

# ASIC Class Order [CO 10/116]

## Group purchasing bodies – variation of Class Order [CO 08/1]

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*Gazetted 24/2/2010: ASIC Gazette AO18/10*

*Registered 24/2/2010*

*Effective 24/2/2010 (date of registration)*

*Class Order [CO 10/116] clarifies the relief available under Class Order [CO 08/1] Group purchasing bodies for group purchasing bodies that are arranging and holding risk management products or operating a risk management scheme. It also extends the transitional period for compliance with the breach reporting condition in [CO 08/1] to permit stakeholders time to understand the clarifications made.*

This instrument has effect under s601QA(1)(a) and 911A(2)(l) of the *Corporations Act 2001*.

Prepared by the Australian Securities and Investments Commission.

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### Australian Securities and Investments Commission Corporations Act 2001 — Paragraphs 601QA(1)(a) and 911A(2)(l) — Variation

#### Enabling legislation

1. The Australian Securities and Investments Commission makes this instrument under paragraphs 601QA(1)(a) and 911A(2)(l) of the *Corporations Act 2001*.

#### Title

2. This instrument is ASIC Class Order [CO 10/116].

#### 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/>.

## Variations

4. ASIC Class Order [CO 08/1] is varied as follows:

(a) in paragraph 4:

(i) in sub-subparagraph (b)(iii), omit “10(e).”, substitute “10(e); or”;

(ii) after subparagraph (b), insert:

“(c) where the body is a financial services licensee or an authorised representative of such a licensee—comply with Part 7.7 or 7.8 of the Act in relation to the financial services covered by paragraph (b).”;

(b) in paragraph 5:

(i) in the introductory words, omit “both”, substitute “all”;

(ii) in subparagraph (a) (introductory words), before “the” insert “where the body is neither a financial services licensee nor the authorised representative of such a licensee—”;

(iii) after subparagraph (a) insert:

“(aa) where the body is a financial services licensee or the authorised representative of such a licensee—the interests in the risk management scheme are issued to officers or employees of the body or their relatives;”;

(iv) in sub-subparagraph (b)(i)(B) omit “financial services”.

(c) in paragraph 6:

(i) in subparagraph (a) (introductory words), omit “a” (twice occurring), substitute “the”;

(ii) omit sub-subparagraph (a)(i), substitute:

“(i) payments from a person who is covered by the risk management product which are separately identified in dollars in a written request for payment or written statement of the amount payable given by the body to the person where an equivalent amount is to be paid by the body to the issuer of the product;

(ia) payments from a member of the body or a person who is covered by the risk management product, to cover the costs reasonably incurred by the body for the purposes of providing financial services in

relation to the risk management product or an interest in the risk management scheme;”;

(iii) in subparagraph (b) (introductory words), before “is” insert “where the body is neither a financial services licensee nor the authorised representative of such a licensee—”;

(d) in paragraph 10:

(i) in subparagraph (b) omit “promptly notify in writing”, substitute “take reasonable steps to promptly bring to the attention of”;

(ii) in subparagraph (e) before “give,”, insert “take reasonable steps to”;

(iii) omit subparagraph (f), substitute:

“(f) give ASIC full particulars in writing of matters that give the body reason to believe that it has failed, other than in an immaterial respect, to comply with any requirement of subparagraphs (a) to (e) after the earlier of:

(A) the first time that the body acquires, renews, or renegotiates the terms of, the risk management product on or after 30 June 2010; and

(B) 30 June 2011.

The particulars referred to in subparagraph (f) must be given within 10 business days of the body having reason to believe as specified in that subparagraph.”;

(e) in paragraph 11, after the definition of *custodial or depositary service* insert:

“*employee* includes independent contractor.”.

Dated this 22nd day of February 2010

Signed by Stephen Yen PSM

as a delegate of the Australian Securities and Investments Commission