

EXPLANATORY STATEMENT for ASIC CORPORATIONS (AMENDMENT) INSTRUMENT 2015/999

Prepared by the Australian Securities and Investments Commission

Corporations Act 2001

The Australian Securities and Investments Commission (ASIC) makes *ASIC Corporations (Amendment) Instrument 2015/999* under subsections 283GA(1), 601QA(1), 741(1), 926A(2), 992B(1) and 1020F(1) and paragraph 911A(2)(l) of the *Corporations Act 2001*.

ASIC Corporations (Amendment) Instrument 2015/999 amends ASIC Class Order [CO14/1001] *Employee incentive schemes: Unlisted bodies*. 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 *Corporations Act 2001*), 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

In October 2015, ASIC made *ASIC Corporations (Amendment) Instrument 2015/943* which made minor amendments to [CO14/1001]. [CO14/1001] provides relief to unlisted bodies who operate an employee incentive scheme from the requirement to comply with a range of requirements and restrictions under the *Corporations Act* relating to disclosure, financial services licensing, managed investment schemes, advertising, hawking and on-sale of securities.

The explanatory statement to *ASIC Corporations (Amendment) Instrument 2015/943* released in October 2015 provides further detail on the operation of that instrument. This explanatory statement sets out the purpose and operation of this additional amending instrument.

2. Purpose of the instrument

The purpose of *ASIC Corporations (Amendment) Instrument 2015/999* is to remove a reference in [CO14/1001] to a listed company which was inadvertently inserted as a result of the operation of *ASIC Corporations (Amendment) Instrument 2015/943*. [CO14/1001] deals exclusively with unlisted companies and not listed companies.

3. Operation of the instrument

ASIC Corporations (Amendment) Instrument 2015/999 amends paragraph 28 of [CO14/1001] to refer to an unlisted body instead of a listed body.

4. Consultation

Consultation was not conducted in relation to *ASIC Corporations (Amendment) Instrument 2015/999*, because the amendment is minor and machinery in nature.

Statement of Compatibility with Human Rights

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

ASIC Corporations (Amendment) Instrument 2015/999

ASIC Corporations (Amendment) Instrument 2015/999 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

*ASIC Corporations (Amendment) Instrument 2015/999 makes a minor and machinery amendment to ASIC Class Order [CO14/1001] *Employee incentive schemes: Unlisted bodies* to correct a typographical error. [CO14/1001] applies to employee incentive schemes of unlisted bodies, and gives relief from requirements in the *Corporations Act 2001* in relation to product disclosure, financial services licensing, hawking and advertising in connection with offers of financial products made under an employee incentive scheme.*

Human rights implications

ASIC Corporations (Amendment) Instrument 2015/999 does not engage any of the applicable rights or freedoms.

Conclusion

ASIC Corporations (Amendment) Instrument 2015/999 is compatible with human rights as it does not raise any human rights issues.

Australian Securities and Investments Commission