EXPLANATORY STATEMENT for

ASIC CORPORATIONS (REPEAL) INSTRUMENT 2016/774

Prepared by the Australian Securities and Investments Commission

Corporations Act 2001

The Australian Securities and Investments Commission (**ASIC**) makes ASIC Corporations (Repeal) Instrument 2016/774 under paragraph 601QA(1)(a) of the *Corporations Act 2001* (the **Act**).

This legislative instrument repeals ASIC Class Order [CO 02/226] *Managed investment schemes: No issue required disclosure.*

Paragraph 601QA(1)(a) of the Act provides that ASIC may exempt a person, a class of persons or all persons from a provision of Chapter 5C of the Act.

Under subsection 33(3) of the *Acts Interpretation Act 1901* (as in force as at 1 January 2005 and as applicable to the relevant power 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

ASIC has recently reviewed ASIC Class Order [CO 02/226] which provides an alternative to subsection 601ED(2) of the Act to permit certain managed investment schemes to be unregistered. ASIC has decided to cease to provide the relief in [CO 02/226] as that relief is considered to be unnecessary.

The *Legislation Act 2003* (the LA) provides for the periodic expiry of legislative instruments ('sunsetting') to ensure that they are kept up to date and only remain in force for as long as they are needed. [CO 02/226] was scheduled to expire on 1 April 2017, under the sunsetting provisions of the LA.

ASIC's review of the policy underlying this class order, and subsequent consultation which garnered no feedback, has provided an opportunity to deal with the class order's imminent expiry and to repeal the instrument rather than let it sunset.

2. Purpose of the instrument

The purpose of ASIC Corporations (Repeal) Instrument 2016/774 is to repeal ASIC Class Order [CO 02/226] *Managed investment schemes: No issue required disclosure.*

3. Operation of the instrument

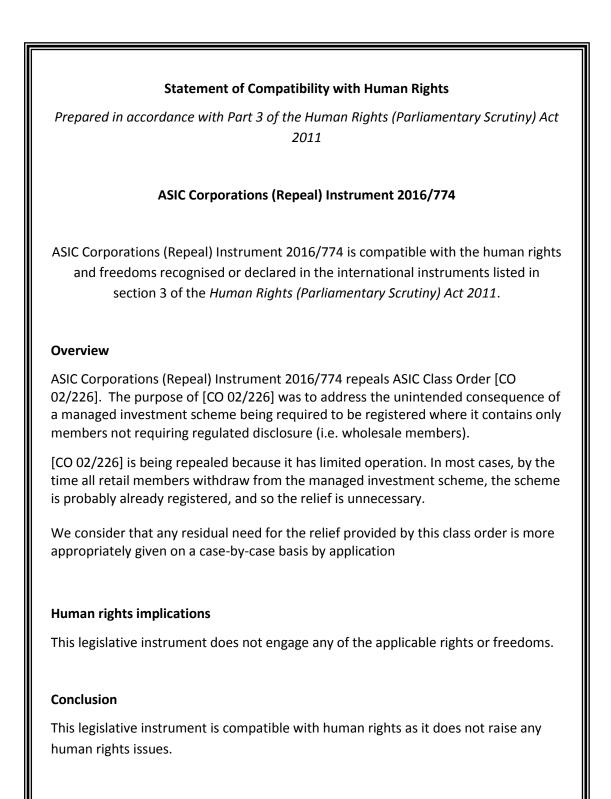
ASIC Corporations (Repeal) Instrument 2016/774 repeals [CO 02/226].

4. Consultation

On 30 May 2016 ASIC released CP 259 *Repealing ASIC class order on managed investment schemes: No issue required disclosure* [CO 02/226] (**CP 259**) seeking feedback on our proposal to repeal [CO 02/226] as we consider it is no longer required and does not form a useful and necessary part of the legislative framework. The consultation period ended on 28 June 2016.

ASIC received no submissions in response to CP 259.

Following the consultation, ASIC decided to proceed to repeal [CO 02/226].



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