



ASIC

Australian Securities & Investments Commission

[CO 02/212]

Product disclosure – requirements for issuers of financial products who lodge variation notices

Issued 5/3/2002

The determination sets requirements that issuers who lodge a notice with ASIC under s1438(5)(a) of the Act (a variation notice) must comply with. The determination requires product issuers to inform people about the notice and its significance.

This determination came into effect on 12 March 2002, the date it was notified in ASIC Gazette 12/02: see s46A and 48(1)(b)(iv) of the Acts Interpretation Act 1901.

Australian Securities and Investments Commission
Corporations Act 2001 — Subsection 1438(6) — Determination

For the purposes of subsection 1438(6) of the *Corporations Act 2001* (“the Act”) the Australian Securities and Investments Commission (“ASIC”) hereby determines as follows:

**REQUIREMENTS FOR ISSUERS OF FINANCIAL PRODUCTS
WHO LODGE VARIATION NOTICES**

A person (“the issuer”) who lodges a notice with ASIC in accordance with paragraph 1438(5)(a) of the Act (a “variation notice”) in relation to a financial product or class of financial products must:

- (a) take all reasonable steps to ensure that within 7 days after it lodges the variation notice, each notifiable person whom the issuer should reasonably expect is likely, within 90 days after the new product disclosure provisions (as defined in subsection 1438(2) of the Act) first apply to the financial product or class of financial products, to be required under section 1012A, 1012B, 1012C or 1012IA of

the Act to give a Product Disclosure Statement in relation to the financial product or a financial product of that class is informed in writing:

- (i) of the name of the issuer, of the financial product or class of financial products in respect of which the variation notice has been lodged, that the variation notice has been lodged, and when those new financial product disclosure provisions will apply in respect of that product or class of products; and
 - (ii) that the notifiable person may have obligations under those new product disclosure provisions such as the obligation to give a Product Disclosure Statement to persons to whom the product or a product in the class of products is offered or recommended;
- (b) make available a document that sets out the matters described at paragraph (a)(i) and (ii), free of charge:
- (i) to any person who made a request mentioned in paragraph (b) of [CO 02/0191], or who made a request under this paragraph with respect to any previous variation notice, as soon as practicable, and in any event within 5 days of the lodgement of the variation notice; and
 - (ii) on the request of any other person - to that person, as soon as practicable, and in any event within 5 days of receiving the person's request; and
- (c) if the issuer makes available on the Internet information relating to the issue by the issuer of any financial product - display with reasonable prominence at the same Internet address the matters described at paragraph (a)(i) and (ii).

The requirements in paragraphs (b) and (c) apply from 7 days after the variation notice is lodged with ASIC until 30 days after the new product disclosure provisions first apply to the financial product or class of financial products.

Interpretation

For the purposes of this instrument, “notifiable person” means the following:

- (a) a seller of the financial product if the sale takes place in circumstances described in subsection 1012C(5), (6) or (8) of the Act;

- (b) any financial services licensee;
- (c) any regulated principal (as defined in section 1430 of the Act);
- (d) any authorised representative of a financial services licensee;
- (e) any representative of a regulated principal (within the meaning of section 1436 of the Act);
- (f) any person who is not required to hold an Australian financial services licence because the person is covered by:
 - (i) paragraph 911A(2)(j) of the Act;
 - (ii) an exemption in regulations made for the purposes of paragraph 911A(2)(k) of the Act; or
 - (iii) an exemption specified by ASIC for the purposes of paragraph 911A(2)(l) of the Act;
- (g) the provider of a custodial arrangement within the meaning of section 1012IA of the Act.

Note: “Writing” includes any mode of representing or reproducing words in a visible form; and “documents” include any article from which writing is capable of being reproduced, with or without the aid of any other article or device: see section 25 of the *Acts Interpretation Act 1901*.

Dated this 5th day of March 2002

Signed by Brendan Byrne
as a delegate of the Australian Securities and Investments Commission