

## *ASIC Corporations (Amendment) Instrument 2017/577*

### **EXPLANATORY STATEMENT**

Prepared by the Australian Securities and Investments Commission

*Corporations Act 2001*

The Australian Securities and Investments Commission (*ASIC*) makes *ASIC Corporations (Amendment) Instrument 2017/577* under paragraphs 601QA(1)(a) and 911A(2)(l) of the *Corporations Act 2001* (the *Act*).

Paragraph 601QA(1)(a) of the Act provides that ASIC may exempt a class of persons from the provisions of Chapter 5C of the Act.

Paragraph 911A(2)(l) of the Act provides that ASIC may exempt a class of persons from the requirement to hold an Australian financial services licence (*AFS licence*).

#### **1. Background**

ASIC Class Order [CO 08/1] *Group purchasing bodies*, the principal legislative instrument, gives conditional relief from the AFS licensing regime and Chapter 5C of the Act for some group purchasing bodies (*GPBs*) who arrange or hold risk management products (*insurance*) for the benefit of third parties. GPBs include sporting and other not-for-profit organisations which arrange insurance for third parties (e.g. players or volunteers).

[CO 08/1] provides conditional relief to a limited class of GPBs that organise insurance on a non-commercial basis. It contains a condition that requires a GPB who relies on the relief to report to ASIC breaches of conditions of the relief. The requirement to comply with the breach reporting condition was subject to a delayed start to allow for transition. Based on the current wording of [CO 08/1], the transitional period for compliance with the breach reporting condition in [CO 08/1] will end on 30 June 2017.

The transitional period was intended to give the Government and ASIC the opportunity to consider how various issues raised by GPBs could be addressed by amendments to the *Corporations Regulations 2001* and to consult with stakeholders in the development of the regulations. The start date for this requirement has previously been deferred to allow further time for Government to consider regulations. ASIC has now been advised that Government will not be progressing consideration of regulations. [CO 08/1] is due to sunset on 1 October 2018, and assessment of [CO 08/1] in that context is currently underway. ASIC's assessment in that context will not be completed by the end of 30 June 2017.

We are removing from [CO 08/1] the breach reporting conditions.

#### **2. Purpose of the legislative instrument**

*ASIC Corporations (Amendment) Instrument 2017/577*, an amending legislative instrument, removes the breach reporting conditions in [CO 08/1]. That is, while [CO 08/1] remains in effect, GPBs will not need to report breaches of [CO 08/1] to ASIC.

We have made the decision to remove the breach reporting conditions solely to avoid having a new obligation commence so near to the sunset date of the class order.

If ASIC were to decide, as a matter of policy and after appropriate public consultation, to continue the relief beyond the sunset date of the current class order (by way of a new legislative instrument), part of ASIC's public consultation will relate to whether a breach reporting condition should be included in the new instrument.

### **3. Operation of the legislative instrument**

Paragraph 4 of *ASIC Corporations (Amendment) Instrument 2017/577* amends [CO 08/1] by repealing the paragraphs containing the breach reporting conditions and omitting other wording relating to those paragraphs.

### **4. Consultation**

ASIC did not undertake consultation with respect to *ASIC Corporations (Amendment) Instrument 2017/577*, as it is a transitional measure of a minor and machinery 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 2017/577***

This legislative instrument 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 legislative instrument**

This legislative instrument amends ASIC Class Order [CO 08/1] (the ***principal legislative instrument***). The principal legislative instrument gives conditional relief from the Australian financial services licensing regime and Chapter 5C of the *Corporations Act 2001* to a limited class of group purchasing bodies (***GPBs***) that organise insurance on a non-commercial basis for the benefit of third parties. GPBs include sporting and other not-for-profit organisations.

The transitional period for compliance with the breach reporting conditions in the principal legislative instrument will end on 30 June 2017. The transitional period was intended to give the Government and ASIC the opportunity to consider how various issues raised by GPBs could be addressed by amendments to the *Corporations Regulations 2001* and to consult with stakeholders in the development of the regulations. The start date for this requirement has previously been deferred to allow further time for Government to consider regulations. ASIC has now been advised that Government will not be progressing consideration of regulations.

[CO 08/1] is due to sunset on 1 October 2018, and assessment of [CO 08/1] in that context is currently underway. ASIC's assessment in that context will not be completed by 30 June 2017.

This legislative instrument removes the breach reporting conditions in the principal legislative instrument.

#### **Human rights implications**

This legislative instrument does not engage any of the applicable rights or freedoms.

#### **Conclusion**

This legislative instrument is compatible with human rights as it does not raise any human rights issues.