act. These class orders are amended so that the relevant entity is taken to have complied with the relevant requirements of Chapter 2M where any non-compliance has resulted merely from:

- (a) a person being an affected auditor or an affected audit company rather than a registered company auditor or an authorised audit company; or
- (b) an act, matter or thing being done by such a person, rather than by a registered company auditor or an authorised audit company.

The affected class orders are:

- (a) ASIC Class Order [CO 98/1418] – amended by paragraph 16.
- (b) ASIC Class Order [CO 98/2016] – amended by paragraph 17.
- (c) ASIC Class Order [CO 06/441] – amended by paragraph 26.
- (d) ASIC Class Order [CO 09/425] – amended by paragraph 28.

- (e) ASIC Class Order [CO 10/321] – amended by paragraph 29.
- (f) ASIC Class Order [CO 10/654] – amended by paragraph 30.

Amendment of ASIC Class Order [CO 01/1455]

Class Order [CO 01/1455] is amended by paragraph 18 to:

- (a) allow entities that take advantage of [CO 14/757] to use transaction specific disclosures;
- (b) remove obsolete references to Class Orders [CO 05/83] and [CO 05/637];
- (c) refer to [CO 13/1050] rather than [CO 13/1051]; and
- (d) for certainty, provide that entities may use transaction specific disclosures despite being covered by Class Orders [CO 01/1455], [CO 04/672], [CO 07/571], [CO 09/425], [CO 10/321] or [CO 10/322].

Amendment of ASIC Class Order [CO 04/672]

Class Order [CO 04/672] is amended by paragraph 25 to:

- (a) allow entities that take advantage of [CO 14/757] to rely on the “cleansing notice” exemptions;
- (b) remove obsolete references to Class Orders [CO 05/83] and [CO 05/637]; and
- (c) refer to [CO 13/1050] rather than [CO 13/1051].

Amendment of ASIC Class Order [CO 07/571]

Class Order [CO 07/571] is amended by paragraph 27 to:

- (a) allow entities that take advantage of [CO 13/1050] or [CO 14/757] to rely on the rights issue disclosure exemptions;
- (b) remove obsolete references to Class Orders [CO 05/83], [CO 05/637] and [CO 05/910].

Amendment of ASIC Class Order [CO 09/425]

In addition to the amendment dealing with compliance with the requirements of Chapter 2M mentioned above, paragraph 28 amends Class Order [CO 09/425] to:

- (a) make a minor change to the notice requirements in the class order so that they are equivalent to the notice requirements applying in subparagraph 1012DA(6)(e)(i) of the Act for the purposes of the “cleansing notice” exemption in section 1012DA; and

- (b) allow entities that take advantage of [CO 13/1050] or [CO 14/757] to rely on the disclosure exemption for share purchase plans in [CO 09/425].

Definitions

Paragraphs 36 to 38 contain definitions for the purposes of the class order. The key definitions of *affected entity*, *affected auditor* and *affected audit company* are discussed above.

4. Consultation

As discussed above, the registration of certain auditors may have been adversely affected by the likely repeal of ASIC's approval of the CPA/ICAA standard by the Legislative Instruments Act (due to the inadvertent failure to register the instrument of approval).

The Government will be introducing remedial legislation to ensure the validity of the registration of auditors in reliance on the standard since 1 October 2006, with effect from their purported registration.

In the interim, this class order provides relief to the extent possible, so that acts and things that must be done by registered company auditors and authorised audit companies may also be done by auditors whose registration may have been adversely affected.

ASIC therefore considers the making of the class order to be of a technical nature such that consultation was not necessary.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

ASIC Class Order [CO 14/757]

This class order is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the class order

In November 2004, ASIC approved the auditing competency standard (the *CPA/ICAA standard*) issued by CPA Australia and The Institute of Chartered Accountants in Australia (now operating as Chartered Accountants Australia and New Zealand) under section 1280A. The standard requires applicants for registration to demonstrate their capacity to perform particular tasks in specified contexts, including tasks relating to audit planning, testing of internal control procedures and forming opinions on the extent of misstatements in account balances.

The *Legislative Instruments Act 2003* commenced on 1 January 2005. Under that Act, legislative instruments made in 2004 were required to be lodged with the Attorney-General's Department by 1 October 2006 for registration on the Federal Register of Legislative Instruments. Failure to lodge such an instrument by that date has the effect that the instrument is taken to have been repealed.

ASIC has recently become aware that the instrument by which it approved the CPA/ICAA standard is likely to be a legislative instrument. It was never lodged for registration. It is likely that it was taken to have been repealed by the Legislative Instruments Act on 1 October 2006. ASIC has been registering auditors in reliance on the standard since that date. The legal efficacy of those registrations is uncertain. There is also uncertainty about the legal efficacy of certain registrations of authorised audit companies after that date.

The Government will be introducing remedial legislation to ensure the validity of the registration of auditors in reliance on the standard since 1 October 2006, with effect from their purported registration.

Given the legal uncertainty pending remedial legislation, the class order gives prospective relief to the extent possible, so that acts and things that must be done by registered company auditors and authorised audit companies may also be done by auditors whose registration may have been adversely affected.

The class order also amends other ASIC class orders to ensure that the ability of entities to continue to rely on various disclosure concessions (e.g. for rights issues and share purchase plans) is not adversely affected by Class Order [CO 14/757].

Human rights implications

This class order does not engage any of the applicable rights or freedoms.

Conclusion

This class order is compatible with human rights as it does not raise any human rights issues.