

ASIC Class Order [CO 09/69]

Variation of Class Orders [CO 03/606] and [CO 04/671]

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Related documents: [AD 09/110], [CO 09/68] and [RG 72]

Class Order [CO 09/69] varies Class Order [CO 03/606] Financial product advice — exempt documents and Class Order [CO 04/671] Disclosure for on-sale of securities and other financial products.

This instrument has effect under s911A(2)(1), 741(1) and 1020F(1) of the *Corporations Act 2001*.

Prepared by the Australian Securities and Investments Commission.

Australian Securities and Investments Commission Corporations Act 2001 — Paragraph 911A(2)(1) and Subsections 741(1) and 1020F(1) — Variation

Enabling legislation

1. The Australian Securities and Investments Commission makes this instrument under paragraph 911A(2)(1) and subsections 741(1) and 1020F(1) of the *Corporations Act 2001*.

Title

2. This instrument is ASIC Class Order [CO 09/69].

Commencement

3. This instrument commences on the later of:
 - (a) the date it is registered under the *Legislative Instruments Act 2003*; and
 - (b) the date of its gazettal.

Note: An instrument is registered when it is recorded on the Federal Register of Legislative Instruments (*FRLI*) in electronic form: see *Legislative Instruments Act 2003*, s 4 (definition of *register*). The FRLI may be accessed at <http://www.frli.gov.au/>.

Variation

ASIC Class Order [CO 03/606]

4. ASIC Class Order [CO 03/606] is varied as follows:

- (a) in paragraph (2) omit “is either:”, substitute “is:”; and
- (b) in subparagraph (2)(b) omit “the law.”, substitute “the law; or”; and
- (c) after subparagraph (2)(b) insert:
 - “(c) an offer document (however described) or a document responding to the offer document in relation to a transaction involving the acquisition of control or potential control of, or the acquisition of a substantial interest in:
 - (i) an issuer of securities; or
 - (ii) a managed investment scheme;
 where the offer:
 - (iii) is regulated by or under a law or other rules however described that:
 - (A) apply to the acquisition of:
 - (I) control or potential control of an entity; or
 - (II) a substantial interest in an entity; and
 - (B) are in force or apply in or in a part of one of the following:
 - (I) Canada;
 - (II) France;
 - (III) Germany;
 - (IV) Hong Kong;
 - (V) Italy;
 - (VI) Japan;
 - (VII) Malaysia;
 - (VIII) The Netherlands;
 - (IX) New Zealand;
 - (X) Singapore;
 - (XI) South Africa;
 - (XII) Switzerland;
 - (XIII) United Kingdom;
 - (XIV) United States of America; and
 - (iv) involves offers being made to acquire all or some of the securities or interests in a managed investment scheme (as applicable) forming all or a part of the

class or classes (*bid class*) of securities or interests being bid for, held by:

- (A) all holders of securities or interests in the bid class; or
- (B) all such holders other than the person making the offers, that person and their associates or any other person to whom, under the regulatory requirements applicable to the transaction, the offers do not have to be made,

where the document has been prepared because it is required by or under the law or the other rules.”.

ASIC Class Order [CO 04/671]

5. ASIC Class Order [CO 04/671] is varied as follows:

(a) in Schedule D:

(i) omit the text under the heading “**Category 6: Takeovers**”, substitute:

“The securities or products were issued without disclosure to investors under Part 6D.2 or without a Product Disclosure Statement for the product being prepared, as is applicable, because:

- (1) subsections 708(18) or 1012D(7) applied; or
- (2) the Issuer relied on ASIC Class Order [CO 09/68].”; and

(ii) in paragraph (1) under the heading “**Category 8: Executive officers—transitional relief**” omit “the ASX;”, substitute “ASX Limited;”; and

(b) under the heading “**Interpretation**”:

(i) omit paragraph 1; and

(ii) omit paragraph 4, substitute:

“4. the references to *managed investment products* and *products* in Schedules A to C and Category 6 of Schedule D include references to interests in managed investment schemes (that are not managed investment products) where paragraph (2) of that category applies;”.

Dated this 12th day of June 2009

Signed by Stephen Yen, PSM
as a delegate of the Australian Securities and Investments
Commission