



**ASIC**

Australian Securities & Investments Commission

**[CO 03/1063]**

## **Licensing relief for financial counselling agencies**

*Issued 8/12/2003*

*Gazetted 16/12/2003: ASIC Gazette 50/03*

*Class Order [CO 03/1063] provides licensing relief for financial counselling agencies that may provide financial product advice in the course of providing a financial counselling service.*

*This relief is subject to certain conditions including requirements that:*

- *no fees or charges are payable by the client for any aspect of the service;*
- *a financial counsellor is appropriately trained to carry out the service; and*
- *a financial counsellor is a member of, or is eligible for membership of, a relevant financial counselling association.*

*This relief is designed to facilitate the professional delivery of financial counselling services to consumers in financial difficulty.*

Australian Securities and Investments Commission  
Corporations Act 2001 — Paragraph 911A(2)(l) — Exemption

Under paragraph 911A(2)(l) of the *Corporations Act 2001* (the “Act”), the Australian Securities and Investments Commission exempts a person (the “financial counselling agency”) from the requirement to hold an Australian financial services licence for the provision of a financial service to another person (the “client”) where all of the following apply:

- (a) the financial service consists only of either or both of the following:
  - (i) financial product advice in relation to any or all of the following:
    - (A) a deposit product;

- (B) a facility for making non-cash payments within the meaning of subsection 763D(1) of the Act;
  - (C) an insurance product;
  - (D) an RSA product;
  - (E) a superannuation product;
- (ii) financial product advice to the client to the effect that the client should or may consider the disposal of, or dispose of, a financial product held by the client of any or all of the following kinds:
- (A) a security;
  - (B) a financial product referred to in paragraphs 764A(1)(b) or (ba) of the Act;
  - (C) a debenture, stock or bond issued by a government;
- (b) the financial service is provided as part of a financial counselling service;
- (c) no fees or charges (however described) are payable by or on behalf of the client in relation to the financial service or any other aspect of the financial counselling service;
- (d) no remuneration (whether by way of commission or otherwise) is payable to or on behalf of the financial counselling agency, their representatives or other associates by any person in relation to any action by or on behalf of the client arising from either the financial service or any other aspect of the financial counselling service;
- (e) the financial counselling agency:
- (i) does not carry on or otherwise participate in a financial services business which involves the provision of a financial service that is not covered by paragraphs (a) to (d); and
  - (ii) takes all reasonable steps to ensure that none of its representatives provides or participates in the provision of a financial service that is not covered by paragraphs (a) to (d);
- (f) the financial counselling agency takes all reasonable steps to ensure that each person who provides the financial services on its behalf:

- (i) is a member of, or is eligible to be a member of, a financial counselling association; and
- (ii) has undertaken appropriate training to ensure that they have adequate skills and knowledge to satisfactorily provide the financial services and any other aspect of the financial counselling service.

*Note:* By s 911B(1)(e) of the Act, a person providing a financial service on behalf of a financial counselling agency is exempt from the requirement to hold an Australian financial services licence for the provision of the service if the agency would have been so exempt under this instrument, had the agency provided the service.

### **Interpretation**

In this instrument:

“deposit product” has the meaning given by section 761A of the Act;

“financial counselling association” means each of the following:

- (a) Australian Financial Counselling and Credit Reform Association Inc;
- (b) Financial and Consumer Rights Council Vic Inc;
- (c) Financial Counsellors’ Association of N.S.W. Inc;
- (d) Financial Counsellors’ Association of Western Australia Inc;
- (e) Financial Counsellors’ Association Queensland Inc;
- (f) Financial Counsellors’ Credit Reform Association Northern Territory;
- (g) South Australian Financial Counsellors’ Association Inc;

“financial counselling service” means a counselling and advocacy service provided predominantly for the purposes of assisting individuals who are in financial difficulty due to circumstances such as debt over-commitment, unemployment, sickness or family breakdown;

“financial product advice” has the meaning given by section 766B of the Act;

“insurance product” has the meaning given by section 761A of the Act;

“representative” has the meaning given by section 910A of the Act;

“RSA product” has the meaning given by section 761A of the Act;  
and

“superannuation product” has the meaning given by section 761A of  
the Act.

**Commencement**

This instrument commences on gazettal.

Dated this 8th day of December 2003

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